



# California Fair Political Practices Commission

March 16, 1989

Susan Roff  
Butte County Counsel  
25 County Center Drive  
Oroville, California 95965-3380

Re: Your Request for Advice  
Our File No. A-89-106

Dear Ms. Roff:

This is in response to your request for advice regarding your responsibilities under the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1/</sup>

## QUESTIONS

1. Does a dating relationship with a partner in a law firm which performs legal work for the county give rise to a conflict of interest?
2. Are gifts received by a public official in the course of a dating relationship reportable?

## CONCLUSIONS

1. A dating relationship does not give rise to a conflict of interest under the Act when the public official involved in the relationship does not otherwise have a financial interest in decisions made during the course of employment.
2. Gifts received by a public official within the context of a dating relationship are not reportable.

---

<sup>1/</sup>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

You are the County Counsel for the County of Butte. You are solely responsible for retaining outside counsel to represent the county in litigation. You review the work and billings and authorize payment for work performed by outside counsel.

You have a dating relationship with a partner in a law firm which performs legal work for the county. However, the partner with whom you have a dating relationship does not perform legal work for the county nor does he accrue any financial benefit from his law firm's relationship with the county. Within the context of your dating relationship, you have been paying for most of your own expenses incurred for outings with your friend.

### ANALYSIS

#### Conflict of Interest

Section 87100 prohibits public officials from making, participating in, or using their official position to influence any governmental decision in which they know or have reason to know they have 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 any member of his or her immediate family, or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more;

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more;

(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; or

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts 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(a)-(e).

You are employed as Butte County Counsel. As county counsel, you assign litigation to outside counsel. You have asked us to determine whether you are disqualified from participating in the decision to assign litigation to outside counsel because of your dating relationship with a partner in a law firm which acts as outside counsel to the county. Because the partner in the law firm is not a member of your "immediate family" (Section 82029), the dating relationship alone does not create a "financial interest" in the decision under Section 87103.

#### Gifts

As discussed above, an official has a financial interest in a decision which will have a material financial effect on the donor of gifts aggregating \$250 or more in value within 12 months prior to the time when the decision is made. (Section 87103(e), supra.)

Section 82029(a) defines "gift" as "any payment to the extent that consideration of equal or greater value is not received..." Subdivision (b)(3) of Section 82028 also provides that gifts from certain relatives are not reportable. For example, gifts from an individual's spouse are not reportable because they are not included in the definition of "gift."

No section of the Act expressly provides a disclosure exemption for persons living together or dating. The exemption was established because it was believed to be consistent with the general policies of the Act. These policies are found in the Act's definition of gift and in Commission opinions.

The Commission has consistently advised that gifts received within the context of an established "bona fide dating relationship" are not prohibited and need not be disclosed. In such a relationship, truly personal gifts such as gifts of entertainment, meals, personal property or expenses involved in recreational travel are not prohibited and need not be disclosed on an official's statement of economic interest. The Commission has determined that "such a relationship is similar to a family or spousal relationship, in which personal gifts are frequently exchanged, and in which disclosure of the gifts would not further the purpose of the Act." (Shea Advice Letter, No. A-84-085, copy enclosed.)

Susan Roff  
March 16, 1989  
Page 4

Additionally, the Commission has determined that normal or customary types of services personally rendered by a friend are not reportable as gifts when the friend is not in the business or trade for those services and the friend spent less than \$40 for the materials used in providing the services. (Roberti Advice Letter, No. A-85-002, copy enclosed.)

On the other hand, gifts which are not truly personal in nature but are primarily related to business activities (such as money to be used for the official's business or to purchase business property) must be disclosed on the official's statement of economic interest even if they are from a person with whom the official has a bona fide dating relationship. (Shea, supra).

It follows from the above that truly personal gifts that you receive within the context of a dating relationship are not reportable and create no conflicts for you under the facts as discussed above.

In our telephone conversation, you asked whether this advice would change if you were to marry the person whom you are dating. As previously mentioned, gifts from your spouse would not be considered "gifts" under the Act and therefore would not present conflict of interest problems. (Section 82029(b)(3).) However, your spouse's ownership interest in the law firm and your community property interest in his income are economic interests which could create potential conflicts of interest for you as to future contracting decisions. (Sections 82030, 82034 and 87103(a) and (c).) In addition, Government Code Section 1090 may affect your ability to contract with the law firm in which your spouse is a partner.<sup>2/</sup>

If you have any further questions, do not hesitate to call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Blanca M. Breeze  
Counsel, Legal Division

DMG:BMB:ld

Enclosures

---

<sup>2/</sup> We do not provide advice concerning laws other than the Act. Please consult the Attorney General's office regarding any possible conflicts under Section 1090.

