

An official may not avoid disclosure of gifts by receiving them through a blind trust.

The staff decided in the opinion request meeting of March 8, 1977, to provide the following advice in response to a question from Mr. Nelson ((714) 752-0315) who was representing a City Councilman from the Orange County area. Mr. Nelson indicated that the City Councilman anticipated potential criminal problems. Mr. Nelson wondered whether a legal defense fund could be established in the form of a blind trust so that the Councilman would not have to reveal donations to the fund. Mr. Nelson indicated that trustees would be bound to honor the trust and that perhaps donors could be required to sign statements swearing not to disclose to the Councilman that they had contributed to the fund.

The staff concluded that it was contrary to the spirit of the Act to permit a person to assist in the establishment of a blind trust which would frustrate full disclosure. Therefore I advised Mr. Nelson that the trust which he proposed was contrary to the purposes of the Act and would not be permissible as a means for avoiding disclosure.

The staff thought that the reasonable diligence standard operated differently in this situation than it did in the spouse income situation. We have previously advised filers that they must disclose their spouse's clients only if they "know or have reason to believe" that a person is a client of their spouse. We felt that it would be unreasonable to require one spouse to seek a court action against another spouse in order to acquire this type of information. However, the staff did not think it was unreasonable to require a person to refuse a gift if he did not know the source of the gift. We thought that it was contrary to the public policy of full disclosure in Chapter 7 of the Political Reform Act to permit a public official to accept a gift without knowing the source particularly when the filer acquiesced in the establishment of a blind trust for the specific purpose of avoiding disclosure.

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