



# California Fair Political Practices Commission

July 21, 1989

Brian Cochran  
Attorney at Law  
2320 Fifth Avenue, Suite 200  
San Diego, CA 92101-1676

Re: Your Request for Advice  
Our File No. A-89-376

Dear Mr. Cochran:

You have requested advice concerning application of the provisions of the Political Reform Act (the "Act")<sup>1</sup> to your duties as a councilmember of the City of Lemon Grove. The following advice is based upon the facts provided in your letter.

## QUESTIONS

1. Is your law practice an investment in a business entity doing business in your jurisdiction which must be reported on Schedule A of your statement of economic interests?
2. Are you required to disclose clients of your law practice?

## CONCLUSIONS

1. Your law practice is an investment in a business entity doing business in your jurisdiction which must be reported on Schedule A of your statement of economic interests.
2. You must disclose on Schedule H-2 any client who is located in or doing business in your jurisdiction and who is a source of income to you of \$10,000 or more.

## FACTS

You live in the City of Lemon Grove, where you are a member of the City Council. You are an attorney with a private law practice, which is located in San Diego and is limited to the courts in San Diego, Chula Vista, Vista and El Cajon. You have

---

<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.

never represented any clients who do business with the City of Lemon Grove. However, during 1988, at least one of your clients lived in the City of Lemon Grove. Based upon this client "contact", our technical assistance staff informed you that you were "doing business" in Lemon Grove and therefore had to report your law practice as an investment in a business entity doing business in your jurisdiction.

On May 30, 1989, the technical assistance division sent you a letter regarding your 1988 annual statement of economic interests. On Schedule D-Income, you had reported income from Brian Cochran, Attorney-at-Law; however, you did not report your investment in your law practice on Schedule A-Investments. You were advised to file a supplemental statement adding Schedule A.

You now seek clarification of this advice, as well as guidance in how to report or value your law practice.

#### ANALYSIS

Sections 87202 and 87203 require certain public officials to disclose their investments. Section 82034 defines an investment as:

... any financial interest in or security issued by a business entity, including... any partnership or other ownership interest owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. No asset shall be deemed an investment unless its fair market value equals or exceeds one thousand dollars (\$1,000)....

Section 82035 defines jurisdiction as:

... the state with respect to a state agency and, with respect to a local government agency, the region, county, city, district or other geographical area in which it has jurisdiction.

You have questioned the need to report your law practice as an investment because it is not located in your jurisdiction and you do not go to court or "do business" in your jurisdiction.

In the Baty Opinion (1979) 5 FPPC Ops. 10 (copy enclosed), the Commission examined the issue of "doing business" and stated as follows:

[W]here the entity in which the official has an investment has business contacts with the official's jurisdiction, there is a potential for conflict of interests arising and substantial justification for disclosure of the official's investment.

Baty Opinion at p.3.

The Commission makes clear in Baty that the phrase doing business in the jurisdiction is to be construed very broadly. Given the fact that your firm draws clients from, and is located in close proximity to Lemon Grove, we believe it does business in Lemon Grove and must be reported.

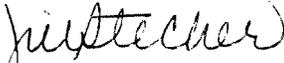
On Schedule A of your statement of economic interests you are required to disclose the name, nature, general description, ownership interest and value of your business. (Section 87206.) The value of your investment interest is based upon the fair market value of the business. (Section 87206(d).)

On Schedule H of your statement of economic interests, you are also required to report clients of your business who provide income of \$10,000 or more. (Section 87207(b)(2).) This includes your client from Lemon Grove and any others who are located in or doing business in Lemon Grove. In such circumstances, the identity of an attorney's clients is not privileged information. (Hays v. Wood (1979) 25 Cal. 3d 772.)

I hope this answers your questions regarding your reporting obligations. If you have any further questions, please contact me at (916) 322-5901 or the Technical Assistance and Analysis Division at (916) 322-5662.

Sincerely,

Kathryn E. Donovan  
General Counsel

  
By: Jill R. Stecher  
Counsel, Legal Division

KED:JRS:plh

Enclosures

BRIAN COCHRAN  
ATTORNEY AT LAW  
2320 Fifth Avenue, Suite 200  
San Diego, California 92101-1676  
(619) 231-9939

JUN 22 6 17 AM '89

June 19, 1989

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

Attention: Legal Division

To whom it may concern:

It was requested by Lynne Martin of your staff that I write you concerning my 1988 Annual Statement of Economic Interest, which was previously filed in March, 1989.

