



California Fair Political Practices Commission

September 22, 1988

Honorable Stevan Colin
Councilmember, City of Redondo Beach
Hitchcock, Bowman, Schachter & Beverly
Suite 1030 Del Amo Financial Center
21515 Hawthorne Boulevard
Torrance, CA 90503-6579

Re: Your Request for Advice
Our File No. A-88-344

Dear Mr. Colin:

You have requested advice concerning your duties under the conflict-of-interest provisions of the Political Reform Act.^{1/}

QUESTION

You are an associate in a law firm. A client of your law firm is involved in a lawsuit against the City of Redondo Beach concerning property leased from the city, and is represented by another law firm in that matter. What restrictions apply to your actions as a city councilmember with respect to the issues related to the lawsuit filed by the client?

CONCLUSION

You may participate in a decision related to the subject matter of the lawsuit unless it is reasonably foreseeable that the decision would have a material financial effect on your law firm.

^{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.

FACTS

Your letter (supplemented by our telephone conversation of September 7, 1988) provided the following circumstances suggesting a potential conflict-of-interest:

1. You are a councilmember for the City of Redondo Beach.

2. You are an associate in the law firm of Hitchcock, Bowman, Schachter & Beverly and have no ownership interest in the firm.

3. A client of the law firm owns a one-third interest in a business which leases space on the Redondo Beach pier from the city. The client is a limited partner and has nothing to do with the operation and management of the business. The business has filed a lawsuit against the city claiming that the city was negligent in the maintenance and/or operation of the leased premises. The business is represented by another law firm in this lawsuit.

4. Your law firm has in the past performed services for the client which are unrelated to the subject of the current lawsuit. You have not discussed the subject matter of the lawsuit with the client.

ANALYSIS

Section 87100 prohibits a public official from making, participating in, or using his official position to influence any governmental decision in which 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 the effect on the public generally, on the official or a member of his immediate family or on:

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, 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.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

Section 87103(c) and (d).

You are a public official. (Section 82048.) The law firm you are associated with is a source of income to you, and you are an employee of the business entity. Accordingly, you are prohibited from participating in any city council decision that would have a reasonably foreseeable material financial effect on the law firm. (Section 87103(c) and (d).)

To require disqualification, the effect of a decision must be foreseeable. An effect does not have to be certain to be foreseeable. If an effect were a mere possibility, however, it would not be foreseeable. (In re Thorner (1975) 1 FPPC Ops. 198, 206-207, copy enclosed.)

It does not appear foreseeable, based on the facts you have provided, that a decision you make, or participate in making, on the city council will have a material financial effect on your law firm. For example, there are no facts which indicate that the outcome of the lawsuit will result in an increase or decrease in the business your firm receives from the client. However, if you become aware of facts which indicate there will be a foreseeable and material effect on your law firm, you must disqualify yourself from decisions concerning the lawsuit. Regulation 18702.2 (copy enclosed) provides guidelines for determining whether an effect on your law firm is considered material.

I hope this letter provides you with the guidance requested. Please call me at (916) 322-5901 if you have any questions about this letter.

Sincerely,

Diane M. Griffiths
General Counsel

By: Jeevan Ahuja
Counsel, Legal Division

DMG:JA:ld

Enclosures

Memorandum

To : File

Date : September 12, 1988

From : ~~Fair Political Practices Commission~~
Jeevan Anuja

Subject : Summary of telephone conversation with Councilman Colin on
September 7, 1988 at 4:50 p.m.

Client has a one-third interest in a partnership and is a limited partner. She has nothing to do with the operation, management and control of the business. The partnership owns the business which was/is located at the Redondo Beach pier. The partnership/business has filed the lawsuit--the client has not filed the lawsuit.

JA:plh:COLINMEM

HITCHCOCK, BOWMAN, SCHACHTER & BEVERLY

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

SUITE 1030 DEL AMO FINANCIAL CENTER

21515 HAWTHORNE BOULEVARD

TORRANCE, CALIFORNIA 90503-6579

LARRY BOWMAN
ROBERT B. SCHACHTER
WILLIAM J. BEVERLY
DOUGLAS A. BUTLER
STEVAN COLIN

DONALD J. HITCHCOCK
(1922-1983)

TELEPHONES

AREA CODE (213)

540-2202

540-2143

FAX

(213) 540-8734

August 26, 1988

Fair Political Practices Commission
P. O. Box 807
Sacramento, California 95804-0807

Attention: General Counsel
Diane Griffiths

Re: Stevan Colin, Esq.
Redondo Beach City Council
Request for Advice Re: Conflict of Interest

Dear Ms. Griffiths:

I have been requested to direct this letter to you by Mr. Robert Leidigh, Esq. of your office regarding what I perceived at one time to be a conflict of interest which would disqualify me from taking any action in a governmental capacity while serving on the Redondo Beach City Council. I am an associate in the law offices of Hitchcock, Bowman, Schachter & Beverly, and I am also an elected member of the Redondo Beach City Council. A situation has arisen wherein one of our present clients has filed a claim for damages against the City of Redondo Beach for damages arising out of the storm damage to its municipal pier. Our client is represented by another law firm and seeks damages from the City of Redondo Beach arising out of storm damage sustained to the pier. Our client maintains an interest in a business and I am informed that that client receives yearly income from the operation of that business. The business is a lessee of the City of Redondo Beach and claims, among other things, that the City of Redondo Beach was negligent in the maintenance and/or operation of its municipal pier.

