



# California Fair Political Practices Commission

March 26, 1993

Vera M. I. Todorov  
Assistant City Attorney  
City of Salinas  
200 Lincoln Avenue  
Salinas, CA 93901

Re: Your Request for Advice  
Our File No. A-93-072

Dear Ms. Todorov:

This is in response to your request for advice on behalf of Hal Thompson, a member of the Salinas Community Development Block Grant Review Committee, under the conflict-of-interest provisions of the Political Reform Act.<sup>1/</sup>

This advice is limited to the provisions of the Act. Other legal provisions, such as Government Code Section 1090 or the general doctrine of incompatible offices, may have some bearing on this situation. It is suggested that you contact the city attorney and county counsel for advice as to these matters.

## QUESTION

Is Mr. Thompson prohibited from participating in decisions to award grant funds to a nonprofit organization for which he is a board member?

## CONCLUSION

Mr. Thompson does not have a financial interest in the nonprofit organization. Thus, he is not prohibited from participating in decisions to award grant funds to the nonprofit organization.

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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.

FACTS

Hal Thompson is an unpaid member of the Salinas Community Development Block Grant Review Committee ("Committee"). The Committee is charged with making recommendations to the Salinas City Council on the allocation of Community Development Block Grant funds for the public service activities and programs of various nonprofit organizations in the City of Salinas. The Committee reviews the applications and makes recommendations on appropriate funding levels.

Mr. Thompson is also an unpaid board member for the Monterey County Housing Council ("Council"), a nonprofit charitable organization. The Council's purpose is to provide financial rental assistance to low-income households in Monterey County. The Council may be applying to the Committee for funding this year.

In a telephone conversation, you indicated that Mr. Thompson has not received any income or gifts from the Council. He serves in his capacity as a nonpaid board member.

ANALYSIS

Section 87100 prohibits public officials from making, participating in, or using their official position to influence a governmental decision in which they know or have reason to know they have a financial interest.

An official has a financial interest in a governmental decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, or on a member of the official's 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

Accordingly, a public official may not make, participate in making, or attempt to use his or her official position to influence a governmental decision if the decision will have a reasonably foreseeable and material financial effect, distinguishable from the effect on the public generally, on the official, or on a member of the official's immediate family, or on any of the official's economic interests specified in Section 87103 above.

It does not appear that Mr. Thompson has an economic interest as specified above. The Monterey County Housing Council is a nonprofit organization, not a business entity. Thus, Mr. Thompson does not have an interest in the Council under Subsections 87103(a) or (d). Further, since you indicated that he has not received income or gifts from the Council, he does not have a financial interest under Subsections 87103(c) or (e).

Mr. Thompson does not have a financial interest in the Monterey County Housing Council. He is not prohibited from participating in decisions to award block grant money.

If however, Mr. Thompson should ever receive income or gifts from the Council, he should refer to Commission Regulation 18702.5

to determine when the decision would have a material financial effect on the Council. A copy of that regulation is enclosed.

I trust this answers your question. If we can be of further assistance, please feel free to contact the Commission's Legal Division at (916) 322-5901.

Sincerely,

Jeff Marschner  
General Counsel



By: Jeanette E. Turvill  
Political Reform Consultant  
Legal Division

JM/JET/jt  
Enclosure