



California Fair Political Practices Commission

October 21, 1988

Robert D. Winston
General Counsel
Lake Shastina Community Services District
P.O. Box 669
Weed, CA 96094

Re: Our File No. G-88-298

Dear Mr. Winston:

You have requested information concerning the conflict-of-interest provisions of the Political Reform Act (the "Act").^{1/} Specifically, you have requested clarification of our advice concerning the rule of "legally required participation" under Section 87101. You have asked if the Board of Directors of the Lake Shastina Community Services District should use that rule when the board cannot obtain a quorum on decisions concerning litigation directly involving a majority of the board members, rather than allowing only the disinterested directors to vote.

Enclosed is a copy of the Commission's Hudson opinion (In re Hudson (1978) 4 FPFC Ops. 13) and a copy of Regulation 18701. Both the Hudson opinion and Regulation 18701 permit otherwise disqualified public officials to participate in governmental decisions when their participation is legally necessary, such as when a quorum cannot otherwise be achieved. The opinion and regulation assume, however, that a quorum of the decisionmaking body is legally required for the proposed action.

Therefore, if a quorum is necessary for the action proposed by the Board of Directors of the Lake Shastina Community Services District, the rule of "legally required participation"

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

Robert D. Winston
October 21, 1988
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may be used to achieve a quorum when no quorum otherwise may be obtained.

I trust this information is sufficient for your purposes. If you have any further questions, please contact me at (916) 322-5901.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
Counsel, Legal Division

WRAY E. KIRSHER
ROBERT D. WINSTON
ROBERT B. BOSTON

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326 N. Mt. Shasta Blvd., Suite 9
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Mt. Shasta, CA 96067

KIRSHER, WINSTON, & BOSTON

A LAW CORPORATION
219 Main Street
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Weed, California 96094
(916) 938-3438

July 25, 1988

Fair Political Practices
Commission
428 "J" Street, #800
Sacramento, CA 95814

RE: Legal Assistance

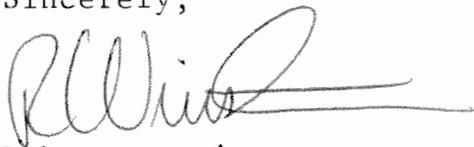
Dear Sir or Madame:

Due to litigation directly involving a majority of the members of the Board of Directors of the Lake Shastina Community Services District, we anticipate failing to obtain a voting quorum on some resolutions to be presented to the Board in relation to such litigation.

Should we allow the disinterested directors vote on the resolutions, though they are less than a quorum, or instead, randomly select enough disqualified directors so as to constitute a quorum, as you advised in your File No. A-88-151?

Thank you for your help.

Sincerely,



Robert D. Winston
General Counsel
Lake Shastina C.S.D.

RDW/glt

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Memorandum

To : File No. T-88-298

Date : October 2, 1989

From : FAIR POLITICAL PRACTICES COMMISSION

Kathryn E. Donovan

Subject : Telephone Advice to Robert Winston, Lake Shastina Community
Service District

On August 1, 1988, I spoke to Robert Winston, attorney for the Lake Shastina Community Service District, and advised him that when that agency could not obtain a quorum due to disqualified directors, it was appropriate to randomly select enough disqualified directors so as to constitute a quorum.



California Fair Political Practices Commission

July 25, 1988

Robert D. Winston
General Counsel
Lake Shastina Community
Services District
P.O. Box 669
Weed, CA 96094

Re: 88-298

Dear Mr. Winston:

Your letter requesting advice under the Political Reform Act was received on July 26, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Kathryn Donovan, 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. Code of Regs. 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 that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh