



California Fair Political Practices Commission

March 30, 1989

John Torrance
City Attorney
City of Simi Valley
2929 Tapo Canyon Road
Simi Valley, CA 93063

Re: Your Request for Informal Assistance
Our File No. I-89-142

Dear Mr. Torrance:

This is in response to your letter dated February 28, 1989. In your letter you raise an apparent inconsistency between a conclusion reached by the Commission in a recent advice letter and certain provisions of the Political Reform Act.¹ Since your letter does not seek advice that pertains to a specific individual or event, we consider your request one for informal assistance.²

You specifically refer to the Schreiber Advice Letter, No. A-88-459, that was issued by the Commission on January 11, 1989. In the Schreiber letter, the Commission concluded that a county supervisor could not participate in a decision that concerned potential closure of the county's library system because his spouse worked for the library.

As you correctly point out, under Section 82030(b)(2) a salary from a governmental agency is not considered to be "income" under the Political Reform Act. On this basis, you ask how the

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.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

John Torrance
March 30, 1989
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Commission concluded that the spouse's potential loss of salary would involve a "financial interest" for the county supervisor.

Section 87103 states, among other things, that an official has a financial interest in a decision if the decision has a "material financial effect...on the official or a member of his or her immediate family...." (Emphasis added.) Regulation 18702.1 defines the term "material financial effect" in situations such as this, where the decision affects the official or his spouse.

Subdivision (a) of Regulation 18702.1 sets forth the general criteria for determining whether a decision will have a "material financial effect" upon, in this case, the official's spouse. However, subdivision (c) of Regulation 18702.1 sets forth exceptions to the criteria listed in subdivision (a).

Subdivision (c) states, in pertinent part:

Notwithstanding subsection (a) an official does not have to disqualify himself or herself from a governmental decision if:

(1) The decision only affects the salary...the official or his or her spouse receives from a...local government agency. This subsection does not apply to decisions to hire [or] fire...an official's spouse...."

Thus, while subdivision (c)(1) recognizes the exception for income from a governmental agency stated in Section 82030, it explicitly does not include decisions to hire and fire one's spouse in the exception. The effect is, therefore, to include the hiring and firing of one's spouse in the definition of "material financial effect." In other words, the decision to hire or fire one's spouse has a "material financial effect" upon the official's spouse and the official cannot participate in the decision.

I hope that this provides a satisfactory explanation to your question. If you have further questions, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

By: Scott Hallabrin
Counsel, Legal Division

DMG:SH:ld

CITY OF SIMI VALLEY

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February 28, 1989

Mr. Scott Hallabrin, Counsel
California Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95804-0807

RE: Your File A-88-459
Advice Letter to Honorable John H. Schreiber
of January 11, 1989

Dear Mr. Hallabrin:

In our continuing effort to keep ourselves abreast of the Commission's interpretations of the P.R.A. and the C.C.R. provisions interpreting it, we have obtained a copy of the above-cited advice letter and have read it with interest.

Query: Since the Modoc County library system is a government agency, and Mr. Schreiber's wife's salary derived from her employment thereby is not "income" under the Act [Government Code Section 82030(b)(2)] or the Regulations, why did you advise that the potential loss of her salary (by virtue of possible termination of her employment) would involve a "financial interest" for Mr. Schreiber? (i.e., advice letter File No. A-88-348 and File No. I-88-222) Your explanation of this seeming inconsistency from prior advice letters would be helpful in our understanding of the law.

Thanks for your help.

Very truly yours,



John Torrance
City Attorney

GREGORY STRATTON, Mayor
ANN H. ROCK, Director
VICKY HOWARD, Council Member
CLEM A. McADOO, Council Member
BILL DAVIS, Council Member





California Fair Political Practices Commission

March 6, 1989

John Torrance
City Attorney
2929 Tapo Canyon Road
Simi Valley, CA 93063

Re: Letter No. 89-142

Dear Mr. Torrance:

Your letter requesting advice under the Political Reform Act was received on March 3, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Scott Hallabrin 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, appearing to read "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh