

March 8, 2013

DiAun Burns
Department of Corporations
320 West 4th Street, Suite 750
Los Angeles, CA 90013

Re: Your Request for Advice
Our File No. A-13-020

Dear Mr. Burns:

This letter responds to your request for advice regarding the reporting provisions of the Political Reform Act (the “Act”).¹ We base our advice solely on the provisions of the Act and on the facts presented; the Fair Political Practices Commission (the “Commission”) does not act as a finder of fact when it renders advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

QUESTION

Are travel expenses that were covered by the State Regulatory Registry in connection with a meeting you attended in Washington, D.C. reportable under the Act?

CONCLUSION

No. According to your conflict of interest code, you are only required to report income, including gifts, loans and travel payments from sources who within the last two years have requested and/or obtained a license from the Department of Corporations (“DOC”) or who may be subject to any action for failure to obtain such a license. Because an entity that is not a current or future licensee of the DOC paid for your travel expenses, such payments do not appear to be from a source that you are required to report on your Form 700.

¹ 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.

FACTS

You are a Supervising Corporation Examiner at the DOC. Your specific position is Special Administrator of the California Residential Mortgage Lending Act where you are responsible for managing the Mortgage Loan Originator (“MLO”) program at the DOC. Federal law requires all MLOs to be state-licensed through the Nationwide Mortgage Licensing System (“NMLS”). The DOC has almost 17,000 licensed MLOs, which nationwide is second only to the California Department of Real Estate.

In connection to your responsibilities at the DOC, you are an active member of the Mortgage Testing and Education Board (“MTEB”), which was established by the State Regulatory Registry, LLC (“SRR”). The SRR owns and operates the NMLS. The SRR was established by the Conference of State Bank Supervisors (“CSBS”) and the American Association of Residential Mortgage Regulators (“AARMR”), which are trade associations of state regulators, banks and mortgage regulators. By email dated March 6, 2013, you confirmed that the SRR, CSBS and AARMR are not businesses that would make or service loans and none of them are subject to licensing. As such, these entities are not currently licensees of the DOC, nor will they ever be.

The MTEB meets every two weeks during the year. Apart from the meetings, members work independently on various projects such as investigations of alleged violations of rules of conduct for test takers. You served on an ad hoc committee to develop recommendations for testing and education requirements to be used by the system nationwide. In connection with that project, you traveled to Washington, D.C. for an MTEB meeting. All expenses related to your food and lodging were covered directly by the SRR. In addition, the SRR reimbursed you for the cost of your airfare.

ANALYSIS

Section 87300 requires every state agency to adopt a conflict of interest code designating those positions within the agency which involve the making of governmental decisions. Employees of the agency who hold those positions must file statements of economic interests. The code must also establish categories for disclosure which are tailored to the types of decisions made by each designated position. (Section 87302.)

As a Supervising Corporation Examiner, you come within Disclosure Category C of the DOC’s conflict of interest code. (See Cal. Code Regs., tit. 10, § 250.30.) Based on that disclosure category, you are required to report, in pertinent part:

“Any investment and/or business position in any business entity and income, including gifts, loans and travel payments, from any source, or representative thereof, which has requested and/or obtained during the preceding two years, or which the designated employee knows or has reason to know will request and/or obtain, a license or certificate under the laws administered by the Financial Services Division, or which has been

subject to any action, or which he or she knows or has reason to know will be subject to any action, by the Department in connection with the failure to obtain a license or certificate under such laws.”

(Cal. Code Regs., tit. 10, § 250.30, Appendix.)

You traveled to Washington, D.C. for an MTEB meeting. All of the expenses related to your travel, food and lodging were covered by the SRR. According to your facts, the SRR is not a business that would make or service loans, and is therefore not an entity subject to licensing by the DOC now or in the future. Because SRR is not subject to licensing by the DOC, it is not the type of entity addressed by Disclosure Category C of the DOC’s conflict of interest code. As a result, the travel expenses do not appear to be from a source that you are required to report on your Form 700.

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

Sincerely,

Zackery P. Morazzini
General Counsel

By: Jack Woodside
Counsel, Legal Division

JCW:jgl