



California Fair Political Practices Commission

July 29, 1992

Melvyn W. Price
Assistant County Counsel
County of Sacramento
700 H Street, Suite 2650
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-92-383

Dear Mr. Price:

You have requested advice on behalf of Sacramento County Supervisor Sandra Smoley regarding the conflict-of-interest provisions of the Political Reform Act (the "Act").¹

QUESTION

Under the Act, may Supervisor Smoley participate in decisions regarding the Sacramento County contract for trauma center services provided by Mercy Healthcare Sacramento?

CONCLUSION

Ms. Smoley may not participate in any decisions regarding the county's trauma center contract with Mercy Healthcare Sacramento if there will be a reasonably foreseeable material financial effect on the University of California at Davis pursuant to Regulation 18702.5(a).

FACTS

Mercy Healthcare Sacramento ("Mercy") has submitted a proposal in response to a Request for Proposals ("RFP") issued by the County of Sacramento to establish a trauma center at Mercy-American River Hospital. On August 19, 1992, the proposal will be presented to the County Board of Supervisors to determine whether

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.

the county should enter into a contract and provide the funding for trauma center services by Mercy.

Currently, the University of California at Davis ("UCD") is the only provider of trauma center services in Sacramento County. These services are provided pursuant to a contract with the county. Any contract with Mercy would be supplemental to the contract services provided by UCD.

The University of California has taken a public position supporting a second trauma center at Mercy-American River Hospital. As the sole provider of trauma care, there are surgical, teaching and financial consequences on UCD. The UCD trauma center admits approximately 4,000 patients a year. If the county enters into a contract with Mercy, approximately half of these patients would be diverted to Mercy.

Ms. Smoley has no financial interest in Mercy. However, by virtue of her husband's interest in an architectural firm, she does have a financial interest in UCD. Within the last 12 months, her husband's architectural firm received payments from UCD in amounts sufficient to constitute a financial interest for Ms. Smoley. The Elam Advice Letter, No. I-89-467, incorporated herein, advised Ms. Smoley about participating in decisions which affect clients of her husband's firm.

Based upon the Elam letter, you have advised Ms. Smoley that for 12 months she must disqualify herself from participating in any decisions which will have a reasonably foreseeable material financial effect upon UCD pursuant to Regulation 18702.5(a).

In the present situation, you have concluded that UCD would not be the subject of the proceeding to determine whether a second trauma center should be designated at Mercy-American River Hospital. However, you have advised Ms. Smoley that it is reasonably foreseeable that such a decision, which UCD supports, could have an indirect and substantial financial effect on UCD.

Accordingly, you have advised Ms. Smoley that she should disqualify herself from participating in any proceedings regarding the designation of the second trauma facility at Mercy-American River Hospital unless she can obtain written verification from UCD that the designation of a second trauma center would not affect UCD's expenditures in amounts in excess of \$250,000 or affect gross annual receipts or assets or liabilities in amounts of \$1 million or more.

You have requested our advice because Ms. Smoley seeks further advice from the FPPC.


ANALYSIS

We concur with your advice that Ms. Smoley may not participate in any decisions regarding the Sacramento County trauma center contract with Mercy if there will be a reasonably foreseeable material financial effect on UCD pursuant to the amounts stated in Regulation 18702.5(a).

Please note that the Commission does not act as the finder of fact in providing advice. (In re Ogelsby (1975) 1 FPPC Ops. 71.) Therefore, it is incumbent upon Ms. Smoley, as you advised, to obtain any pertinent information from UCD regarding the financial effect on UCD if the Mercy trauma center is developed.²

Sincerely,

Scott Hallabrin
Acting General Counsel

By:  Jill Stecher
Counsel, Legal Division

SH:JS:aa

² Copies of Commission regulations and Opinions are available in many law libraries. Alternatively, copies of these materials and Commission advice letters may be obtained from the Commission at a cost of 10¢ per page.