



California Fair Political Practices Commission

November 19, 1987

Maurice E. Huguet, Jr.
Clayton City Attorney
c/o Turner, Huguet & Brans
924 Main Street
P.O. Box 110
Martinez, CA 94553

Re: Your Request for Informal
Assistance
Our File No. I 87-243

Dear Mr. Huguet;

This is in response to your letter on behalf of Mr. Rick Angrisani, contract city engineer for the City of Clayton, regarding his responsibilities under the Political Reform Act (the "Act").^{1/} Because of the general nature of your question, we treat your request as one for informal assistance.^{2/}

QUESTION

Would a conflict of interest arise if Mr. Angrisani were to perform work outside the city for a developer who comes before him in his capacity as city engineer for the City of Clayton? Would the amount of income generated from such work have a bearing on any potential conflict of interest?

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

^{2/} Informal assistance does not provide the requestor with immunity provided by an opinion or formal written advice (Section 84113; Regulation 18329 (c)(3).)

CONCLUSION

Mr. Angrisani must disqualify himself from decisions affecting the application, claim or similar request of any developer doing business in the city, who is a source of income to him of \$250 or more in the past twelve months. Mr. Angrisani also is required to disqualify himself from decisions which would foreseeably and materially affect any client who has paid or promised him \$250 or more in the preceding 12 months, if the effect of the decision on the client would be distinguishable from the effect on the public generally.

FACTS

The City of Clayton has entered into an agreement with the firm of Permco, Engineering and Management, as represented by Rick Angrisani, to provide services as city engineer. Mr. Angrisani is sole owner of Permco.

Mr. Angrisani's firm has been approached by developers who have projects pending in the City of Clayton, to perform general civil engineering work on projects in other cities. Typically, these jobs in other cities are relatively small, with total fees amounting to less than five percent of his company's revenues. According to the facts presented, Mr. Angrisani has not accepted the work offered because of concern over a potential conflict of interest under the Act.

ANALYSIS

Section 87100 prohibits any public official from making, participating in, or using his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. An official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his immediate family, or on:

(c) Any source of income... aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103 (c).

Maurice E. Huguet, Jr.
November 19, 1987
Page 3

Mr. Angrisani is a public official as a consequence of his position as city engineer. (Section 82048; See also In re Maloney (1977) 3 FPPC Ops. 69, copy enclosed.) Because he is sole owner of Permco, any clients providing gross income to Permco of \$250 or more in the past twelve months, and doing business in the City of Clayton, are sources of income of \$250 or more to Mr. Angrisani. (Section 82030.) Accordingly he must refrain from participating in any governmental decision where it is reasonably foreseeable that the decision would have a material financial effect on one of these clients, which is distinguishable from its effect on the public generally.^{3/}

Based on the agreement which outlines the responsibilities of the city engineer, there are a number of ways Mr. Angrisani could be faced with a decision which would have an economic effect on his clients. The most obvious circumstance is the review and approval or disapproval of clients' various projects, plans and permits. Whether a public official may participate in this type of situation is addressed in Regulation 18702.1 (copy enclosed) which states in pertinent part:

...a public official shall not make, participate in making, or use his or her official position to influence a government decision if:

(1) Any person (including a business entity) which has been a source of income (including gifts) to the official of \$250 or more in the preceding 12 months appears before the official in connection with the decision;

* * *

(b) A person or business entity appears before an official in connection with a decision when that person or entity either personally or by an agent:

(1) Initiates the proceeding in which the decision will be made by filing an application, claim, appeal or similar request;

^{3/} Generally, an industry, trade or profession does not constitute a significant segment of the public to qualify for the "public generally" exception. A single company clearly would not qualify for such an exception. See, Regulation 18703 (copy enclosed).

Maurice E. Huguet, Jr.
November 19, 1987
Page 4

(2) Is a named party in the proceeding concerning the decision before the official or the body on which the official serves.

Thus, as relates to these individual determinations, Mr. Angrisani would have to disqualify himself from decisions directly affecting developers who have provided income of \$250 or more to him or his business in the past 12 months.

The city engineer's other responsibilities include the recommendation and development of policy pertaining to engineering and land development matters, handling budget and financing issues, and advising on operational matters, as needed. These quasi-legislative duties normally do not impact upon a single individual or corporation which has petitioned the public agency for a specific action. As a consequence Regulation 18702.1 does not apply.

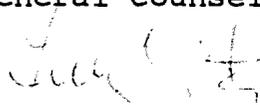
For those decisions with a broader impact upon the community, it is necessary for a public official to determine, on a case-by-case basis, whether it is foreseeable that the decision will have a material financial effect upon his financial interests, or those of his clients.