As you can see from the enclosed copy of a letter from Colleen McGee dated May 30, 1989, the Commission is requesting that I list my law office as an investment on Schedule A. Apparently, this issue arose when I noted on my Annual Report that I had income from "Brian Cochran, Attorney at Law" without setting forth the investment for such a business. The question that I raised to Ms. Martin originally was, how do I report an investment in myself and why is it reportable since it is simply the means that I use to support myself as opposed to a business entity that I own? To make the point clear, I explained that I am a sole practicing attorney licensed by the California State Supreme Court to practice in state court in the State of California.

While I live in the City of Lemon Grove where I am a member of the Council, my office is located in downtown San Diego; totally outside the city limits of Lemon Grove. My field of expertise is Family Law. While I occasionally have cases in other areas of the law, there are no courts located in Lemon Grove and, therefore, my practice is limited to my office and the courts in San Diego, Chula Vista, Vista, and El Cajon, California. I have never practiced before the City Council in the City of Lemon Grove nor represented any clients doing business with the City.

California Fair Political  
Practices Commission  
June 19, 1989  
Page Two

It was the consensus opinion that since at least one of my clients during 1988 lived in the City of Lemon Grove, I still had to report an investment in my business. I disagree with this since that person was going through a custody problem as opposed to doing business with the City of Lemon Grove. It appears to be the opinion of your staff that since the person lives within the city limits, they are "doing business" in the City and, thus, are a reportable interest.

This creates an unreasonable burden upon attorneys to both divulge who their clientele are and to screen their clientele vis a vis where they live as opposed to where their case is being adjudicated. I, therefore, request clarification as to whether or not the presence of a client in the City as a resident necessitates the filing of a financial disclosure statement.

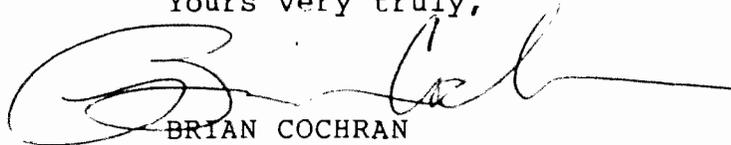
The question which remains unanswered is, how does one report an investment in ones self? As I have pointed out previously, my business owns some equipment, leases some equipment and utilizes a month to month lease on the building in San Diego which I occupy. In addition, while I have outstanding student loans, I'm not sure how to declare "investment" in myself. Theoretically, some might consider that a good will interest exists in my business much as an investment in a 7-11 or a similar business might exist. However, as you are no doubt aware, it is unlawful and unethical for an attorney to sale clientele. Therefore, I could not turn this business over in its present form to anyone else and receive justifiable income by turning over clients. I do not see how I could possibly have an investment in my clientele nor a monetary investment in the business itself.

In essence, the items that I own I own personally since I have to buy them personally. There is no separate corporation or business entity which exists separate and apart from myself as an individual.

California Fair Political  
Practices Commission  
June 19, 1989  
Page Three

I would request that you respond to this inquiry as soon as possible in that I am now under an obligation with your office to file a supplemental statement and I do not wish to violate any filing deadlines nor find myself at odds with your Commission.

Yours very truly,

A handwritten signature in black ink, appearing to read "B. Cochran", with a long horizontal flourish extending to the right.

BRIAN COCHRAN

BC/kcb  
Enclosure  
cc and enc: Lynne Martin  
Political Reform Consultant



# California Fair Political Practices Commission

May 30, 1989

Brian Cochran  
City Council  
City of Lemon Grove  
1927 Dayton Drive  
Lemon Grove, CA 92045

Re: Statement of Economic Interests  
Type of Statement: 1988 Annual  
Date Filed: March 14, 1989

Dear Mr. Cochran:

The Fair Political Practices Commission received your statement of economic interests. It appears that your statement does not conform with the filing requirements of the Political Reform Act in the following respects:

On Schedule D-Income, you reported income from Brian Cochran, Attorney at Law. However, your investment in this business was not reported on Schedule A-Investments.

The enclosed supplemental schedule(s) should be completed within 20 days and returned to your agency's filing official who will retain a copy and forward the original to the Fair Political Practices Commission.

Please note that our review of your statement does not constitute an in-depth audit and your compliance with this request for supplemental information or correction does not relieve you of your responsibility for the overall accuracy and completeness of your statement as required by law.

If you have any questions regarding this letter, please contact Lynne Martin at (916) 322-5662.

Sincerely,

A handwritten signature in cursive script that reads "Colleen McGee".

Colleen McGee  
Political Reform Consultant  
Technical Assistance and  
Analysis Division

Enclosures  
cc: Lemon Grove City Clerk

89-376

BRIAN COCHRAN  
ATTORNEY AT LAW  
2320 Fifth Avenue, Suite 200  
San Diego, California 92101-1676  
(619) 231-9939

1 22 8 17 1989

June 19, 1989

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

Attention: Legal Division

To whom it may concern:

It was requested by Lynne Martin of your staff that I write you concerning my 1988 Annual Statement of Economic Interest, which was previously filed in March, 1989.

