



California Fair Political Practices Commission

October 11, 1989

Michael F. Dean
City Attorney
City of Roseville
311 Vernon Street
Roseville, CA 95678

Re: Your Request for Advice
Our File No. A-89-559

Dear Mr. Dean:

This is in response to your letter requesting confirmation of telephone advice I provided to you on September 21, 1989 regarding your responsibilities as City Attorney for Roseville under the conflict-of-interest provisions of the Political Reform Act (the "Act").^{1/} In that telephone conversation you asked whether the solicitation of donations on behalf of the Sunrise Jewish Congregation (the "congregation"), a nonprofit religious organization, from persons in Roseville would create a conflict of interest with respect to your duties as City Attorney in decisions that might affect those persons. You stated that you are also the president and a member of the board of directors of the congregation on a volunteer basis.

As I stated in our telephone conversation, Section 87100 prohibits any public official from making, participating in making, or otherwise using his official position to influence a governmental decision in which the official has a financial interest. Section 87103 specifies that an official has a financial interest 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 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.

^{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.

(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.

(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.

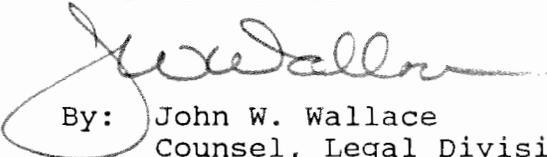
A business entity is defined in the Act as "any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association." (Section 82005.) Since the congregation is not an organization or enterprise operated for profit your involvement with the congregation does not pose a potential for a conflict of interest under Section 87103(a) or (d). (Libresco Advice Letter, No. I-88-239, copy enclosed.)

In addition, the fact that you receive no income from the congregation prevents any potential conflicts of interest with respect to Section 87103(c). Finally, where persons donate money to the congregation at your behest, the donations will not be gifts to you provided you had no discretion in whether to accept the donation to the congregation. (Section 87103(e); Bremberg Advice Letter, No. A-89-445, copy enclosed.) Thus, absent some other disqualifying financial interest as set forth in Section 87103, you may participate in decisions concerning the congregation.

If any further questions regarding this matter, please feel free to contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel


By: John W. Wallace
Counsel, Legal Division

KED:JWW:plh
Enclosures



City of Roseville

Office of the City Attorney

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Phone 781-0325
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95678

September 25, 1989

John Wallace
Staff Attorney
Fair Political Practices Commission
P.O. Box 807
Sacramento, California 95804

Re: Request for Opinion

Dear Mr. Wallace:

During our conversation on September 21, 1989, you suggested that my question should be put to you in writing so that you may confirm your answer and provide an opinion on which I might rely. This letter therefore asks the Commission for advice pursuant to the Political Reform Act.

I am the appointed City Attorney of the City of Roseville. As such, I provide advice to the Council which appoints me, the City's various commissions, and the staff regarding the various development projects which come before a City. I am also the President and a member of the Board of Directors of the Sunrise Jewish Congregation, a not for profit corporation. I receive no salary or other remuneration from Sunrise.

Sunrise is in the process of acquiring certain real property for the purpose of building a sanctuary. The real property is located outside of the corporate limits of the City of Roseville, and in a different county. A number of developers who do business in Roseville, and who share our religious objectives, have expressed a willingness to make donations to the building fund of Sunrise, or provide in-kind services.

Please provide your opinion as to whether or not a conflict of interest will arise should such donations be made or if I solicit other developers for donations on behalf of Sunrise.

Thank you for your cooperation.

Very truly yours,


MICHAEL F. DEAN
City Attorney

MFD/mlc