

State of California



Fair Political Practices Commission

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

Political Activities • • • Administration • • • Executive/Legal • • • Enforcement • • • Conflict of Interest
(916) 321-5447 322-5610 322-5931 322-6441 322-6444

February 9, 1979

Robert J. Nicholas
Nicholas Turley Breeding
Farms, Inc.
19449 Riverside Drive
P.O. Box Y
Sonoma, CA 95476

A-79-138

Dear Mr. Nicholas:

This is in response to your letter of January 29, 1979 in which you asked us to confirm that in our telephone conversation of October 21, 1978 (I believe you attribute the wrong date to this conversation), I stated that there would be a conflict of interest if Dunlap or Dunlap received money from a local developmental agency involved in a project affecting that agency."

I cannot confirm that I made any such statement. I believe that our conversation was accurately reflected in the letter of confirmation that I sent you on November 15, 1978. If you want this agency to determine whether any particular action which Mr. Dunlap took when he was a state senator violated the Political Reform Act, you must file a complaint with our Enforcement Division.

I will point out, however, that although Section 87100 of the Act requires an official to disqualify himself from any decision in which he has a financial interest, and Section 87103 provides that he has a financial interest in any decision which will have a material financial effect, distinguishable from its effect on the public generally, on a source of income of \$250 or more to the official, Section 82030(b) specifically excludes from "income" any salary or reimbursement for expenses received from a state, local or federal government agency. Such payments do not, therefore, create conflicts of interest under the terms of the Political Reform Act.

Sincerely,

Sarah T. Cameron
Counsel
Conflicts of Interest Division

Sarah T. Cameron
By: Ted Brin, Chief
Conflicts of Interest Division

Nicholas Turkey Breeding Farms, Inc.



January 29, 1979

Ms. Sarah T. Cameron, Counsel
Conflicts of Interest Division
State of California Fair Political Practices Commission
P.O. Box 806
Sacramento, California 95804

JAN 31 9 00 AM '79
F P P O

Dear Ms. Cameron:

Sometimes I do not express myself clearly. When I wrote you on November 28, 1978, I intended to ask a specific question. The question is as follows: In our conversation of October 19, I believe you stated that there would be a conflict of interest if Senator Dunlap received money from a local developmental agency and voted on a project affecting that agency.

I would greatly appreciate a letter giving an opinion as to the propriety of such a course of conduct. Thanking you for your past cooperation, I remain

Very truly yours,

NICHOLAS TURKEY BREEDING FARMS, INC.

Robert J. Nicholas
President

RJN/lb

cc: Mr. John C. Williamson

Memorandum

To : Advice File

Date : January 29, 1979

From : FAIR POLITICAL PRACTICES COMMISSION
Sarah Cameron *SC*

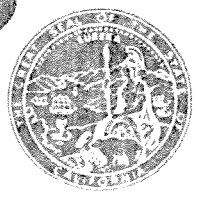
Subject: Guarantors of Loans as Sources of Income

Allan Tebbetts requested advice as to whether guarantors of loans should be reported on Statements of Economic Interests as sources of income. The staff decided at the December 15, 1978 opinion request meeting that guarantors of loans were "sources of income" for the following reasons. The Act defines "income" as a payment received, and defines "payment" as a "rendering of ...anything...of value." Since a borrower who is required to have a guarantor on his loan could not get the loan without the guarantor (or would have to pay higher interest) the guarantee is "something of value" and therefore a "payment". The staff also decided to advise that the guarantee should be reported along with the loan, and not separately reported and valued. A guaranteed loan would then be reported "Loan from X Bank guaranteed by Y," and the proper box would be checked to indicate the range within which the loan falls. I passed this advice on to Mr. Tebbetts on December 19, 1978.

In addition the staff decided that with respect to disqualification, the value of the guarantee may be viewed as the difference in cost of obtaining the loan with and without the guarantee. If the loan would not have been made without the guarantee the value of the guarantee is the full amount of the loan.

STC:nrw

State of California



Fair Political Practices Commission

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

Technical Assistance (916) 322 5662 • • • Administration 322 5660 • • • Executive Legal 322 5631 • • • Enforcement 322 6441 • • • Conflict of Interest 322 6444

November 15, 1978

Robert J. Nicholas
Nicholas Turkey Breeding
Farms, Inc.
19449 Riverside Drive
P. O. Box Y
Sonoma, CA 95476

Dear Mr. Nicholas:

This is to confirm our telephone conversation of October 31, 1978, during which I answered the following questions you raised in your letter of October 19, 1978. Under the terms of the Political Reform Act of 1974:

1. Is it a conflict of interest for a state senator to receive money from local government agencies?
2. If not, is the answer any different if the state senator does not personally perform services for the local government agencies?
3. Is it possible for the public to learn how much a state senator received from local government agencies and what services he performed for those agencies in return?
4. Is it a conflict of interest for a state senator to locate his district offices in a building partially owned by his brother, in a situation where the rent for the office (paid by the state) is proportionately reduced by a fraction equal to the brother's interest in the building?

