



# California Fair Political Practices Commission

March 20, 1992

Honorable Mickey Conroy  
Assemblymember, Sixty-Seventh District  
State Capitol  
P.O. Box 942849  
Sacramento, CA 94249-0001

Re: Your Request for Informal Assistance  
Our File No. I-92-123a

Dear Assemblymember Conroy:

This is in response to your request for further clarification of the conflict-of-interest rules in the Political Reform Act (the "Act")<sup>1</sup> which apply to you as the Assemblymember for the Sixty-Seventh District. In response to our telephone conversation of March 17, 1992, we have provided guidelines to assist you in applying the conflict-of-interest rules described in our first letter to you, the Conroy Advice Letter, No. I-92-123.<sup>2</sup>

As we discussed in our first letter, effective January 1, 1991, the Legislature enacted statutes which impose administrative penalties on members of the Legislature applicable to certain

---

<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> As we stated in the first letter, the Commission's advice is limited to the application of the law to the specific facts and circumstances surrounding a specific decision. Please contact us for further advice should you have concerns about any specific bill that you may be considering. Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

specific decisions.<sup>3</sup>

Further, as we discussed in our telephone conversation, you have an indirect economic interest in any business of which your spouse's trust holds an investment worth \$1,000 or more. (Section 87103; McAndrews Advice Letter, No. A-91-403.)

However, the economic interest in those businesses is not in itself disqualifying. For a decision to be one from which you must disqualify, several other components must exist. If any of these components do not exist, you will not have a conflict of interest pursuant to Section 87102.5. Consequently, in addition to the economic interest, the following components must exist with respect to the specific decision:

1. The decision is one specified in Section 87102.5.
2. It is reasonably foreseeable that the specific decision will have a financial effect on the economic interest;
3. The foreseeable effect on the economic interest will be material; and,
4. The foreseeable and material financial effect of the decision on your economic interest will be distinguishable from the decision's effect on the public generally.

As we discussed on March 17, 1992, the conflict-of-interest rules of Section 87102.5 only apply to specified decisions. In addition, the scope of many of the decisions that the section does apply to have been narrowed further by the definitions in the Act.

For example, with respect to introducing legislation as a lead author, voting on legislation in a legislative committee, subcommittee or on the Senate or Assembly floor, the restrictions in Section 87102.5 only apply if the legislation is "nongeneral legislation."

"Nongeneral legislation" is defined as legislation of which any of its provisions will have a direct and significant impact on identifiable persons (including businesses) or property, and will not similarly affect an industry, trade or profession, any recognized subgroup or specialty within an industry, trade or

---

<sup>3</sup> Even prior to 1991, the Act provided conflict-of-interest rules for all public officials, including Legislators. However, the administrative penalties of the Act do not apply to Legislators who violate Section 87100. Thus, we will not discuss conflicts of interest pursuant to Section 87100. However, you may wish to consult the first letter concerning this section.

profession, the population of any district, city or county, or more than a small number of persons or property. (Section 87102.6.) If the effect will be similar on any of the groups listed, the legislation is not "nongeneral legislation" and not subject to Section 87102.5. Section 87102.6 also provides that the budget bill is not "nongeneral legislation."<sup>4</sup>

Thus, for example, if the trust owns shares in San Diego Gas & Electric Company (SDG&E) and such shares are worth \$1,000 or more, you must next determine whether the specific decision before you falls within Section 87102.5. If the decision involves awarding a contract to SDG&E or if the decision involves introducing, or voting on, a bill which is going to affect SDG&E differently from other utilities or other corporations, you should investigate further to determine whether the other components are met. Conversely, if you are confronted with a decision in which you have an economic interest, but which is not a decision specified in Section 87102.5, you would not have a conflict of interest pursuant to Section 87102.5.

If the decision is one of the decisions described in Section 87102.5, you must next determine if there is a substantial likelihood that the decision will have a financial effect on SDG&E<sup>5</sup> and then whether the financial effect on SDG&E will be material.

Whether the effect of a decision is material depends on the magnitude of the financial effect on the business.<sup>6</sup> Thus, in the case of SDG&E, if the decision will affect SDG&E's gross revenues or assets or liabilities by \$250,000 or more, or affect its expenses by \$100,000 or more, the effect is considered material. Finally, disqualification is required only if the decision does not similarly affect other utilities, or other corporations.

---

<sup>4</sup> Please note that where you are involved in decision-making outside of the Legislature, decisions concerning contracts between the Legislature and private entities, or decisions affecting lobbyist employers, the general/nongeneral distinction is not applicable.

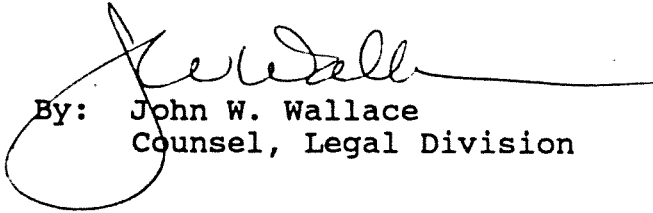
<sup>5</sup> Section 87103 clarifies that disqualification may be required only if it is reasonably foreseeable that the decision will have an economic effect on the business entity.

<sup>6</sup> This assumes that the business is not directly involved in a decision before you. A business is directly involved in a decision before you if, among other things, the business initiates the legislation or other contract that is the subject of the decision. For example, if SDG&E is directly involved in a decision before you, the effect of the decision may be deemed material.

I trust this letter clarifies the application of the conflict-of-interest rules to your situation. Should 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

SH:JWW:aa