



# California Fair Political Practices Commission

September 11, 1989

Sabina Gilbert  
511 5th Street  
Lincoln, CA 95648

Re: Your Request for Informal Assistance  
Our File No. I-89-298

Dear Ms. Gilbert:

This is in response to your request for guidance regarding your filing obligations under the provisions of the Political Reform Act (the "Act").<sup>1</sup> Since your question does not involve a specific pending decision, we are treating your request as one for informal assistance pursuant to Regulation 18329(c) (copy enclosed).<sup>2</sup>

## QUESTION

Which form do you need to file as your annual statement of economic interests, in your role as special counsel to the City of Lincoln, Form 721 or Form 730?

## CONCLUSION

In your role as special counsel to the City of Lincoln, you may be deemed a "consultant" within the meaning of the Act. The conflict of interest code of the city would specify the filing and disclosure obligations of a consultant. Any financial interests you are required to disclose would be disclosed on your annual statement of economic interests by filing Form 730.

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<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.

<sup>2</sup> 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).)

FACTS

You have been retained as special counsel (hereafter "counsel") by the City of Lincoln (hereafter "city") by an agreement dated February 11, 1988. As counsel you provided legal advice to the city concerning preparation of an amendment to the general plan. You expected your duties to consist of telephone consultation and preparation of documents subsequent to staff's negotiating such documents. However, during the course of your duties you have been involved in protracted negotiations over a developer reimbursement agreement you were asked to prepare. You have done virtually nothing since the conclusion of those negotiations.

You have filed a statement of economic interests, Form 721, disclosing your economic interests. By telephone we have advised you that you are not required to file Form 721, but that you might be required to file Form 730 instead.

ANALYSIS

Section 87200, et seq. provides that certain specified elected and appointed public officials, and candidates for those positions, must file statements of economic interests. Those officials must file Form 721. The city positions covered by Section 87200 are mayor, city manager, city attorney, chief administrative officer and city council members.

Section 87300 provides that every agency shall adopt a conflict of interest code. In its conflict of interest code, each agency must designate those positions that involve the making of, or participation in, decisions which may foreseeably affect any financial interest. (Section 87302.) Both the definitions of "designated employee" and "public official" in the Act include any consultants to an agency who make or participate in such agency decisions.<sup>3</sup> (Sections 82019 and 82048.)

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<sup>3</sup> A "consultant," within the meaning of the Act, includes "any natural person who provides, under contract, information, advice, recommendation or counsel to a state or local government agency...." (Regulation 18700(A)(2).) This term does not include, however, a person who:

(A) Conducts research and arrives at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of the agency or of any agency official, other than normal contract monitoring; and

(B) Possesses no authority with respect to any agency decision beyond the rendition of

A consultant is not included in Section 87200 as one of the persons required to file a statement of economic interests pursuant to that section. Accordingly, a consultant, such as yourself, would file a statement of economic interests pursuant to a conflict of interest code adopted by the city. We do not have a copy of the conflict of interest code adopted by the city. You should check that conflict of interest code to determine your filing and disclosure obligations. However, in general, all city public officials listed in the conflict of interest code, except those specified in Section 87200, would file Form 730 with the city as their annual statement of economic interests.

Please note that there are some differences in the information that would be disclosed on Form 721 and Form 730. For example, Form 730 requires disclosure of "business positions" on Schedule G, but no such disclosure is required on Form 721. Also, as discussed above, the extent of disclosure required by consultants and other designated employees under a conflict of interest code may be more limited than the disclosure required on Form 721 pursuant to Section 87200.

I trust this letter has provided you with the guidance you requested. If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan  
General Counsel

  
By: Jeevan S. Ahuja  
Counsel, Legal Division

KED/JSA/aa  
Enclosures

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(Continue footnote #3)  
information, advice, recommendation or counsel.

Regulation 18700(a)(2)(A)-(B).

When an attorney is hired under a contract to perform legal services for a specific matter (e.g., a particular piece of litigation), he or she ordinarily comes within this exemption. Essentially, the attorney is being called upon to deliver a finished product and not to participate in or advise a city on general governmental decisions requiring legal expertise. On the other hand, when an attorney provides general advice and counsel to the city on a continuing basis, it is the commission's view that the attorney must file the appropriate statements of economic interests. (See, e.g., Frederick Advice Letter, No. I-86-047; Albuquerque Advice letter, No. A-85-244; copies enclosed.)

# CITY OF LINCOLN

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OFFICE- Special Legal  
Counsel



APR '89

TELEPHONE 645-3314

511 5TH STREET - LINCOLN, CALIFORNIA 95648

May 1, 1989

Filing Officer  
Fair Political Practices Commission  
Technical Assistance and Analysis  
Division  
P. O. Box 807  
Sacramento, California 95804

Dear Filing Officer:

Enclosed are two Form 721's that I am submitting in my capacity as Special Counsel to the City of Lincoln. One is an assuming office statement and the other is the financial interest disclosure statement for 1988. I ask that you accept these statements and waive any late fines for the reasons set out below.

