



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

To: Chair Ravel and Commissioners Eskovitz, Garrett, Montgomery and Rotunda

From: Zackery P. Morazzini, General Counsel

Subject: Monthly Report on Legal Division Activities

Date: August 31, 2012

A. OUTREACH AND TRAINING

Several delegates from Argentina visited the FPPC in August to learn more about governmental ethics in California. Chair Ravel discussed the history and mission of the agency to interested Argentinean senators, mayors, and other public officials. Gary Winuk, Chief of the Enforcement Division, explained the process of the enforcement division, how cases are received and processed, and how the enforcement division handles a large caseload. Heather Rowan, Commission Counsel, discussed California's lobbying regulations and offered an overview of how to approach lobbyists in government decision-making.

B. ADVICE LETTER SUMMARIES

Between August 1 to August 29, 2012, the Legal Division received 12 advice letter requests and issued 14 advice letters.

Advice Letter Summaries

Campaign

Kathleen Shaffer

A-12-122

The letter discusses what role a city council candidate's spouse, who is treasurer and manager of her reelection committee, may have in a newly formed city general purpose committee without that committee's being considered a "controlled committee" of the candidate's under Section 82016.

Conflict of Interest

Kevin B. Briggs

A-12-103

Supervisor may not participate in a decision of the Board of Supervisors because there will be a reasonably foreseeable material financial effect upon her source of income.

Alisha Winterswyk

A-12-116

Council Member may not participate in decisions because it is reasonably foreseeable that the decisions will have a material financial effect on her real property interest. Sufficient facts were not provided to conclude that the public generally exception applies in this case. The legally required exception does not apply because there is a quorum of council members available to participate in the decision should they so choose.

Carmelita Garcia

I-12-124

In itself, holding two offices simultaneously does not create a potentially disqualifying conflict of interest under the Act. However, Section 84308 of the Act prohibits councilmember from taking part in a proceeding involving a license, permit, or other entitlement for use pending before the joint powers agency on which the councilmember also serves, if a contributor to the councilmember is a party or participant in the proceeding and the councilmember has received contributions aggregating to more than \$250 from the contributor in the preceding 12 months.

Gifts

Gregory Totten

A-12-101

Committee is not prohibited from accepting voluntary legal services from a private attorney. However, there may be behested payment reporting obligations for some of the members of the committee because the committee has elected members such as the District Attorney and the Sheriff.

Gregory A. Cook

I-12-110

State-registered lobbyist is permitted to fundraise for a non-profit educational foundation so long as his activities do not constitute "arranging" a gift as provided in the Act and Commission regulations.

Lobbying

Frank J. Fekete

A-12-084

Employee of a county superintendant office whose duties include lobbying for his employer is not required to register as a lobbyist or a lobbying firm, provided that compensation received for preparation work undertaken for the purpose of engaging in direct communication does not cause the dollar thresholds to be met.

Revolving Door

Raja Mitwasi

A-12-104a

The permanent ban relating to post-governmental employment restrictions under the Act does not prohibit a former Caltrans employee from working as an employee for a private company on Caltrans projects where he never participated in any “judicial, quasi-judicial or other proceedings” while employed by Caltrans.

Cathy Casswell

A-12-112

The one-year ban does not prohibit a former state agency Director from consulting with local agencies as long as the Director’s name does not appear on the report submitted. The one year ban does not prohibit the Director from accepting positions with the former state agency or other state agencies. Additionally, a former state employee may lobby the legislature on his or her own behalf.

Andy Rogerson

I-12-123

Notwithstanding the lapse of the one-year ban, a former state employee remains subject to the permanent ban. Generally, the permanent ban prohibits a former state employee from making any appearance or communication on behalf of private employer, or assisting employer in making an appearance or communication, for the purpose of influencing a proceeding involving specific parties (such as a contract) if the person previously participated in the proceeding as a state employee.

SEI

Stephanie Mizuno

A-12-113

Individuals who run for election to a city charter commission at the same time the voters decide whether to establish the commission are “candidates” under the Act. As such, they must file Statements of Economic Interests in conjunction with their declarations of candidacy and, since there are no current conflict-of-interest code provisions applicable to these candidates, they must report financial interests consistent with positions listed under Section 87200 until the commission members are placed in a conflict-of-interest code. The city has the discretion to either require the charter commission to adopt its own conflict-of-interest code or incorporate commission members and appropriate staff into the city’s code.