



California Fair Political Practices Commission

January 10, 1986

Denis A. Eymil
County Counsel
Kings County
Government Center
Hanford, CA 93230

Re: Your Request for Advice
Our File No. A-86-025

Dear Mr. Eymil:

This is in response to your letter, dated January 3, 1986, requesting advice on behalf of Mr. Doyle Davis, a member of the Kings County Board of Supervisors.

FACTS

Mr. Davis is a member of the Kings County board of Supervisors. Three and one-half years ago, Mr. Davis accepted a \$1,000 campaign contribution from Chemical Waste Management, Inc. ("Chem Waste").

Chem Waste owns and operates a toxic and hazardous waste disposal facility in western Kings County. On January 14, 1986, the Kings County Board of Supervisors will begin a public hearing on an appeal by Chem Waste requesting that a decision by the County Planning Commission be reversed, and that a conditional use permit be issued to Chem Waste. The permit, if issued, will lead to a substantial increase in the operations of Chem Waste. If the permit is denied, Chem Waste has indicated that it may have to close its operations within the next 1 to 5 years.

QUESTION

Mr. Davis wishes to know whether he must disqualify himself from participating in the decision concerning Chem Waste's appeal due to his receipt of a campaign contribution from Chem Waste three and one-half years ago.

CONCLUSION

Mr. Davis need not disqualify himself from the decision concerning Chem Waste's appeal due to receipt of a campaign contribution from Chem Waste.

ANALYSIS

The Political Reform Act ("the Act")^{1/} prohibits public officials from making, participating in making or in any way attempting to use their official position to influence a governmental decision in which they have a financial interest. Section 87100.

Section 87103 defines what is deemed to be a financial interest within the meaning of Section 87100. Campaign contributions are not included in that definition. (See Woodland Hills Residents Assn., Inc. v. City Council (1980) 26 Cal. 3d 938.)

Accordingly, Section 87100 does not require disqualification based on the receipt of a campaign contribution.

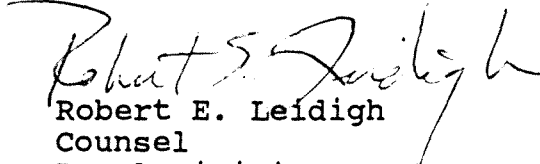
Section 84308 prohibits the officer of an agency from accepting, soliciting, or directing a contribution of \$250 or more from parties or participants in a proceeding involving a license, permit or other entitlement for use pending before the agency during a specified time period. That section also requires disqualification when a contribution of \$250 or more has been received within the preceding 12-month period (but before the proceeding was pending). However, Section 84308 does not apply to local government agencies whose members are directly elected by the voters. Section 84308(a)(3); 2 Cal. Adm. Code Section 18438.1. In addition, the contribution here was received over 40 months ago. Consequently, this section is not in any way applicable to Mr. Davis in his role as a County Supervisor.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

Denis A. Eymil
January 10, 1986
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If you should require further advice regarding the Act,
please do not hesitate to contact the Commission again.

Sincerely,


Robert E. Leidigh
Counsel
Legal Division

REL:JG:plh
cc: Doyle Davis

DENIS A. EYMIL
COUNTY COUNSEL

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January 3, 1986

Robert E. Leidigh, Counsel
California Fair Political Practices Commission
Legal Division
P.O. Box 807
Sacramento, CA 95804-0807

Re: Request for Opinion on
Conflict of Interest

Gentlemen:

A question has been asked whether Mr. Doyle Davis must disqualify himself from voting on the appeal by Chemical Waste Management, Inc. ("Chem Waste") of the denial of a conditional use permit for expansion of the Kettleman Hills toxic waste facility.

Mr. Doyle Davis is a duly elected Supervisor of Kings County. His term of office expires in January, 1987. His home address is 13970 Hood Street, P.O. Box 214, Armona, California 93202, telephone number (209) 583-8376. He may also be reached at the County Courthouse, Hanford, California 93230, telephone (209) 582-3211, Ext. 2367.

Chem Waste owns and operates a toxic and hazardous waste disposal facility in western Kings County. On January 14, 1986, the Kings County Board of Supervisors will begin a public hearing on an appeal by Chem Waste requesting that a decision by the County Planning Commission be reversed, and that a conditional use permit be issued to Chem Waste. The permit, if issued, will lead to a substantial increase in the operations of Chem Waste. If the permit is denied, Chem Waste has indicated that it may have to close its operations within the next 1 to 5 years.


Supervisor Davis received a \$1,000.00 campaign contribution from Chem Waste three and one-half (3-1/2) years ago when he ran for re-election. We are informed that the contribution was made and reported properly, in conformance with the laws governing

Robert E. Leidigh
January 3, 1986
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campaign contributions (see Government Code Sections 81002(a) and 84200 et seq.). There was no issue pertaining to Chem Waste before the Board of Supervisors at the time of the campaign contribution. He has no business or financial relationship of any kind with Chem Waste. The question is whether this single contribution, made more than 3-1/2 years before the current Chem Waste matter came to the Board, disqualifies Supervisor Davis from, or otherwise limits his participating in, the decision making process on the appeal.

We would very much appreciate an opinion on the issue raised.

Very truly yours,



DENIS A. EYMIL
County Counsel

DAE/gd

cc: Doyle Davis, Supervisor



California Fair Political Practices Commission

January 7, 1985

Denis A. Eymil
County Counsel
Kings County
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Hanford, CA 93230

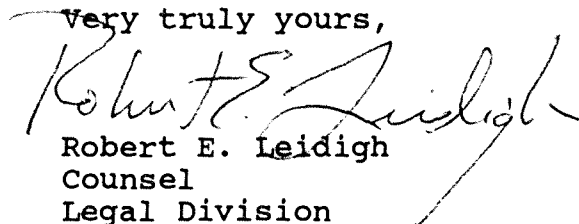
Re: 86-025

Dear Mr. Eymil:

Your letter requesting advice under the Political Reform Act has been received by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,


Robert E. Leidigh
Counsel
Legal Division

REL:JG:plh
cc: Doyle Davis