



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

September 6, 2007

Frank Galang
Program Manager, Public Services
County of San Diego Board of Supervisors
1600 Pacific Highway, Room 402
San Diego, California 92101-2471

Re: Your Request for Advice
Our File No. I-07-131

Dear Mr. Galang:

This letter responds to your request for advice regarding the conflict-of-interest provisions of the Political Reform Act (the "Act").¹ Because your letter seeks general information, we are treating it as a request for informal assistance.²

QUESTION

As member of the San Diego County Indian Gaming Local Benefit Committee (SDLBC), whose position is designated in the agency's recently adopted conflict-of-interest code, is Daniel Tucker, Jr. required to file a statement of economic interests under the Act?

CONCLUSION

Yes.

FACTS

Daniel Tucker Jr., is the Chairman of the Sycuan Band of Kumeyaay Indians (the "Tribe") and an appointed member of the SDLBC. The San Diego County Board of Supervisors (the "County"), as the code reviewing body for the SDLBC, has recently approved the adoption of the SDLBC's conflict of interest code, as required under the

¹ Government Code sections 81000-91014. Commission regulations appear at title 2, sections 18109-18997, of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c)(3), copy enclosed).

Act. The positions of the committee representatives have been designated in the conflict of interest code, requiring them to file statements of economic interests.

The SDLBC is an Indian Gaming Local Community Benefit Committee created under Government Code Section 12715. Pursuant to that section, the committee is composed of seven representatives, consisting of:

“(A) Two representatives from the county board of supervisors.

“(B) Three elected representatives from cities located within four miles of a tribal casino in the county, selected by the county board of supervisors....

“(C) Two representatives selected upon the recommendation of a majority of the tribes paying into the Indian Gaming Special Distribution Fund in each county....” (Section 12715(b)(2)(A-C).)

Mr. Tucker is a representative selected under subparagraph (b)(2)(C) above.

ANALYSIS

An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to assure that the assets and income of public officials that may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, Section 87300 provides:

“Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of law.”

Section 82019(a)(3) defines “designated employee” as any officer, employee, member, or consultant of the agency whose position with the agency is designated in the agency’s conflict of interest code because the position entails the making of decisions that may foreseeably have a material effect on any financial interest.

Furthermore, Section 87302 states, in pertinent part:

“Each Conflict of Interest Code shall contain the following provisions:

“(a) Specific enumeration of the positions within the agency, ... which involve the making or participation in the making of decisions [that] may foreseeably have a material effect on any financial interest...”

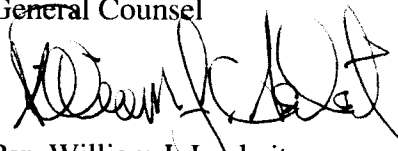
“(b) Requirements that each designated employee, ... file statements at times and under circumstances described in the section, disclosing reportable investments, business positions, interests in real property and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by Sections 87206 and 87207. The first statement filed under a Conflict of Interest Code by a designated employee shall disclose any reportable investments, business positions, interests in real property, and income. *An initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code, disclosing investments, business positions, and interests in real property held on the effective date of the Conflict of Interest Code and income received during the 12 months before the effective date of the Conflict of Interest Code.*” (Emphasis added.)

Finally, Section 87303 states that “[N]o conflict of interest code shall be effective until it has been approved by the code reviewing body.”³ Your letter states that the County approved the SDLBC’s conflict of interest code during a publicly noticed hearing. In a conversation with your office on August 27, 2007, we were informed by Lixa that Mr. Tucker’s position has been designated in the conflict of interest code. Accordingly, as outlined above, Mr. Tucker is required to file a statement of economic interests.

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

Sincerely,

Scott Hallabrin
General Counsel



By: William J. Lenkeit
Senior Counsel, Legal Division

WJL:jgl

Enclosure

³ The San Diego Board of Supervisors is the code reviewing body for the SDLBC. (See Section 82011.)