

# State of California



## Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

November 10, 1976

The Honorable William P. Quigley  
Mayor, City of Merced  
800 West 20th Street  
Merced, CA 95340

*A 76-561*

Re: Opinion Request  
No. 75-119

Dear Mayor Quigley:

At its November meeting, the Fair Political Practices Commission instructed the staff to send you this letter in lieu of the formal opinion which you requested. The Commission's action was based on the fact that in light of recently concluded litigation in the Mendocino County Superior Court, your opinion request no longer raises a substantial question of interpretation under the Political Reform Act.

In your opinion request, you asked whether an attorney who is a public official must disclose the identity of a client, pursuant to Government Code Section 87207(b)(2), when the client has paid the attorney's law firm a fee of which the attorney's pro rata share is \$1,000 or more. You stated that the attorney's representation of the client was a matter of public record but the client had requested that the attorney not disclose this fact in his Statement of Economic Interests.

On October 7, 1976, findings of fact and conclusions of law were signed and judgment was entered in the case of Hays v. Wood, No. 36319 (Super. Ct., Oct. 7, 1976) (copies of these documents are enclosed). This action involved precisely the same issues posed by your opinion request and the court, rejecting each of the arguments suggested to you by Mr. Adams in his letter of April 22, 1975, concluded that Section 87207(b)(2) is valid. Specifically, the court held that:

Government Code Section 87207, subdivision (b)(2) is a valid provision of law as applied to attorney-public officials. It does not violate the attorney-client privilege, the right of privacy of either the attorney-

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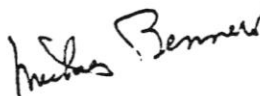
official or his clients, or the right to equal protection of the laws.

The defendant in Hays v. Wood filed a notice of appeal on October 19, 1976. However, in view of the Superior Court's determination, we are requesting full compliance with Section 87207(b)(2) while the appeal is pending.

In that connection, you should note that the Commission adopted a regulation on July 20, 1976 (2 Cal. Adm. Code Section 18740), which establishes a procedure whereby public officials can seek permission from the Commission not to disclose the name of a particular client or customer when to do so would in fact violate a legal privilege. The court in Hays v. Wood reaffirmed the rule that the identity of a client and customer is not ordinarily protected by the law of privilege in California; but in the limited circumstances where a privilege may apply, the regulation sets forth the steps a filer should follow to avoid disclosure (a copy of the regulation is enclosed).

If you have any further questions concerning this matter, please contact Michael Baker, an attorney on our staff.

Sincerely,



Michael Bennett  
Executive Director

MB:KF:plh  
Enclosure