



California Fair Political Practices Commission

December 14, 1990

Mr. Stephen M. Dake
Borton, Petrini & Conron
1600 Truxtun Avenue
P.O. Box 2026
Bakersfield, CA 93303

Re: Your Request for Confirmation of
Telephone Advice
Our File No. I-90-699

Dear Mr. Dake:

This is in response to your request for advice on behalf of a city councilmember for the City of Tehachapi regarding the conflict-of-interest provisions of the Political Reform Act.¹ Because a specific governmental decision is not pending, we will provide you with informal advice.²

I received two letters from you, dated November 8 and November 13, 1990, regarding a decision coming before the city council on November 16. Due to the shortness of time, I telephoned you and advised you that if the councilmember had a conflict of interest, it was not necessary for him or her to resign from the council, but that it would be sufficient to refrain from participating in the decision.

Under Regulation 18700(b)(5) (copy enclosed), when a public official determines not to act because of an economic interest in the pending decision, the official's determination must be accompanied by disclosure of the financial interest, made part of the agency's official record or made in writing to the official's

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).)

supervisor or appointing power. In addition, the official may not have any contact regarding the decision with any member, officer, employee or consultant of the agency. (Regulation 18700.1(a), copy enclosed.)

I trust this letter adequately addresses your questions. 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

A handwritten signature in cursive script, appearing to read "Peggy Bernardy", written over a horizontal line.

By: Peggy Bernardy
Counsel, Legal Division

SH:PB:dg

Enclosures