



California Fair Political Practices Commission

December 24, 1990

Jonathan S. Fuhrman
360 S. Euclid Avenue, #115
Pasadena, CA 91101

Re: Your Request for Informal Assistance
Our File No. I-90-180

Dear Mr. Fuhrman:

This is in response to your letter requesting advice with respect to the disclosure requirements of the conflict-of-interest provisions of the Political Reform Act (the "Act")^{1/} and confirms the telephone advice provided to you on November 19, 1990. Our apologies for the delay in getting this letter to you. Further, since you have not named a specific elected official on whose behalf you have requested this advice, we can only provide the following informal responses to your question.^{2/}

QUESTION

Is a local officeholder required to disclose her community property interest in her spouse's income paid by the California Institute of Technology to work at the Jet Propulsion Lab which is owned by the National Aeronautics and Space Agency?

CONCLUSION

Officials are required to disclose their income, and their community property interest in their spouse's income unless the income is expressly exempted in the statute. Since the California Institute of Technology is the employer of her spouse, and the

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

California Institute of Technology is not a federal governmental agency, the official is required to disclose her community property interest in her spouse's income.

FACTS

You are writing on behalf of a local officeholder. The officeholder's spouse is employed at the Jet Propulsion Lab ("JPL") in Pasadena. JPL is owned by the National Aeronautics and Space Agency ("NASA"). NASA also owns all the facilities at JPL, including the land, buildings, equipment, supplies and property. In addition, all the intellectual and physical property developed are owned by NASA.

However, NASA contracts with the California Institute of Technology ("Cal-Tech") to manage JPL. The officeholder's spouse is an employee of Cal-Tech under federal tax law, and Cal-Tech issues the spouse's paychecks. Cal-Tech also has the authority to terminate the spouse's employment. You stated in our telephone conversation of November 27, 1990, that you do not believe that the federal government recognizes Cal-Tech as a federal governmental body, but more likely as a government contractor.

ANALYSIS

The Political Reform Act was enacted by the people of the State of California by initiative in 1974. The purpose for the disclosure and disqualification provisions of the Act was to ensure that public officials, whether elected or appointed, would perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. (Section 81001(b).)

Thus, under the Act, every public official must disclose all his or her economic interests that could foreseeably be affected by the exercise of the official's duties. (Sections 81002(c), 87200-87313.)

You have asked specifically about a public official's obligation to disclose income. "Income" is defined in Section 82030 as follows:

(a) "Income" means, except as provided in subdivision (b), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program

paid by any person other than an employer, and including any community property interest in the income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. "Income," other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title.

(b) "Income" also does not include:

* * *

(2) Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic, or charitable organization.

(Emphasis added.)

Thus, officials are required to disclose their income, and their community property interest in their spouse's income unless the income is expressly exempted by the statute.

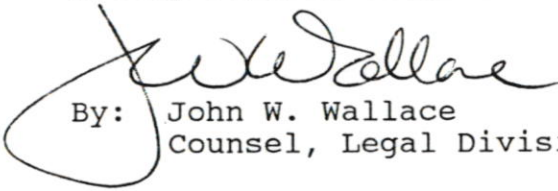
You have asked whether an official's community property interest in her spouse's income from Cal-Tech is required to be disclosed. Section 82030(b)(2) provides that salary and reimbursement for expenses or per diem received from a state, local, or federal government agency are exempted from the definition of "income" in the Act. However, according to your facts, Cal-Tech is a government contractor and not a branch of NASA or JPL. If the contract with NASA is terminated, Cal-Tech's relationship to the federal government would be terminated.

Consequently, since it appears that the employer of the official's spouse is Cal-Tech, and Cal-Tech is not a federal government agency, the official is required to disclose her community property interest in her spouse's income.

If you have any further questions regarding this matter or a specific decision that you would like advice on, please feel free to contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin
Acting General Counsel


By: John W. Wallace
Counsel, Legal Division

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