Without more specific facts from which to draw an analysis, it is not possible to provide any definite guidance on this issue. I have enclosed a pamphlet which summarizes the conflict-of-interest provisions of the Act and Regulations 18702 (Material Financial Effect), 18702.2 (Material Financial Effect on a Business Entity), and 18703 (Effect on the Public Generally), to offer some assistance in your determinations.

Should Mr. Angrisani need assistance with analyzing a specific set of circumstances, we would be happy to provide further advice. If you have questions regarding this letter, you may contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel


By: Lilly Spitz
Counsel, Legal Division

DMG:LS:mk

TURNER, HUGUET & BRANS
ATTORNEYS AT LAW
924 MAIN STREET
P O BOX 110
MARTINEZ, CALIFORNIA 94553
(415) 228-3433

GORDON B TURNER
MAURICE E. HUGUET, JR.
KENNETH R. BRANS

09-22-1987

September 22, 1987

Diane Griffiths
General Counsel
F.P.P.C.
P. O. Box 807
Sacramento, CA 95804

Re: Request for Conflict of Interest Advice Letter

Dear Ms. Griffiths:

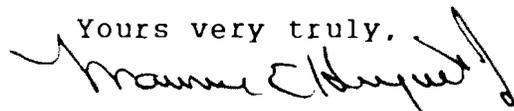
Contract City Engineer, Rick Angrisani, of the City of Clayton, Clayton City Offices, P. O. Box 280, Clayton, CA 94517, has asked me to submit the following facts and seek your advice as to whether he has a potential conflict of interest.

His private engineering firm, in which Rick is a partner, has been approached on numerous occasions by developers who have projects pending in the City of Clayton to perform general civil engineering work for these developers on projects in other cities, excluding, of course, those within the City of Clayton itself. Normally these jobs in other cities are relatively small with total fees amounting to less than five percent of his private company's revenues.

The engineer's question is: if he accepts this work in other cities has he created a conflict of interest situation within the City of Clayton thereby affecting his ability to perform his contract civil engineering responsibilities when dealing with developers in Clayton for whom he is working in other jurisdictions? If so, does the amount of the fees generated from the outside jobs have any bearing on his conflict?

Thank you for your assistance in this matter.

Yours very truly,



Maurice E. Huguet, Jr.

MEH:dg
0858h

cc: Mr. Rick Angrisani

AGREEMENT

THIS AGREEMENT is made this 7th day of May, 1986, by and between the CITY OF CLAYTON (hereinafter referred to as the CITY) and PERMCO, ENGINEERING AND MANAGEMENT, represented by RICK ANGRISANE, (hereinafter referred to as ENGINEER).

SCOPE OF WORK

It is the intention of the City to contract with Engineer to provide services as City Engineer.

SERVICES BY THE ENGINEER

A. Administrative:

1. Perform statutory responsibilities of the City Engineer.
2. Attend meetings with City staff, public officials, community leaders, developers, contractors, and general public.
3. Develop ordinances and regulations pertaining to engineering matters.
4. Advise the City of Engineering and construction financing available from other governmental agencies and prepare and submit applications when requested.
5. Assist in the development of public works, engineering and Capital Improvement Budgets.
6. Attend regular inter-governmental agency meetings regarding engineering matters.
7. Advise City Public Works Staff on operational matters as needed.

B. Technical Services.

1. Review and comment on planning programs and land development projects both within and outside the City which may impact the City.
2. Assist in the update and revision to various elements of the general plan as needed.
3. Review and approve all land division maps.
4. Plan check or supervise plan check. Review and approval of all land division improvement plans.
5. Establish land division and other construction improvement bond amounts pertaining to labor and material.
6. Plan check and approve all City public improvement plans and development plans.
7. Inspect and/or supervise inspection of public and private funded public improvement projects.
8. Provide contract administration on City projects and recommend acceptance.
9. Approve permits such as grading and encroachment which pertains to engineering matters.
10. Recommend and assist in the selection of technical consultants and monitor their performance.
11. Supervise special reports such as traffic, assessment district and others.
12. Supervise surveying and mapping needs of the City.

C. Annual Projects:

1. In addition to the foregoing services, Engineer shall undertake and complete various specific projects assigned to him each year by the City Administrator within the time frame developed for completion of each project. The various projects shall be identified and assigned as a product of the development and adoption each year of the City's annual budget.

COMPENSATION FOR SERVICES

The services of Rick Angrisani, representing PERMCO, shall be at the rate of Forty Dollars (\$40.00) per hour. Those services performed by any associate civil engineer working under his supervision shall be at the rate of Thirty-five Dollars (\$35.00) per hour. The City shall receive regular periodic billings from the Engineer, itemizing the services performed and by whom, which statements shall be promptly reviewed and processed for payment.

TERMINATION

City may terminate services of Engineer upon sixty (60) days prior notice. Engineer will be compensated for work performed at the time of notice.

