

State of California



Fair Political Practices Commission

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

Technical Assistance/Administration  
(916) 322-5660

Executive/Legal  
322-5901

Enforcement/Conflict of Interest  
322-6441

March 30, 1977

77-03-230

Mr. Randall A. Hays  
City Attorney  
203 South School Street  
Ukiah, California 95482

Re: Responsibilities of Councilman Ira Brannon  
under the Political Reform Act

Dear Mr. Hays:

You seek advice pursuant to Government Code Section 83114(b).

You relate that Councilman Brannon is the senior Vice-President of a savings and loan association, Financial Savings and Loan Association of Northern California. Mr. Brannon holds no stock in the organization and is a salaried employee.

You have indicated that "...fairly recent legislation allows municipalities to deposit funds in savings and loan associations. The City Council does not determine where city funds are to be deposited. The decision is made by the City Treasurer who is an elected official, after an analysis of which savings institution will provide the best return on the investment."

The facts which you have recited leads me to conclude that the Treasurer may deposit city funds in Financial Savings and Loan Association of Northern California, Mr. Brannon's savings and loan association, and that no conflict of interest pursuant to Government Code Sections 87100 and 87103 would be occasioned thereby.

The recent legislation which is the subject of your reference above appears to be recent amendments to Government Code Section 53635 which provides: "[a]s far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations.

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Mr. Randall Hays  
page two  
March 30, 1977

in the state selected by the treasurer or other official having the legal custody of the money..."(See Chapter 349, Statutes of 1976, Section 18). As you have indicated Section 53635 vests discretion in the office of City Treasurer for the deposit of funds in an appropriate financial institution. Further, City Council members do not participate in the decisions necessary to determine an appropriate financial depository.

Government Code Section 87100 provides that no public official at any level of state or local government shall make, participate in making or in any way use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. A financial interest is defined in Government Code Section 87103<sup>1</sup>/.

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1/ 87103. Financial Interest. An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on:

(a) Any business entity in which the public official has a direct or indirect investment worth more than one thousand dollars (\$1,000);

(b) Any real property in which the public official has a direct or indirect interest worth more than one thousand dollars (\$1,000);

(c) Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating two hundred fifty dollars (\$250) or more in value received by or promised to the public official within twelve months prior to the time when the decision is made; or

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management. For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, by any business entity controlled by the public official or by a trust in which he has a substantial interest. A business entity is controlled by a public official if the public official, his agents, spouse and dependent children hold more than fifty percent of the ownership interest in the entity. A public official has a substantial interest in a trust when the official, his spouse and dependent children have a present or future interest worth more than one thousand dollars (\$1,000).

Mr. Randall Hays  
page three  
March 30, 1977

The course of conduct followed by the City Council of Ukiah and that apparently contemplated by Section 53635 of the Government Code precludes Councilman Brannon's participation in the determination to deposit city funds in financial institutions. So long as this is the case and so long as the Councilman does not "...use his official position to influence..."the decision of the City Treasurer in such matters the Councilman cannot be found to be engaged in conduct prohibited by Government Code Section 87100.

Of course if a Councilman is a participant in such decisions and possesses interests such as those held by Councilman Brannon the result might well be contrary.

I trust that the information supplied has been of assistance to you. Please feel free to call me if you have further questions in this regard.

Sincerely,



Delbert L. Spurlock, Jr., Chief  
Conflicts of Interest Division  
(916) 322-6444

DLS:mfa

CITY OF

UKIAH

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UKIAH, CALIFORNIA 95432

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OFFICE OF THE CITY ATTORNEY

March 1, 1977

Mr. Delbert L. Spurlock, Jr.  
Chief, Conflicts of Interest Division  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, California 95804

Re: Advice Letter

Dear Mr. Spurlock:

It is requested that an advice letter be issued as a guide to determine whether or not one of our City Council members would, under facts to be later stated, have a conflict of interest as defined in Government Code Section 87103.

The facts are as follows:

Councilman Ira Brannon is the Senior Vice-President of a savings and loan association titled Financial Savings and Loan Association of Northern California. It is a subsidiary of a statewide financial organization titled Financial Federation Incorporated. Mr. Brannon holds no stock in the organization and is a salaried employee. The local savings and loan association has assets of approximately 1.8 million dollars and of course the overall financial picture of the organization is much greater than that.

Fairly recent legislation allows municipalities to deposit funds in savings and loan associations. The City Council does not determine where City funds are to be deposited. This decision is made by the City Treasurer who is also an elected official, after an analysis of which savings institution will provide the best return on the investment.

Given the above facts, my reading of §87103 is that there is no conflict under the Political Reform Act if City funds are placed

in the savings and loan association of which Mr. Brannon is the Senior Vice-President. However, we would appreciate from you your analysis and conclusion in an advice letter.

Thank you for your attention to this request.

Very truly yours,

CITY OF UKIAH

A handwritten signature in cursive script that reads "Randall A. Hays".

Randall A. Hays  
City Attorney

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