As you can see from the enclosed copy of a letter from Colleen McGee dated May 30, 1989, the Commission is requesting that I list my law office as an investment on Schedule A. Apparently, this issue arose when I noted on my Annual Report that I had income from "Brian Cochran, Attorney at Law" without setting forth the investment for such a business. The question that I raised to Ms. Martin originally was, how do I report an investment in myself and why is it reportable since it is simply the means that I use to support myself as opposed to a business entity that I own? To make the point clear, I explained that I am a sole practicing attorney licensed by the California State Supreme Court to practice in state court in the State of California.

While I live in the City of Lemon Grove where I am a member of the Council, my office is located in downtown San Diego; totally outside the city limits of Lemon Grove. My field of expertise is Family Law. While I occasionally have cases in other areas of the law, there are no courts located in Lemon Grove and, therefore, my practice is limited to my office and the courts in San Diego, Chula Vista, Vista, and El Cajon, California. I have never practiced before the City Council in the City of Lemon Grove nor represented any clients doing business with the City.

California Fair Political  
Practices Commission  
June 19, 1989  
Page Two

It was the consensus opinion that since at least one of my clients during 1988 lived in the City of Lemon Grove, I still had to report an investment in my business. I disagree with this since that person was going through a custody problem as opposed to doing business with the City of Lemon Grove. It appears to be the opinion of your staff that since the person lives within the city limits, they are "doing business" in the City and, thus, are a reportable interest.

This creates an unreasonable burden upon attorneys to both divulge who their clientele are and to screen their clientele vis a vis where they live as opposed to where their case is being adjudicated. I, therefore, request clarification as to whether or not the presence of a client in the City as a resident necessitates the filing of a financial disclosure statement.

The question which remains unanswered is, how does one report an investment in ones self? As I have pointed out previously, my business owns some equipment, leases some equipment and utilizes a month to month lease on the building in San Diego which I occupy. In addition, while I have outstanding student loans, I'm not sure how to declare "investment" in myself. Theoretically, some might consider that a good will interest exists in my business much as an investment in a 7-11 or a similar business might exist. However, as you are no doubt aware, it is unlawful and unethical for an attorney to sale clientele. Therefore, I could not turn this business over in its present form to anyone else and receive justifiable income by turning over clients. I do not see how I could possibly have an investment in my clientele nor a monetary investment in the business itself.

In essence, the items that I own I own personally since I have to buy them personally. There is no separate corporation or business entity which exists separate and apart from myself as an individual.

California Fair Political  
Practices Commission  
June 19, 1989  
Page Three

I would request that you respond to this inquiry as soon as possible in that I am now under an obligation with your office to file a supplemental statement and I do not wish to violate any filing deadlines nor find myself at odds with your Commission.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Brian Cochran", written in dark ink. The signature is fluid and somewhat stylized, with a long horizontal stroke extending to the right.

BRIAN COCHRAN

BC/kcb  
Enclosure  
cc and enc: Lynne Martin  
Political Reform Consultant



# California Fair Political Practices Commission

May 30, 1989

Brian Cochran  
City Council  
City of Lemon Grove  
1927 Dayton Drive  
Lemon Grove, CA 92045

Re: Statement of Economic Interests  
Type of Statement: 1988 Annual  
Date Filed: March 14, 1989

Dear Mr. Cochran:

The Fair Political Practices Commission received your statement of economic interests. It appears that your statement does not conform with the filing requirements of the Political Reform Act in the following respects:

On Schedule D-Income, you reported income from Brian Cochran, Attorney at Law. However, your investment in this business was not reported on Schedule A-Investments.

The enclosed supplemental schedule(s) should be completed within 20 days and returned to your agency's filing official who will retain a copy and forward the original to the Fair Political Practices Commission.

Please note that our review of your statement does not constitute an in-depth audit and your compliance with this request for supplemental information or correction does not relieve you of your responsibility for the overall accuracy and completeness of your statement as required by law.

If you have any questions regarding this letter, please contact Lynne Martin at (916) 322-5662.

Sincerely,

A handwritten signature in cursive script that reads "Colleen McGee".

Colleen McGee  
Political Reform Consultant  
Technical Assistance and  
Analysis Division

Enclosures  
cc: Lemon Grove City Clerk



# California Fair Political Practices Commission

June 23, 1989

Brian Cochran  
Attorney at Law  
2320 Fifth Avenue, Suite 200  
San Diego, CA 92101-1676

Re: Letter No. 89-376

Dear Mr. Cochran:

Your letter requesting advice under the Political Reform Act was received on June 22, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jill Stecher 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 "Kathryn E. Donovan".

Kathryn E. Donovan  
General Counsel

KED:plh