



FAIR POLITICAL PRACTICES COMMISSION

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To: Chair Ravel and Commissioners Casher, Eskovitz, Wasserman and Wynne

From: Zackery P. Morazzini, General Counsel

Subject: Monthly Report on Legal Division Activities

Date: May 5, 2013

A. OUTREACH AND TRAINING

- In April, General Counsel Zackery P. Morazzini gave a presentation to the Valley Industry & Commerce Association's (VICA) sub-committee on Government Affairs concerning pending legislation regarding non-profit and multi-purpose organization disclosure. VICA is a southern California based business advocacy organization whose stated mission is to enhance the economic vitality of the greater San Fernando Valley region by advocating for a better business climate and quality of life. After the presentation, the VICA sub-committee voted to formally support many of the disclosure concepts the Commission is sponsoring in the Legislature this session.
- On April 19, 2013, Senior Commission Counsel Heather Rowan presented at the California County Counsel Association's annual conference. Ms. Rowan offered an overview of the Commission's updates to the gift regulations as well as other exciting changes of interest to the group. The talk created a lively discussion and elicited several engaging questions from the audience.

B. FINDINGS OF PROBABLE CAUSE

A finding of probable cause does not constitute a finding that a violation has actually occurred. The respondents are presumed to be innocent of any violation of the Act unless a violation is proved in a subsequent proceeding.

None to report this period.

C. LEGAL ADVICE TOTALS

- **Email Requests for Advice:** In April, Legal Division attorneys responded to more than 44 email requests for legal advice.
- **Advice Letters:** From April 8, 2013 to April 30, 2013, the Legal Division received 14 advice letter requests and issued 8 advice letters.

D. ADVICE LETTER SUMMARIES

Campaign

Lisa Lloyd

A-13-043

Three individuals working together on a mailing do not meet the contribution or expenditure thresholds to qualify as a committee. Therefore, the campaign disclosure provisions of the Act are not applicable to the facts. However, if the three of them receive contributions or make expenditures totaling \$1,000 or more in a calendar year then the group would qualify as a committee and be required to file campaign reports.

Conflict of Interest

Brian A Pierik

A-13-012

The advisee does not have a conflict of interest because he will not be making, participating in making or using his official position to influence any governmental decisions relating to the listing of his business on the City's website. Moreover, the listing is not prohibited by the Act's mass mailing provisions, which only apply to the distribution of tangible items. Distribution of information over the Internet, including websites, does not constitute distribution of a tangible item.

Timben Boydston

A-13-022

Since the official's salary would increase (and not the salaries of all the members of the class), the advisee may not participate in the decision regarding the legality of decreased compensation in lieu of medical benefits because it would materially affect the advisee. Supplements previous letter 10/10/2012 (*Boydston ADvice Letter, No. A-12-133*).

Mark Owens

I-13-040

Absent duty statements and specific activities, the Commission is unable to give the advisee a definitive answer as to whether any of the individual employees are "consultants" under the Act. Advisees were provided informal assistance regarding how the law may apply.

W. Michael McCormick

A-13-050

There is no conflict of interest in a decision that makes earlier the application of a rule that reduces the salary of two councilmembers. Three of five members of the city council have already had their salary lowered and it had been already decided that the remaining two were to have the lower salary effective at the end of their terms.

Gift

Ryan Fowler

A-13-037

As designee under Category II disclosure for California Lottery, the advisee is not required to report the source of gift tickets to Disneyland. However, the high value of the tickets may result in a conflict of interest in future governmental decisions affecting the source.

Revolving Door

Barbara Stocking

A-13-035

The permanent ban will apply to the extent that the advisee worked on the creation, formation, application, drafting or awarding of a contract with an external consultant while at CalPERS, and is now seeking to work on the performance or implementation of the contract after leaving state service. The permanent ban would not apply if this was a "new proceeding." However, the one-year ban is still applicable.