Our office has undertaken absolutely no action with regards to any alleged damages sustained by our client arising out of the municipal pier incident and any alleged negligence by the City of Redondo Beach. Our office has performed two (2) services for the client, completely unrelated to the operation located on the Redondo Beach pier. Our office has performed tax work for the client and modified a judgment which was obtained from the client's dissolution action. This office did not represent the

client with regards to that dissolution action and I am informed and believe that the client's interest in the business on the Redondo Beach pier did not arise out of the division of property resulting from the pertinent marriage. I personally have not worked on the tax matter for our client. With regards to modification of the prior court order resulting from the dissolution of marriage, I did prepare instructions for our attorney service to deliver a modification of a court order to our client's ex-husband and I did make one telephone call to the client's ex-husband to inform him that the modification was being delivered to his office for signature. Aside from those two (2) acts, I have had absolutely nothing to do with the client's file.

The work performed for our client has been performed within the last twelve (12) months and the client has been billed for services rendered. I do not maintain any ownership interest in this law firm and I am not a partner in the firm. I am requesting formal written advice as to whether or not I am disqualified from voting, as a Redondo Beach City Council member, on issues which could adversely affect the financial interest of our client with regards to her ownership interest in the pier business she operates with others. As I indicated previously, she is represented by counsel in the City of Redondo Beach and I have not ever discussed with the client any of the issues affecting the Redondo Beach pier.

As you may or may not be aware, the municipal pier of the City of Redondo Beach sustained a great deal of damage as a result of recent storms. Our client, through her legal counsel, has filed a claim for damages with the City of Redondo Beach alleging negligence by the City. The City of Redondo Beach has begun discussions regarding the rebuilding of the pier and will no doubt also address the issue of whether it is liable for damages allegedly sustained by some of the pier businesses. As a City Council member I would no doubt be asked to vote upon issues regarding the rebuilding of the pier and issues affecting the defensive litigation against the City. At the most recent Redondo Beach City Council meeting, I indicated to the City Attorney, Mr. Gordon Phillips, that I might have a potential conflict of interest. I thereafter did not participate in any of the discussions pertinent to the Redondo Beach pier and left the room during the discussion.

On August 25, 1988, I spoke with Mr. Robert Leidigh of your office and discussed with him the above matters. I inquired of him as to whether I would be disqualified from taking any action pertaining to the Redondo Beach pier because of the relationship of the client to this firm. I do not believe the client is source of income to me and I am requesting that your office provide me with formal written advice as to whether a conflict does exist and whether I am disqualified from voting on this matter per the provisions of California Government Code Section 87103. As I indicated to Mr. Leidigh, I would appreciate

receiving formal advice as soon as possible inasmuch as the issue of pier rebuilding and governmental liability are quickly approaching. Mr. Leidigh indicated to me that he did not believe there was a conflict of interest and that as such he did not believe I should be disqualified from voting on the municipal pier issues and matters affecting litigation involving the City. I would appreciate your assistance as quickly as possible. Please be advised that I am independently seeking advice from the California State Bar with regards to any ethical conflict I may or may not maintain pertinent to the above situation.

I look forward to receiving your advice soon. Please do not hesitate to call if you have any additional questions or require additional information.

Sincerely,

HITCHCOCK, BOWMAN, SCHACHTER
& BEVERLY


Stevan Colin

SC/kk

cc: Robert Leidigh, Esq.
FPPC



California Fair Political Practices Commission

September 6, 1988

Honorable Stevan Colin
Councilmember
City of Redondo Beach
Hitchcock, Bowman, Schachter & Beverly
Del Amo Financial Center
21515 Hawthorne Blvd., Ste. 1030
Torrance, CA 90503-6579

Re: 88-344

Dear Mr. Colin:

Your letter requesting advice under the Political Reform Act was received on August 30, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jeevan Ahuja, 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,

Kathryn E. Donovan
Diane M. Griffiths
General Counsel

DMG:plh

88-344

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I look forward to receiving your advice soon. Please do not hesitate to call if you have any additional questions or require additional information.

Sincerely,

HITCHCOCK, BOWMAN, SCHACHTER
& BEVERLY

A handwritten signature in dark ink, appearing to read "Stevan Colin", written in a cursive style.

Stevan Colin

SC/kk

cc: Robert Leidigh, Esq.
FPPC