

State of California



Fair Political Practices Commission

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

July 8, 1977

Judge Howard Schwartz
Municipal Court
Oakland-Piedmont Judicial District
Oakland, California 94604

A-77-542

Dear Judge Schwartz:

Your letter of June 10, 1977, follows our telephone conversation in which you asked whether municipal court employees may be included in Conflicts of Interest Codes under the provisions of the Political Reform Act. You asked that the Commission issue an opinion pursuant to Government Code Section 83114.* Because your inquiry does not raise a substantial question under the Political Reform Act, no opinion will be issued by the Commission. However, I hope the following informal advice will be responsive to your question.

The Alameda County Board of Supervisors has passed a resolution which requires the county's municipal courts to file Conflict of Interest Codes later this year. Section 87300 states in pertinent part that "Every agency shall adopt and promulgate a Conflict of Interest Code...." The term "agency" is defined as "any state agency or local government agency" both of which are in turn defined to exclude specifically "the judicial branch of government." Sections 82003, 82041 and 82049. Thus, it seems clear that the municipal courts may not be required to adopt codes.

However, it has been argued by county officials that recent legislative amendments to the Act indicate that the courts can be required to submit such codes. Government Code Section 87200 (as amended by statutes 1976, Chapter 129, effective May 5, 1976) now requires "judges of courts of records" to file Statements of Economic Interest.

* All statutory references are to the Government Code unless otherwise noted.

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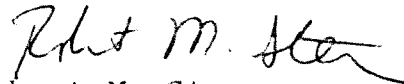
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I was following the bill which added judges to Section 87200, and during its progress through the legislature, there was no mention of whether or not judicial employees were to be included in its provisions. It is my opinion that the legislators focused their attention on the judges solely and did not even consider judicial employees. Section 87200 and Section 81005 (which declares where such statements are to be filed) were the only sections of the Act which were amended by Chapter 129. The two sections defining "state agency" and "local government agency" were left unamended.

Therefore, unless the Political Reform Act is amended to include specifically the judicial branch of government as an agency, it is our position that judicial employees may not be included in Conflicts of Interest Codes.

If you have any further questions, please feel free to call on me.

Sincerely,



Robert M. Stern
General Counsel

RMS:nc