



## FAIR POLITICAL PRACTICES COMMISSION

P.O. Box 807 • 428 J Street • Sacramento, CA 95812-0807

(916) 322-5660 • Fax (916) 322-0886

April 2, 1998

Marilyn Williams  
309 Canal Street  
San Rafael, California 94901

**Re: Your Request for Advice  
Our File No. I-98-048**

Dear Ms. Williams:

This letter is in response to your request for advice<sup>1</sup> regarding the provisions of the Political Reform Act (the "Act").<sup>2</sup> In our telephone conversation of March 27, 1998, you informed me of the following information:

1. You have previously participated in decisions concerning the Fair, Issac Office Complex project. The decisions that are scheduled to come before the planning commission in the future regarding this project are connected to and flow from the previous decisions made by the planning commission.
2. You expect, but do not know for certain, that there will be further action required by the planning commission with respect to the Dominican College

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<sup>1</sup> You have actually requested a "Legal Opinion" from the FPPC concerning your question. An opinion from the Commission is a formal process whereby one seeks a hearing and written opinion from all of the members of the Commission as to a particular issue. A request for an opinion is sought upon fourteen days written notice, and the Executive Director of the Commission has the right to deny any request. (See Regulation 18320, copy enclosed.) This little-used process is contrasted to the more common process of requesting written advice from the staff of the Commission. Written requests for advice are typically responded to within 21 business days, and the written formal advice provided by staff confers immunity upon the requestor as to the acts encompassed by the request (provided all material facts have been disclosed; see Regulation 18329, copy enclosed). We assume that despite your actual language, your intention was to request written advice under Regulation 18329. Accordingly, we are responding with a written advice letter and have not referred this matter to the Executive Director for his disposition.

<sup>2</sup> Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

3. You are not aware as to whether your employer, the Luster Group, Inc., is actively engaged in seeking or has been awarded the construction management services contract relating to either the Fair, Issac or Dominican College projects.

As I informed you in our conversation, this office may respond to requests for advice only if certain conditions are met. Under both Section 83114 and Regulation 18329 (copies enclosed), we may issue advice if the advice will not comment on past conduct or hypothetical situations. Your question concerning the Fair, Issac project will necessarily require us to comment on your conduct in participating in the previous decisions since the decisions to be made by the planning commission on this matter in the future flow from and are related to the decisions made initially by the planning commission. Therefore, any advice we render on this particular matter would be advice on past conduct; as stated, we are prohibited from rendering such advice under Regulation 18329. Additionally, providing you advice as to whether you would have a conflict if a further matter is brought before the planning commission on the Dominican College project and if the Luster Group, Inc. receives a construction management services contract from that entity, amounts to speculating on a hypothetical situation. Again, we may not respond to matters which are not based on existing facts.

Finally, as I also explained to you, even if your questions were not hypothetical and based on past conduct, I would not be able to sufficiently respond since you have provided no financial information regarding the value of the construction management services contracts to the Luster Group, Inc. I have enclosed for your review Regulation 18702.2 which details the nature of financial information that is necessary for a determination of conflict.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell  
General Counsel



By: Lisa L. Ditora  
Staff Counsel, Legal Division

SGC:LLD:tls  
Enclosures