



California Fair Political Practices Commission

April 26, 1994

Richard K. Denhalter
City Attorney
City of San Juan Capistrano
32400 Paseo Adelanto
San Juan Capistrano, CA 92675

Re: Your Request for Advice
Our File No. A-94-139

Dear Mr. Denhalter:

This is in response to your letter requesting clarification with respect to the Nash Advice Letter, No. A-93-481 (issued on January 11, 1994) regarding Councilmember Carolyn Nash and her responsibilities under the conflict-of-interest provisions of the Political Reform Act (the "Act").¹

The facts in the Nash Advice Letter were as follows: Councilmember Nash's spouse is the director of research for a nonprofit entity, the San Juan Capistrano Research Institute (the "institute"). She inquired as to whether her interest in the institute would create a conflict of interest. We advised that she would have a conflict of interest in decisions that will have a reasonably foreseeable material financial effect on the institute.

You have asked specifically how materiality would be determined with respect to the institute. As we stated on page 6 of the Nash Advice Letter, Regulation 18702.5 should be applied to determine materiality. On that same page, we provided an example

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, Sections 18000-18954. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

of how the regulation would be applied "if the institute's gross annual receipts are \$100,000 or less..."

You stated in your letter of April 18, 1994, that Councilmember Nash has indicated to you that the gross annual receipts of the institute was actually \$479,000 in 1993. You have asked us to confirm that, under those facts, Regulation 18702.5(e) is the appropriate materiality standard. Regulation 18702.5(e) provides that an effect is considered material under the following circumstances:

For an entity whose gross annual receipts are more than \$100,000 but less than or equal to \$1,000,000 the effect of the decision will be any of the following:

(1) The decision will result in an increase or decrease of the entity's gross annual receipts for a fiscal year in the amount of \$50,000 or more.

(2) The decision will cause the entity to incur or avoid additional expenses or to reduce or eliminate existing expenses for a fiscal year in the amount of \$12,500 or more.

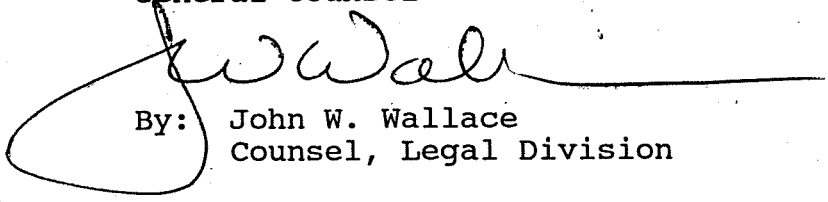
(3) The decision will result in an increase or decrease in the value of the entity's assets or liabilities in the amount of \$50,000 or more.

According to your facts, this provision would apply to the institute.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.²

Sincerely,

Steven G. Churchwell
General Counsel


By: John W. Wallace
Counsel, Legal Division

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.