I was retained by the City of Lincoln as Special Counsel by agreement dated February 11, 1988. As Special Counsel I was asked to provide legal advice to the City concerning the preparation of an amendment to the City's General Plan. The City Attorney was disqualified from advising the City on this project due to a conflict of interest.

I served as City Attorney for the City of Lincoln from 1981 to 1983. Based on that prior experience, I expected my role as Special Counsel to involve limited contacts with the staff and Council. I expected to be consulted primarily by telephone and to be asked to prepare documents (such as agreements, ordinances, and resolutions) after the substance of each had been negotiated or otherwise worked out by staff. As such, I never thought of the need to file Form 721.

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Filing Officer  
Fair Political Practices  
Commission  
Page 2  
May 1, 1989

Late in the year I started to reconsider the need to file Form 721, because the work I was doing was beginning to look more and more like that of a "consultant" within the meaning of the law. Early in 1989 I discussed my situation with one of your staff attorneys, Margaret Ellison. With her input and after reviewing a number of advice letters on this issue which she provided me, I have concluded that my status as Special Counsel cannot be definitively categorized one way or another. Rather than continue researching and wondering about the question, I have opted to simply file the disclosure statements, and have used the date of my agreement with the City of Lincoln as the date of assuming office.

Please accept the enclosed forms for filing and waive any late fines. If you wish to discuss this with me you may reach me at (916) 624-3351 or (916) 428-1815.

Thank you.

Sincerely,



Sabina D. Gilbert  
Special Legal Counsel

SDG:ms

Enclosures (2)

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DATE	TIME	FROM	SUBJECT	CODES
6/01/89	12:41 pm	Jeanne Pritchard	89-298: Sabina Gilbert	[paty ]

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To: paty

CC: john

Subject: 89-298: Sabina Gilbert New [ ] Codes: [paty ]  
Message: The letter from Sabina Gilbert, rec'd. 5/18/89, is not a request  
for advice. It is an SEI fine waiver request. Plesae remove  
from log. Thanks.

Priority: Normal Delivery Acknowledge [ ] View Acknowledge [ ]

From: Jeanne Pritchard By: jeanne@FPPC Attachment [ ]

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# California Fair Political Practices Commission

May 23, 1989

Sabina D. Gilbert  
Special Legal Counsel  
511 - 5th Street  
Lincoln, CA 95648

Re: Letter No. 89-298

Dear Ms. Gilbert:

Your letter requesting advice under the Political Reform Act was received on May 18, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John McLean 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 "Scott Hallabun for".

Kathryn E. Donovan  
General Counsel

KED:plh

Date Received by FPPC

# FORM 721

Date Received by Filing Official

## STATEMENT OF ECONOMIC INTERESTS

*A Public Document*  
1988-89

PLEASE TYPE OR PRINT IN INK

MAY 4 10 44 AM '89

NAME	Sabina D. Gilbert	TELEPHONE NUMBER	(916) 428-1815
MAILING ADDRESS	5658 Delcliff Circle	CITY	Sacramento, CA 95822
	STREET	CITY	ZIP CODE

### OFFICE SOUGHT OR HELD (Check One):

STATE OF CALIFORNIA OFFICE: \_\_\_\_\_

JUDICIAL BRANCH COUNTY: \_\_\_\_\_ COURT: \_\_\_\_\_

CHECK ONE:  JUDGE  COURT COMMISSIONER

COUNTY OFFICE: \_\_\_\_\_ COUNTY: \_\_\_\_\_

CITY OFFICE: City Attorney - Special Counsel CITY: City of Lincoln

### TYPE OF STATEMENT (Check the Appropriate Box(es)):

### SCHEDULES TO BE COMPLETED

**CANDIDATE STATEMENT**  
File no later than the final filing date for your declaration of candidacy.

**ASSUMING OFFICE STATEMENT**  
(For Newly-Elected and Newly-Appointed Officials ONLY)\*

**ELECTED OFFICIAL** (Other than elected state officers assuming office in December or January). File no later than 30 days after assuming office.  
Date Assumed Office \_\_\_\_\_  
mo. day yr.

**APPOINTED OFFICIAL** Not subject to confirmation by the State Senate or the Commission on Judicial Appointments. File no later than 10 days after assuming office.  
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Date Appointed \_\_\_\_\_  
mo. day yr.

**ANNUAL STATEMENT**  
State officials and all judges and court commissioners file between January 1 and March 1. City and county officials file between January 1 and April 1.  
**PERIOD COVERED:** Disclose all reportable interests held or received during the period from January 1, 1988 through December 31, 1988.

