

August 14, 2014

Glenda E. Finley
Supervising Investigator I
Medical Board of California
Office of Investigative Services
Rancho Cucamonga, California 91730

**RE: Your Request for Advice
Our File No. A-14-083**

Dear Ms. Finley:

This letter responds to your request for advice regarding the conflict-of-interest code disclosure provisions of the Political Reform Act (the “Act”)¹ and is based 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

Do you have to report your personal business interests, as identified below, on your Statement of Economic Interests (Form 700 or SEI)?

CONCLUSION

No. Pursuant to categories 4 and 5 of your agency’s conflict of interest code, you are not required to disclose these interests.

FACTS

You are an employee of the State of California Medical Board, a board within the Department of Consumer Affairs. Your position as a Supervising Investigator I is designated in its conflict of interest code, requiring disclosure of any financial interests as identified under categories 4 and 5. Those categories require designated employees to disclose as follows:

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.

- Category 4 – “All interests in real property and investments and business positions in, and any income, including gifts, loans and travel payments from, a business entity, professional association or individual where the business entity, professional association or individual’s profession is regulated by or offers programs or courses qualifying for licensing or continuing education credit by the official’s or employee’s licensing agency.”
- Category 5 – Investments and business positions in, and any income, including gifts, loans and travel payments from, a business entity if, within the previous two years, the entity is of the type which has contracted with the official’s or employee’s immediate employer (e.g., board, bureau, division or licensing agency, or, when applicable, the department) to provide goods or services.

You are a licensed real estate agent (Bureau of Real Estate, Department of Consumer Affairs), Notary (Secretary of State), and Private Investigator (Bureau of Security and Investigative Services, Department of Consumer Affairs). You have provided an email from your supervisor that states that you “cannot check none [on your form] if you own a business and receive income from that business.”

ANALYSIS

Section 87300 states:

“Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designate employee shall be deemed a violation of this chapter.”

Section 87302 requires that each “Conflict of Interest Code shall contain ... [a] specific enumeration of the positions within the agency ... [that] involve the making of decisions [that] may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, or sources of income [that] are reportable.”

Your position is designated in your agency’s Conflict of Interest Code because your agency has determined that the duties of your position include making or participating in the making of decisions that may foreseeably have a material effect on a financial interest. You stated that your interests that are reportable are limited to those enumerated in categories 4 and 5 as set forth above.

- Category 4 – Entities that are regulated by or offers programs or courses qualifying for licensing or continuing education credit by your licensing agency.

The Medical Board is not the licensing agency for any of the three businesses entities in which you have a financial interest and those businesses do not offer programs or courses qualifying for licensing or continuing education credit by the Medical Board.

- Category 5 – Business entities if, within the previous two years, the entity is of the type which has contracted with the official's or employee's immediate employer (e.g., board, bureau, division or licensing agency, or, when applicable, the department) to provide goods or services.

In our telephone conversation you stated that your agency: (1) has its own investigators and does not hire private investigators; (2) does not hire real estate agents; and (3) does not contract with outside notaries. Given those facts, your business entities are not “of the type” that contract with the Medical Board.

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

Sincerely,

Zackery P. Morazzini
General Counsel

By: William J. Lenkeit
Senior Counsel, Legal Division

WJL:jgl