NON-ASSIGNMENT OF ENGINEER'S SERVICES

The Engineer shall not assign any services other than those stipulated in this agreement without permission of the City. A number of the administrative and technical services may be performed under Rick Angrisani's supervision by his associates, California licensed civil engineers, provided Rick Angrisani shall perform

himself the various projects assigned to him annually by the City Administrator.

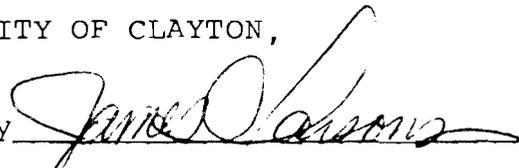
EXTENT OF AGREEMENT

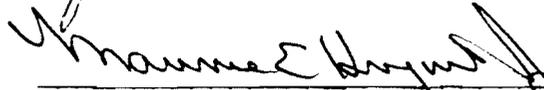
This Agreement represents the entire and integrated agreement between the City and the Engineer.

This Agreement executed the day and year first written above.

CITY OF CLAYTON,

By


_____ Mayor


_____ City Attorney

ENGINEER,

Consulting City Engineer


_____ Rick Angrisani



California Fair Political Practices Commission

November 19, 1987

Maurice E. Huguet, Jr.
Clayton City Attorney
c/o Turner, Huguet & Brans
924 Main Street
P.O. Box 110
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Re: Your Request for Informal
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Our File No. I 87-243

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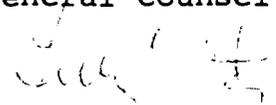
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Sincerely,

Diane M. Griffiths
General Counsel


By: Lilly Spitz
Counsel, Legal Division

DMG:LS:mk

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GORDON B. TURNER
MAURICE E. HUGUET, JR.
KENNETH R. BRANS

SEP 22 1987

September 22, 1987

Diane Griffiths
General Counsel
F.P.P.C.
P. O. Box 807
Sacramento, CA 95804

Re: Request for Conflict of Interest Advice Letter

Dear Ms. Griffiths:

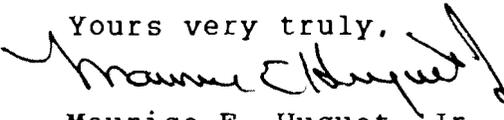
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Thank you for your assistance in this matter.

Yours very truly,



Maurice E. Huguet, Jr.

MEH:dg
0858h

cc: Mr. Rick Angrisani

87-292

TURNER, HUGUET & BRANS
ATTORNEYS AT LAW
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MARTINEZ, CALIFORNIA 94553
(415) 228 3433

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GORDON B. TURNER
MAURICE E. HUGUET, JR.
KENNETH R. BRANS

September 22, 1987

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P. O. Box 807
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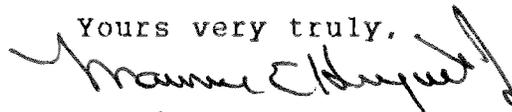
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Maurice E. Huguet, Jr.

MEH:dg
0858h

cc: Mr. Rick Angrisani

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924 MAIN STREET
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Oct 23 10 34 AM '87

GORDON B. TURNER
MAURICE E. HUGUET, JR.
KENNETH R. BRANS

October 22, 1987

Ms. Lilly Spitz
Legal Counsel
F.P.P.C.
P. O. Box 807
Sacramento, CA 95804

Re: Request for Conflict of Interest Advice Letter
Clayton Contract City Engineer

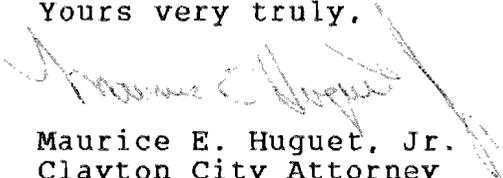
Dear Ms. Spitz:

As requested during your telephone call to me earlier this month, I enclose herewith a copy of the agreement between the City of Clayton and its contract engineer, Permco Engineering and Management. I am informed that our City Engineer, Mr. Angrisani, owns 100% of the Permco Engineering firm.

If you need any further data from me in order to respond to my September 22 request for advice letter, please contact me.

Thank you for your assistance.

Yours very truly,


Maurice E. Huguet, Jr.
Clayton City Attorney

MEH:plh
0375h
Enclosure
cc: Mr. Rick Angrisani



California Fair Political Practices Commission

September 29, 1987

Maurice E. Huguet, Jr.
Turner, Huguet & Brans
P.O. Box 110
Martinez, CA 95443

Re: 87-243

Dear Mr. Huguet:

Your letter requesting advice under the Political Reform Act was received on September 28, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Lilly Spitz, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Diane M. Griffiths", is written over the typed name.

Diane M. Griffiths
General Counsel

DMG:plh
cc: Rick Agrisani