**LEAVING OFFICE STATEMENT**  
File no later than 30 days after leaving office. The period covered is January 1, 19\_\_\_\_, through the date of leaving office which was:  
\_\_\_\_\_ mo. day yr.

Complete Schedules A, B and C disclosing investments and interests in real property held on the date of filing.

Complete Schedules A, B and C disclosing investments and interests in real property held on the date of assuming office.

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Complete all schedules disclosing investments and interests in real property held and income received at any time during the period covered by the statement.

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NAME Sabina D. Gilbert

**Schedule F -- Gifts**

(SEE PAGES 22 AND 23 OF THE INFORMATION MANUAL)

IDENTIFY EACH DONOR:	DATE(S) RECEIVED:	VALUE(S):	DESCRIPTION OF GIFT(S):
<b>NAME</b> H. Ross Ainsworth	2-5-88	\$15.00	Lunch
<b>ADDRESS</b> 2240 Douglas Blvd. Roseville, CA 95661	12-2-88	\$15.00	Lunch
<b>BUSINESS ACTIVITY, IF ANY</b> Engineer			
<b>NAME</b> Clif Carstens		\$10.00	Lunch
<b>ADDRESS</b> 2240 Douglas Blvd. Roseville, CA 95661			
<b>BUSINESS ACTIVITY, IF ANY</b> Engineering Firm			
<b>NAME</b>			
<b>ADDRESS</b>			
<b>BUSINESS ACTIVITY, IF ANY</b>			
<b>NAME</b>			
<b>ADDRESS</b>			
<b>BUSINESS ACTIVITY, IF ANY</b>			
<b>NAME</b>			
<b>ADDRESS</b>			
<b>BUSINESS ACTIVITY, IF ANY</b>			
<b>NAME</b>			
<b>ADDRESS</b>			
<b>BUSINESS ACTIVITY, IF ANY</b>			
<b>NAME</b>			
<b>ADDRESS</b>			
<b>BUSINESS ACTIVITY, IF ANY</b>			
<b>NAME</b>			
<b>ADDRESS</b>			
<b>BUSINESS ACTIVITY, IF ANY</b>			

If additional space is needed use the continuation sheet on the reverse.

Date Received by FPPC

# FORM 721

Date Received by Filing Official

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*A Public Document*

~~1988-89~~ 1987-88

PLEASE TYPE OR PRINT IN INK

MAY 4 10 44 AM '89

NAME	Sabina D. Gilbert	TELEPHONE NUMBER	(916) 428-1815
MAILING ADDRESS	5658 Delcliff Circle	SACRAMENTO, CA	95822
	STREET	CITY	ZIP CODE

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CHECK ONE:     JUDGE     COURT COMMISSIONER

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mo. day yr.

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Date Assumed Office Feb. 11 1988  
mo. day yr.

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mo. day yr.

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# CITY OF LINCOLN

OFFICE- Special Legal  
Counsel



Am '89

TELEPHONE 645-3314

511 5TH STREET - LINCOLN, CALIFORNIA 95648

May 1, 1989

Filing Officer  
Fair Political Practices Commission  
Technical Assistance and Analysis  
Division  
P. O. Box 807  
Sacramento, California 95804

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Filing Officer  
Fair Political Practices  
Commission  
Page 2  
May 1, 1989

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Thank you.

Sincerely,



Sabina D. Gilbert  
Special Legal Counsel

SDG:ms

Enclosures (2)



NAME Sabina D. Gilbert

The Following Summary Must be Completed by all Filers

**DO NOT COMPLETE THIS SUMMARY PAGE UNTIL YOU HAVE CAREFULLY REVIEWED ALL SCHEDULES AND THE INSTRUCTIONS FOR EACH SCHEDULE.**

	SCHEDULE COMPLETED AND ATTACHED	NO REPORTABLE INTERESTS
Schedule A INVESTMENTS (Other Than Those Held by a Business Entity or Trust)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schedule B INTERESTS IN REAL PROPERTY (Other Than Those Held by a Business Entity or Trust)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schedule C-1 INTERESTS IN REAL PROPERTY HELD BY A BUSINESS ENTITY OR TRUST	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schedule C-2 INVESTMENTS HELD BY A BUSINESS ENTITY OR TRUST	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schedule D INCOME (Other Than Loans, Gifts and Honoraria)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schedule E LOANS (Received or Outstanding During the Reporting Period)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schedule F GIFTS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schedule G HONORARIA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schedule H COMMISSION INCOME, INCOME AND LOANS TO BUSINESS ENTITIES OR TRUSTS AND INCOME FROM RENTAL PROPERTY	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**NOTE: AFTER THE SUMMARY PAGE HAS BEEN COMPLETED, PLEASE DISCARD THOSE SCHEDULES ON WHICH YOU HAVE NO REPORTABLE INTERESTS.**

### VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed the statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 13, 1989, at Sacramento, CA  
(date) , 19 \_\_\_\_\_, at \_\_\_\_\_ (city and state)

SIGNATURE Sabina D Gilbert

NAME Sabina D. Gilbert

### Schedule F -- Gifts

(SEE PAGES 22 AND 23 OF THE INFORMATION MANUAL)

IDENTIFY EACH DONOR:	DATE(S) RECEIVED:	VALUE(S):	DESCRIPTION OF GIFT(S):
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BUSINESS ACTIVITY, IF ANY Engineer			
NAME Clif Carstens		\$10.00	Lunch
ADDRESS 2240 Douglas Blvd. Roseville, CA 95661			
BUSINESS ACTIVITY, IF ANY Engineering Firm			
NAME			
ADDRESS			
BUSINESS ACTIVITY, IF ANY			
NAME			
ADDRESS			
BUSINESS ACTIVITY, IF ANY			
NAME			
ADDRESS			
BUSINESS ACTIVITY, IF ANY			
NAME			
ADDRESS			
BUSINESS ACTIVITY, IF ANY			
NAME			
ADDRESS			
BUSINESS ACTIVITY, IF ANY			

If additional space is needed use the continuation sheet on the reverse.

NAME \_\_\_\_\_

### Schedule F -- Gifts Continuation Sheet

IDENTIFY EACH DONOR:	DATE(S) RECEIVED:	VALUE(S):	DESCRIPTION OF GIFT(S):
NAME			
ADDRESS			
BUSINESS ACTIVITY, IF ANY			
NAME			
ADDRESS			
BUSINESS ACTIVITY, IF ANY			
NAME			
ADDRESS			
BUSINESS ACTIVITY, IF ANY			
NAME			
ADDRESS			
BUSINESS ACTIVITY, IF ANY			
NAME			
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BUSINESS ACTIVITY, IF ANY			
NAME			
ADDRESS			
BUSINESS ACTIVITY, IF ANY			
NAME			
ADDRESS			
BUSINESS ACTIVITY, IF ANY			

If additional space is needed check the box and attach an additional Schedule F.

3188

Date Received by FPPC

# FORM 721

Date Received by Filing Official

F P P C

## STATEMENT OF ECONOMIC INTERESTS

MAY 4 10 44 AM '89

*A Public Document*

~~1988-89~~ 1987-88

PLEASE TYPE OR PRINT IN INK

NAME Sabina D. Gilbert		TELEPHONE NUMBER (916) 428-1815
MAILING ADDRESS 5658 Delcliff Circle Sacramento, CA 95822		
STREET	CITY	ZIP CODE

### OFFICE SOUGHT OR HELD (Check One):

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JUDICIAL BRANCH COUNTY: \_\_\_\_\_ COURT: \_\_\_\_\_

CHECK ONE:  JUDGE  COURT COMMISSIONER

COUNTY OFFICE: \_\_\_\_\_ COUNTY: \_\_\_\_\_

CITY OFFICE: City Attorney - Special Counsel CITY: City of Lincoln

### TYPE OF STATEMENT (Check the Appropriate Box(es)):

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Date Assumed Office Feb. 11 1988

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Complete Schedules A, B and C disclosing investments and interests in real property held on the date of assuming office.

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Complete all schedules disclosing investments and interests in real property held and income received at any time during the period covered by the statement.

Complete all schedules disclosing investments and interests in real property held and income received at any time during the period covered by the statement.

\*INCUMBENT OFFICEHOLDERS WHO ARE RE-ELECTED OR RE-APPOINTED WITHOUT A BREAK IN SERVICE SHOULD NOT COMPLETE AN ASSUMING OFFICE STATEMENT. Form 1 (88/89)

NAME Sabina D. Gilbert

The Following Summary Must be Completed by all Filers

**DO NOT COMPLETE THIS SUMMARY PAGE UNTIL YOU HAVE CAREFULLY REVIEWED ALL SCHEDULES AND THE INSTRUCTIONS FOR EACH SCHEDULE.**

	SCHEDULE COMPLETED AND ATTACHED	NO REPORTABLE INTERESTS
Schedule A INVESTMENTS <i>(Other Than Those Held by a Business Entity or Trust)</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Schedule D INCOME <i>(Other Than Loans, Gifts and Honoraria)</i>	<input type="checkbox"/>	<input type="checkbox"/>
Schedule E LOANS <i>(Received or Outstanding During the Reporting Period )</i>	<input type="checkbox"/>	<input type="checkbox"/>
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**VERIFICATION**

I have used all reasonable diligence in preparing this statement. I have reviewed the statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 13, 1989, 19     , at Sacramento, CA  
(date) (city and state)

SIGNATURE Sabina D Gilbert