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State of California

GOVERNOR'S OFFICE
SACRAMENTO 95814

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EDMUND G. BROWN JR.
GOVERNOR

A-76-287

September 29, 1976

The Honorable Pauline Davis
Assemblywoman
Room 4148
State Capitol
Sacramento, California

Dear Assemblywoman Davis:

This is in response to your inquiry concerning possible conflicts of interest of members of the California Horse Racing Board.

Mr. Nathaniel Colley, the Governor's recent appointee to the Board, holds no stock or other interest in a California race track licensed by the Board. I understand that neither of the other two members of the Board holds any interest in a California race track. Thus, to the best of my knowledge, the disqualification provisions of Business and Professions Code Section 19423 are inapplicable to the current members of the board.

There is no statutory prohibition against a Board member owning a breeding farm, or stable of race horses.

Business and Professions Code Section 19424 explicitly permits a Board member to receive a purse as an owner or breeder of California horses. It is thus the Legislature's apparent intent to permit horse owners and breeders to sit as members of the California Horse Racing Board.

The Political Reform Act of 1974 does not prohibit a member of the Horse Racing Board from holding an interest in a breeding farm. It is conceivable that a situation may arise in which a Board member's action will have a reasonably foreseeable material financial effect on his breeding farm alone. Whether such a conflict exists, and whether the financial effect is "material" or "reasonably foreseeable" are questions of fact that must be determined on a case by case basis. In the event that such a conflict does arise, a Board member would be required to disqualify himself from acting on a matter that would have a foreseeable material financial effect on his breeding farm.

However, I do not believe that conflict situations would arise with sufficient frequency to inhibit a horse breeder's ability to function as an effective member of the Board.

The proposed Conflict of Interest Code for the California Horse Racing Board will soon be under review by the Fair Political Practices Commission. As the questions that you raise will be dealt with in detail by this Code, I suggest that you direct further inquiries to that Commission.

Sincerely,

Peter W. Sly
Assistant Legal Affairs
Secretary

cc: FPPC ✓

Carlotta Mellon



Assembly California Legislature

CHAIRMAN
JOINT FAIRS ALLOCATION
AND CLASSIFICATION

COMMITTEES
WAYS AND MEANS (FINANCE)
RULES
JOINT LEGISLATIVE BUDGET
COMMITTEE
WILDLIFE CONSERVATION BOARD

ROOM 4148, STATE CAPITOL
SACRAMENTO 95814

HOME ADDRESS
BOX 1071
PORTOLA 96122

PAULINE L. DAVIS
MEMBER OF ASSEMBLY, FIRST DISTRICT
ASSISTANT SPEAKER PRO TEMPORE

76287

September 24, 1976

Dr. Carlotta H. Mellon
Appointments Secretary
Governor's Office
State Capitol

Dear Dr. Mellon:

This is to confirm my request of you, at our hearing on September 21, 1976, to provide our committee with the written opinion of the Governor's legal staff as to whether or not there may be a possible conflict of interest, or other legal barrier, hampering the ability of the two members of the California Horse Racing Board who own thoroughbred breeding farms to take action in certain circumstances as members of the Board.

Mr. Peter Sly, of the Governor's Legislative Affairs Office, has been in contact with my committee staff and since we have not heard from him since late afternoon of the 21st, I assume our request is clear and understood.

Thank you for your attention to this matter.

Sincerely,

Pauline L. Davis
Chairman

PLD:lf
cc: Mr. Tony Kline