



California Fair Political Practices Commission

June 3, 1994

Brian M. Libow
City Attorney
City of San Pablo
One Alvarado Square
San Pablo, CA 94806

Re: Your Request for Advice
Our File No. A-94-171

Dear Mr. Libow:

I am writing to confirm our telephone conversation on May 17, 1994, wherein we discussed the conflict-of-interest provisions of the Political Reform Act (the "Act")¹ pertaining to Councilmember Brown.

Councilmember Brown is a real estate broker. A real estate agent who works in Councilmember Brown's real estate office represents a buyer who will be an applicant before the city council. Councilmember Brown is willing to forego any percentage of the commission income resulting from the transaction.

As we discussed, Regulation 18704.3(c) states that the sources of commission income for a real estate broker include:

- (A) The person the broker represents in the transaction;
- (B) If the broker receives a commission from a transaction conducted by an agent working under the broker's auspices, the person represented by the agent;
- (C) Any brokerage business entity through which the broker conducts business; and
- (D) Any person who receives a finder's or other referral fee for referring a party to the transaction to the broker, or who makes a referral pursuant to a contract with the broker.

Therefore, if Councilmember Brown waives any commission from the agent's transaction with the buyer/applicant, she has no

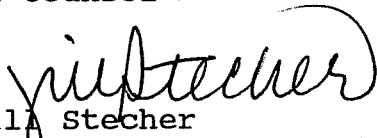
¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations, Sections 18000-18954. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

actual or promised income which may give rise to a conflict of interest when the buyer is an applicant before the city council. As I suggested, it would be prudent for Councilmember Brown to document in writing her intention to forego this commission income.

I trust this answers your question.

Sincerely,

Steven G. Churchwell
General Counsel


By: Jila Stecher
Counsel, Legal Division

SGC:JS:ak