



# California Fair Political Practices Commission

October 29, 1990

Rick Jensen  
County Supervisor  
County of Madera  
209 W. Yosemite Avenue  
Madera, CA 93637

Re: Your Request for Informal Assistance  
Our File No. I-90-544

Dear Mr. Jensen:

This is in response to your request for advice regarding your responsibilities under the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1/</sup> Since your request is in the nature of general assistance, we consider your letter to be a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed).<sup>2/</sup>

## QUESTIONS

1. May you participate in making decisions concerning the establishment of a new land use area (Rio Mesa) when your father, aunt and two cousins own 1,400 acres of real property within the designated land use area?

2. May you participate in making decisions, including using your official position to influence issues regarding the county's effort to bring a University of California campus to a portion of the new land use area, when 28-percent of the site being considered consists of real property owned by your father, aunt and two cousins?

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<sup>1/</sup> 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.

<sup>2/</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83113; Regulation 18329(c)(3).)

### CONCLUSION

1. and 2. Absent some other disqualifying financial interest as set forth in Section 87103, or some direct financial effect on you personally resulting from the governmental decisions described above, you may participate in county decisions concerning the new land use designation for the Rio Mesa area and the site location for a new University of California campus despite your father's, aunt's and cousins' ownership interest in real property located within the designated land use area.

### FACTS

You presently are serving as a member of the Madera County Board of Supervisors. You are married and have no children. The real property in question is owned by your father, Richard N. Jensen, Mildred Shelton, your aunt, and Shelley Bursey and Cina Garrison, your cousins, in a joint trust. Neither you nor your spouse have any interest in the real property in question.

A group of property owners is attempting to form a new land use area. The proposed area, called Rio Mesa, consists of approximately 25,000 acres. The real property owned by your father, aunt, and cousins, consists of 1,400 acres and is located within the Rio Mesa area. Also located within the Rio Mesa area is a 5,000 acre parcel of land which is being considered by the University of California as a site for a new campus. The 1,400 acre parcel of property owned by your father, aunt, and cousins is situated within this 5,000 acre site.

### ANALYSIS

Section 87100 prohibits any public official from making, participating in making, or otherwise using his official position to influence a governmental decision in which the official has a financial interest. Section 87103 specifies that an official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the official or a member of his or her immediate family or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms

available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10 percent interest or greater.

#### Section 87103.

"Immediate family" is defined in Section 82029 as the official's spouse and dependent children. According to this definition, it is clear that your father, aunt, and cousins are not members of your immediate family.

Consequently, absent some other disqualifying financial interest as set forth in Section 87103, or some direct financial effect on you personally resulting from these governmental decisions, you may participate in the Madera County Board of Supervisors' decisions concerning the real property described above which includes, in pertinent part, the real property held in a joint trust by your father, aunt, and cousins.<sup>3/</sup>

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<sup>3/</sup> This conclusion assumes that you do not have either a direct, indirect, or beneficial interest in the joint trust. However, if you are a beneficiary of your father's interest in the trust, and such interest is 10-percent or greater, then you do have a financial interest in the governmental decisions. In that event, you do have a potentially disqualifying financial interest; however, we do not have sufficient information about those decisions to advise you with respect to your participation.

If you have any further questions regarding this matter,  
please feel free to contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin  
Acting General Counsel

*Deanne Stone*

By: Deanne Stone  
Counsel, Legal Division

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Enclosures