In our conversation, I indicated that the answer to all four of your questions was "no". The Political Reform Act of 1974 does not prohibit legislators from accepting income or gifts from anyone other than lobbyists, although it does prohibit officials from making or participating in making governmental decisions which will affect their financial

Robert J. Nicholas
November 15, 1978
Page Two

interests, including sources of income and gifts. See Government Code Sections 87100 and 87103.

Although the Act requires an official to disclose the value of gifts he or she receives, income is only required to be disclosed within certain ranges, and if income is received from a business entity, the entity's customers or clients must be disclosed only if the official receives \$10,000 or more as his or her share of gross receipts paid to the entity by any individual person (\$1,000 or more in the case of an entity which provides legal or brokerage services). See Government Code Section 87207.

In addition, even if an official must report the name of a source of income, the Act does not require a specific description of the services provided for the income. In the case of a law firm, for example, the official would have to disclose that any income received from the firm was received in return for legal services (or some other generalized description of the employment relationship), but even if the name of a client must be reported because the official's share of fees paid by the client to the firm was more than \$1,000, no description, even a generalized one, is required of the services which the firm provided for the client.

Sincerely,



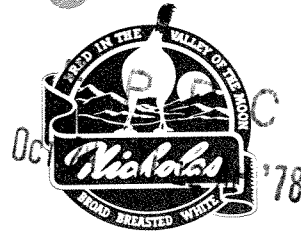
Sarah T. Cameron
Counsel
Conflicts of Interest Division

STC:cjb

cc: John C. Williamson
Executive Director
California State Senate
Rules Committee

Nicholas Turkey Breeding Farms, Inc.

October 19, 1978



Mr. Dan Lowenstein, Chairman
Fair Political Practices Commission
926 J. Street
Sacramento, California 95814

Mr. John C. Williamson
Executive Director
California State Senate Rules Committee
Room 5100 - State Capitol
Sacramento, California 95814

Gentlemen:

The purpose of this letter is to request assistance from each of your bodies. I wish to begin by saying that this letter is written on my own behalf, as an individual, and has neither the consent or approval of Mr. Nielsen or his committee, with which I am associated.

The question revolves around the propriety of Senator Dunlap's schedule 721-F, which lists \$1,000 or more as income from four Napa County governmental bodies in 1977 (attachment 1). There are two issues on which I would appreciate your assistance.

First, is there any violation of existing rules and regulations, or any impropriety in Senator Dunlap's receiving money from local governmental bodies? The possibility of some violation or impropriety occurred to me when I personally examined the FPFC disclosures. I noted there were nineteen other attorneys in the Senate. They reported numerous clients--none of which were governmental bodies.

I believe that there would be a conflict of interest in receiving compensation from governmental bodies and then treating their problems objectively vis-à-vis the other governmental bodies who did not pay him. The question of a possible conflict of interest is heightened by his membership on the State Public Works Board.

Secondly, would the impropriety be worse if he received the money from these bodies without personally performing legal services? I do not know what services, if any, he personally rendered. I asked him this question the night before last, and he totally evaded the question. Whether or not he did do legal work for them and whether or not it increases the impropriety of receiving money from local government are issues the public needs to have resolved.

Messrs. Dan Lowenstein and
John C. Williamson
October 19, 1978
Page Two

I regret having to write you to find out the answers to these issues, especially on such short notice; however, I have no faith in any other means to learn the answers. Twice before I have written Senator Dunlap with easily answered questions relating to possible conflicts of interest. One took seven weeks for a reply, the other took three. As the latter reply had writing on it (and white-inked out) in what appeared to be the Senator's handwriting, "Sandi, Hold," I felt approaching him again might not be the best way to proceed. . .

In summary, I have four questions:

1. Is there a conflict of interest for Senator Dunlap to receive money from local governmental bodies?
2. Is there any wrongdoing if he received money from local governmental bodies and did not perform services?
3. Even if no rules have been directly violated, is it possible for the public to learn how much he personally received from these bodies and what, if any, services he personally performed?
4. Would the conflict of interest question be affected by the Senator's actions with respect to his Napa District Office (attachment 2)?
I find it interesting that he and his family went to great lengths to avoid a possible conflict of interest involving a few dollars a week-- but when the money involved went into the thousands, he apparently decided that the conflicts of interest no longer applied to him.

