

October 17, 2012

Clive Endress  
9 Gilbert Street  
San Rafael, CA 94901

Re: Your Request for Advice  
**Our File No. A-12-143**

Dear Mr. Endress:

This letter responds to your request for advice regarding the post-governmental employment provisions of the Political Reform Act (the "Act").<sup>1</sup>

### **QUESTION**

Do the post-governmental employment provisions apply to your current work as a consultant for an engineering firm?

### **CONCLUSION**

No. Neither the one-year ban nor the permanent ban limits your work on the project you described.

### **FACTS**

You retired from the California Department of Transportation-District 4 ("CalTrans") in April of 2010. You worked as a landscape architect with CalTrans, including providing support for projects on the Bay Bridge. Your primary responsibilities on these projects included architectural and aesthetic support for the engineers and designers. You did not make decisions on these or related projects.

After retiring from Caltrans, you worked as a retired annuitant for the Bay Area Toll Authority ("BATA"), providing architectural support services for the Bay Bridge restructuring

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

project. As in your position with CalTrans, you did not have decision-making authority in the project. You left BATA in April of 2011. You now work for a private company, Zoon Engineering, that contracts with CalTrans. As part of your duties for Zoon, you will provide landscape architecture design support services. As part of this project, you will assist in implementing architectural intent and avoiding unnecessary costs and delays.

## ANALYSIS

### *Post-Governmental Employment Restrictions*

Public officials who have left state service and who were or should have been listed in their agency's conflict of interest code<sup>2</sup> are subject to two types of post-governmental restrictions under the Act, colloquially known as the "revolving door" prohibitions. The first is the "one-year ban." This ban applies for one year after an employee separates from public service. Because it has been more than one year since you left your last public position, the one-year ban does not apply.

The second of the post-governmental restrictions is the "permanent ban." The permanent ban prohibits influencing any judicial, quasi-judicial, or other proceeding in which an official participated while in state service. (Sections 87401 and 87402; Regulation 18741.1.) The work that you are describing with your new employer, Zoon Engineering, is not a "proceeding" under the Act. The permanent ban does not apply to the landscape architecture consulting you will be doing.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini  
General Counsel

By: Heather M. Rowan  
Counsel, Legal Division

HMR:jgl

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<sup>2</sup> You did not state whether you were a designated employee and therefore filed Statements of Economic Interest in your public positions. For purposes of this analysis, we assume that you were a designated employee, as the post-governmental restrictions only apply to designated employees or those who should be designated.