



California Fair Political Practices Commission

April 22, 1986

Jeffrey G. Scott
San Marcos County Water District
c/o Smith & Peltzer
451 E. Rancheros Drive
San Marcos, CA 92069

Re: Your Request for Advice
Our Advice No. I-86-100

Dear Mr. Scott:

This is in response to your letter to Alice Hughes of our staff dated March 19, 1986. In that letter you seek advice on the statement of economic interests reporting requirements for two board members of the San Marcos County Water District. We believe your request will be better answered by informal assistance (see enclosed copy of Commission regulation, 2 Cal. Adm. Code Section 18239).

Two members of the San Marcos County Water District receive income from commissions. You asked who the sources of income are in these transactions and how are they to be reported.

One member is an insurance broker who operates a sole proprietorship and receives income from the sale of insurance policies. As an insurance broker he may have a client who purchases automobile insurance through one company and his homeowner's insurance coverage through a different company.

Another board member derives commission income in his capacity as a real estate broker.

2 Cal. Adm. Code Section 18704.3(c)(1) provides that the source of income for an insurance broker or agent is:

- A) the insurance company providing the policy;
- B) the person purchasing the policy; and
- C) the brokerage firm, agency, company or other business entity through which the broker or agent conducts business.

Subsection (c)(2) provides that the source of income to a real estate broker is:

- A) the person the broker represents in the transaction;
- B) the person his agent represents, should the agent work under the auspices of the broker;
- C) any brokerage business entity through which the broker conducts business; and
- D) any person who receives a finders fee or referral fee for referring a party to the broker.

Generally, the insurance or real estate broker's business entity is reported as a source of income of \$250 or more on Schedule D, and the names of the sources of income of \$10,000 or more are reported on Schedule H.

Below are examples of how commission income would be reported:

Example 1

John Doe, an insurance broker, receives from his business, Doe & Doe, gross revenues of \$34,000. During the reporting period no one insurance company paid \$10,000 in commission income nor any person purchased a policy which paid Doe & Doe \$10,000 or more.

The business entity, Doe & Doe, being a source of income of \$250 or more to John Doe, would be reported on Schedule D. Since no company or person paid \$10,000 or more, no further disclosure is necessary.

However, if either the company or any client paid him \$250 or more on commission income during the 12-month period preceding a decision affecting the company or any such client, disqualification may be required.

Example 2

Bob Jones, an insurance broker, received gross revenues from his business of \$34,000. In addition, the XYZ Insurance

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Company paid to Bob Jones commissions of \$12,000 over the course of the reporting period.

Bob Jones' business entity being a source of income of \$250 or more to Bob Jones would be reported on Schedule D. The XYZ Insurance Company being a source of income of \$10,000 or more would be reported on Schedule H.

Example 3

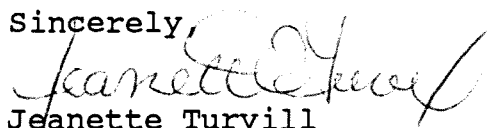
John Brown a real estate broker received gross revenues of \$60,000 from his real estate brokerage company, Brown & Associates, of that, \$15,000 was received as the result of a real estate transaction whereby John Brown's agent represented the buyer and a referral fee was paid to another person referring the buyer to Mr. Brown.

On the statement of economic interest Mr. Brown will disclose Brown & Associates on Schedule D as a source of income of \$250 or more. On Schedule H of his statement Mr. Brown will disclose not only the buyer in the transaction but the person who referred the buyer as well. Note: The full gross value of any commission income for a specific sale or transaction shall be attributed to each source of income in that sale or transaction.

You need to further consider the types of income required to be disclosed under the conflict of interest code for the San Marcos County Water District. The purchaser of an insurance policy or a buyer in a real estate transaction may not be the type which is required to be reported under the code or may not be located or doing business within the jurisdiction of the water district. As an example, if the code for this water district requires disclosure of income from insurance services, real estate sale firms, engineering services, safety equipment, or banks, your clients would be required to disclose income from the insurance company but not be required to disclose income from a dance studio purchasing liability insurance.

If this does not clarify the reporting requirements under regulation 18704.3, please feel free to contact me at (916) 322-5901.

Sincerely,


Jeanette Turvill
Legal Assistant
Legal Division

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March 19, 1986

Ms. Alice Hughes
Legal Division
California Fair Political Practices
Commission
428 J Street, Suite 800
Post Office Box 807
Sacramento, California 95084-807

Re: Request for advice on behalf of
the Board of Directors of the San Marcos
County Water District

Dear Ms. Hughes:

This is a request on behalf of the members of the Board of Directors of the San Marcos County Water District for interpretation of Title 2 Division 6 of the Cal. Admin. Code § 18704.3 relating to sources of commission income to brokers, agents and sales persons. One member of the Board is an insurance broker who operates a sole proprietorship and receives commission income from the sale of insurance policies. Another Board member is a real estate broker.

By way of example, with respect to the Board member who is an insurance broker, a client may have automobile insurance with one company and homeowner's insurance with another. The client therefore makes two separate policy payments. The broker then receives monthly commissions from the respective insurance companies. The question is whether the source of income for reporting purposes is the client, the insurance company or the business entity (sole proprietorship)? If it is determined that the client is the source of income, an insurance broker would have a thousand or more policies to review to establish the individual sources of commission income.

It is my understanding based on our telephone conversation that with respect to Schedule D of Form 730, it would be appropriate given this factual situation to list the business entity (sole proprietorship) as the source of income. This eliminates the necessity of having to review each individual policy and list each client as a source of commission income that exceeds \$250.00.

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With respect to the Board member who is a real estate broker, the question is whether the reporting requirements are the same as an insurance broker (described above), or is it necessary to disclose each individual sales transaction over \$250.00 and the name of the person the broker represented in the transaction?

If you need further factual information, please advise.

Sincerely,

SMITH & PELTZER, A.P.C.
General Counsel
SAN MARCOS COUNTY WATER DISTRICT

By 
JEFFREY G. SCOTT

JGS:rpc

cc: Director Newport
Director Rutherford
Director Mason
Director Ferguson
Director Mahr
William W. Rucker, General Manager