OFFICE OF COUNTY COUNSEL  
COUNTY OF BUTTE

25 COUNTY CENTER DRIVE / OROVILLE, CALIFORNIA 95965-3380 / (916) 538-7621 / FAX (916) 538-7120



SUSAN ROFF  
COUNTY COUNSEL

February 14, 1989

NEIL H. McCABE  
CHIEF DEPUTY COUNTY COUNSEL

DAVID M. McCLAIN  
CHIEF DEPUTY COUNTY COUNSEL

John H. Larson  
Chairman, Fair Political Practices Commission  
428 J Street, Suite 800  
Sacramento, CA 95814

Dear Mr. Larson:

I am the County Counsel for Butte County. I would like the FPPC to render an opinion regarding a personal, social relationship I have with an attorney who is a partner in a law firm with whom the county contracts for legal services.

I was hired as the Butte County Counsel on September 14, 1987. As County Counsel, I am solely responsible for deciding which outside lawyers to retain for litigation. I review the work and billings and I sign and authorize payment for each bill. On December 17, 1987 the Board of Supervisors authorized a contract for legal services with a law firm in Oroville. They are one of several law firms who have been retained by the county for litigation and other legal services. A single member of the firm does virtually all of the county work for the firm.

In January, 1989 I began to have a social relationship with a partner in the firm, however not the attorney who does the county's legal work. On February 14, 1989 the Board of Supervisors authorized termination of the contract with the law firm and signed a new contract solely with the partner who had been performing the work on behalf of the firm. The new contract is between the county and the lawyer, a professional corporation. The fees and all monies generated from the county's work is assigned by him to a firm partnership which excludes the partner with whom I am having a personal, social relationship. Thus, my friend does not participate in any fees generated from the Butte County legal work done by his partner.

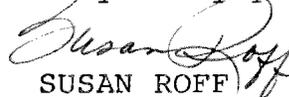
I wish to take all steps necessary to conduct myself within the guidelines of the laws and regulations the FPPC administers. Please let me know if the arrangement I have outlined here is satisfactory.

John H. Larson  
Chairman, FPPC  
February 14, 1989  
Page 2

In addition, I have been mindful of the restrictions on gifts and, while not being certain this applies to a dating relationship, I have been paying for myself in almost all situations. Please let me know if there are guidelines to be followed in regard to my friend's paying for meals, transportation, gifts, etc.

I will be happy to supply you with additional information if you need it. I look forward to hearing from you soon.

Very truly yours,



SUSAN ROFF  
Butte County Counsel

SR/kb



# California Fair Political Practices Commission

February 21, 1989

Susan Roff  
Butte County Counsel  
25 County Center Drive  
Oroville, CA 95965-3380

Re: Letter No. 89-106

Dear Ms. Roff:

Your letter requesting advice under the Political Reform Act was received on February 16, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Blanca Breeze 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

OFFICE OF COUNTY COUNSEL  
COUNTY OF BUTTE

25 COUNTY CENTER DRIVE / OROVILLE, CALIFORNIA 95965-3380 / (916) 538-7621 / FAX (916) 538-7120



SUSAN ROFF  
COUNTY COUNSEL

February 14, 1989

NEIL H. McCABE  
CHIEF DEPUTY COUNTY COUNSEL

DAVID M. McCLAIN  
CHIEF DEPUTY COUNTY COUNSEL

John H. Larson  
Chairman, Fair Political Practices Commission  
428 J Street, Suite 800  
Sacramento, CA 95814

Dear Mr. Larson:

I am the County Counsel for Butte County. I would like the FPPC to render an opinion regarding a personal, social relationship I have with an attorney who is a partner in a law firm with whom the county contracts for legal services.

I was hired as the Butte County Counsel on September 14, 1987. As County Counsel, I am solely responsible for deciding which outside lawyers to retain for litigation. I review the work and billings and I sign and authorize payment for each bill. On December 17, 1987 the Board of Supervisors authorized a contract for legal services with a law firm in Oroville. They are one of several law firms who have been retained by the county for litigation and other legal services. A single member of the firm does virtually all of the county work for the firm.

In January, 1989 I began to have a social relationship with a partner in the firm, however not the attorney who does the county's legal work. On February 14, 1989 the Board of Supervisors authorized termination of the contract with the law firm and signed a new contract solely with the partner who had been performing the work on behalf of the firm. The new contract is between the county and the lawyer, a professional corporation. The fees and all monies generated from the county's work is assigned by him to a firm partnership which excludes the partner with whom I am having a personal, social relationship. Thus, my friend does not participate in any fees generated from the Butte County legal work done by his partner.

I wish to take all steps necessary to conduct myself within the guidelines of the laws and regulations the FPPC administers. Please let me know if the arrangement I have outlined here is satisfactory.

John H. Larson  
Chairman, FPPC  
February 14, 1989  
Page 2

In addition, I have been mindful of the restrictions on gifts and, while not being certain this applies to a dating relationship, I have been paying for myself in almost all situations. Please let me know if there are guidelines to be followed in regard to my friend's paying for meals, transportation, gifts, etc.

I will be happy to supply you with additional information if you need it. I look forward to hearing from you soon.

Very truly yours,



SUSAN ROFF  
Butte County Counsel

SR/kb