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CHAIRMAN



## FAIR POLITICAL PRACTICES COMMISSION

May 22, 1997

Raymond R. Holland  
Vice President  
Planning and Legal Affairs  
Private Industry Council of San Francisco, Inc.  
745 Franklin Street, Suite 400  
San Francisco, California 94102-3117

**Re: Your Request for Advice**  
**Our File No. A-97-120a**

Dear Mr. Holland:

This letter is a response to your request for advice regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTIONS

1. Does "... the person who made the appointment ..." under Section 85705 include the person who has the authority to make the appointment if it were made today, but did not actually make the appointment?
2. Given that the Commission has determined that the Private Industry Council of San Francisco is a public board or commission subject to the provisions of Section 85705, does the Commission have the responsibility to alert the other 51 private industry councils in California that they too are required to abide by Section 85705?
3. Can the Commission approve the Statement of Economic Interests form used by the Private Industry Council of San Francisco to allow broader reporting by its members than is required by California law?

### CONCLUSIONS

1. No. The language of Section 85705 limits its application to the person who actually

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<sup>1</sup> Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

made the appointment.

2. The Act does not require the Commission to notify persons whose conduct may be impacted by its advice to another individual or entity. However, the Commission is very concerned that its rulings be publicized in order to encourage compliance with the law. Please contact us so that we can agree on the best method of notifying affected persons.

3. As discussed in the *Holland* Advice Letter, No. A-97-120, the Commission's forms and appendices may not be altered. However, we are willing to meet with you to attempt to resolve the problem of overlapping state and federal requirements.

### FACTS

The Private Industry Council of San Francisco is a public board or commission subject to the provisions of Section 85705. (*Holland* Advice Letter, *supra*.) In the same advice letter, the Commission advised the Private Industry Council of San Francisco that the Council may not alter the FPPC Statement of Economic Interests (Form 700) to add requirements designed to meet federal disclosure requirements.

### ANALYSIS

Section 85705 provides:

"No person appointed to a public board or commission . . . during tenure in office shall donate to, or solicit or accept any campaign contribution for, any committee controlled by the person who made the appointment to that office or any other entity with the intent that the recipient of the donation be any committee controlled by such person who made the appointment."

Section 85705 only prohibits an appointed member of a public board or commission from donating to or soliciting or accepting campaign contributions for the person who made the appointment. Section 85705 does not extend to the current incumbent who has the authority to make the appointment if it were made today, but did not actually make the current appointment.

The Commission did conclude that the Public Industry Council of San Francisco was a public board or commission subject to the provisions of Section 85705. You assume that this conclusion applies to other Private Industry Councils. While the Commission did not make this conclusion regarding any other public industry councils in California, this is a correct presumption by you. The Act does not require the Commission to notify persons whose conduct may be impacted by its advice to another individual or entity. However, the Commission is very concerned that its rulings be publicized in order to encourage compliance with the law. It has been the practice of the Commission to hold seminars and have interested persons meetings regarding the Act generally. Please contact us regarding the best method of notifying other

councils of our ruling.

We are sympathetic to your problem of overlapping state and federal disclosure requirements implicated in the *Holland* Advice Letter, *supra*. We are willing to meet with you to attempt to resolve this problem. Until that time, please abide by the advice given in the *Holland* Advice Letter, *supra*:

“While your motives are admirable, the Commission alone is the public agency charged with prescribing the forms required for reports. (Section 83113.) The Commission disapproves of anyone changing its forms or appendices or redefining a term included in the Act. Please include the proper definition of a business entity in the Commission’s appendix.”

Amending the forms submitted would be evidence of good faith. (Section 81004.) However, we are satisfied that there has not been any bad faith on your behalf. Therefore, it is not necessary to resubmit any forms for the years 1985-1996. Of course, we are assuming that you intend to comply with the Act with regard to any forms submitted in the future. Again, we are more than willing to meet with you regarding your problem of overlapping state and federal disclosure requirements.

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

Sincerely,

Steven G. Churchwell  
General Counsel



By: Marte Castaños  
Staff Counsel, Legal Division

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