

State of California



Fair Political Practices Commission

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February 25, 1981

Blake D. Stevenson
Staff Counsel
State Lands Commission
1807 - 13th Street
Sacramento, CA 95814

A-81-02-010

Dear Blake,

In our meeting of February 2, 1981, you requested advice about the disclosure provisions of the Political Reform Act. The facts, as I understand them, are as follows.

You represent a member of the State Lands Commission who is also a California State Coastal Commissioner. This commissioner owns property in Amador County and is also the beneficiary of a testamentary trust. He would like advice as to whether:

- (1) he is required as a California Coastal Commissioner to disclose inland property located in Amador County.
- (2) he is required as an Article 2 filer to disclose the assets of the testamentary trust.

A California Coastal Commissioner is required by the Political Reform Act to disclose any investment or interest in real property within the state. See Government Code Sections 82035, 87200, 87206.^{1/} Section 82035 defines jurisdiction as "the state with respect to a state agency." Since the California Coastal Commission is a state agency its jurisdiction is the state for purposes of the disclosure provisions of the Political Reform Act.

^{1/} All statutory references are to the Government Code unless otherwise stated.

The requirements for reporting interests in trusts are outlined in 2 Cal. Adm. Code Section 18234. The relevant portions of this regulation provide:

(a) A filer must report the pro rata share of the interests in real property, sources of income and investments of a trust in which the filer has a direct, indirect or beneficial interest of 10 percent or greater.

(b) For the purposes of this section, the interests of the filer include those of the filer, spouse and dependent children in reporting interests in real property and investments and those of the filer and spouse in reporting sources of income.

(c) For the purposes of reporting interests in real property, sources of income and investments of a trust, the filer has a direct, indirect or beneficial interest if the filer is:

. . .

(2) A beneficiary and:

(A) Presently receives income; or

(B) Has an irrevocable future right to receive income or principal. For purposes of this subsection, an individual has an irrevocable future right to receive income or principal if the trust is irrevocable and:

(I) No powers exist to consume, invade or appoint the principal for the benefit of beneficiaries other than the filer or if there are such powers they are limited by an ascertainable standard relating to the health, education, support or maintenance of said beneficiaries; or

(II) Under the terms of the trust, no one else can designate the persons who shall possess or enjoy the property or the income therefrom.

(d) For the purposes of this section, a filer does not have a direct, indirect or beneficial interest

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in a trust by reason of being a trustee or co-trustee provided that the filer does not have a direct, indirect or beneficial interest (as described in subsection (c)) in the trust. However, income that is otherwise reportable and is received by the filer for the performance of trustee services must be reported.

You did not give me enough facts to determine whether or not the commissioner would be required to report his interest in the trust. However, you can make this determination yourself by comparing the facts to the requirements of the regulation.

If you have any further questions about these matters please feel free to contact me.

Sincerely,


Stella Connell Levy
Counsel
Legal Division

SCL:plh