Regretting the necessity for this request and offering any assistance I might be able to give, I remain

Sincerely yours,

NICHOLAS TURKEY BREEDING FARMS, INC.



Robert J. Nicholas
President

RJN/lb
Enclosures

SCHEDULE 721-F
Income of Business Entity which
Provides Legal or Brokerage Services

(Attachment 1)

(Government Code Sections 82030 & 87207(b))

See "Instruction Manual for Statement of Economic Interests - Form 721," Pages 9 and 10.

If you have no information to include on this schedule please indicate by checking the box below indicating "None" and return all schedules.

None

.....Coombs, Dunlap, Dunlap, and Champlin.....
(Name of Business Entity)

.....1211 Division Street, Napa, California 94558.....
(Address of Business Entity)

.....General Practice of Law.....
(Description of its Business Activity)

List the name of each individual or entity who paid fees to the above business entity if your pro rata share of the fees was \$1,000 or more:

.....Napa Community Redevelopment Agency.....

.....City of Napa.....

.....City of Yountville.....

.....Estate of Nathan F. Coombs.....

.....County of Napa.....

.....Estate of Richard Bennell.....

.....C. J. Adams.....

.....Fred Brooks.....

.....Lee Carbone.....

Robert J. Nicholas
Sonoma, CA

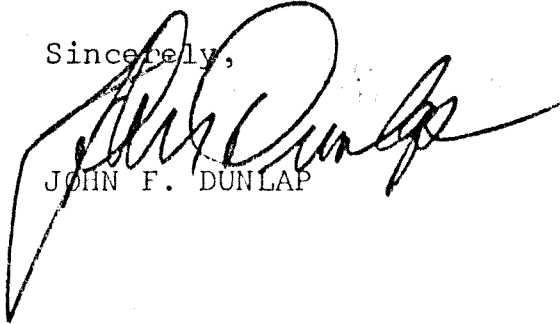
Page 2
September 7, 1978

I hope these are adequate responses to your questions and I will expect to hear from you soon.

I recently learned from John C. Williamson, the Executive Officer for the Senate Rules Committee, that you are interested in the arrangement I have with the owners of the building where I have my Napa District Office (583 Coombs Street, Napa). To clear the air once and for all regarding this matter, I want to take this opportunity to relate the following facts. The building is owned $\frac{3}{8}$ by my brother, Frank Dunlap, $\frac{3}{8}$ by Phillip A. Champlin, and $\frac{1}{4}$ by William L. Jeffries. Two rooms, with a total space of 338 square feet, are rented for the purposes of my Napa District Office. The owners of the building set the rent at \$150.00 per month, but it was reduced by $\frac{3}{8}$, representing my brother's interest, to avoid even the appearance of impropriety. As a result, the State only pays $\frac{5}{8}$ of \$150.00 or \$93.75 per month for the lease of this office space; the amount of \$93.75 is paid to Phillip A. Champlin and William L. Jeffries. I think you will find that the \$.44 per square foot which the owners are charging, is a fair reflection of the market price for office space in the Napa vicinity. However, due to the efforts to avoid any possibility of conflict of interest, the State is getting the use of this office at the bargain basement rate of \$.27 per square foot. As a taxpayer, I hope you appreciate my efforts to cut costs wherever possible!

If you have any further questions, please do not hesitate to contact me.

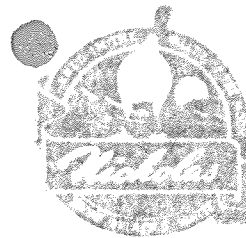
Sincerely,



JOHN F. DUNLAP

JFD:af

Nicholas Turkey Breeding Farms, Inc.



79/138

January 24, 1979

Ms. Sarah T. Cameron, Council
Conflicts of Interest Division
State of California Fair Political Practices Commission
P.O. Box 800
Sacramento, California 95831

RECEIVED
FEB 1 1979
SACRAMENTO

Dear Ms. Cameron:

Sometimes I do not express myself clearly. When I wrote you on November 28, 1978, I intended to ask a specific question. The question is as follows: In our conversation of October 19, I believe you stated that there would be a conflict of interest if Senator Dunbar received money from a local developmental agency and voted on a project affecting that agency.

I would appreciate your clarifying your opinion as to the propriety of such a source of income. If I may have your written explanation, I would be grateful.

Very truly yours,

NICHOLAS TURKEY BREEDING FARMS, INC.

Robert L. Nicholas
Robert L. Nicholas
President

RLL/15

cc: Mr. John M. Williamson