



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Germond and Commissioners Cardenas, Hatch and Hayward

From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel

Subject: Advice Letter Report and Commission Review

Date: December 10, 2018

The following advice letters have been issued since the November Advice Letter Report. The Commission may review and discuss the following letters and may act to withdraw the advice provided. Full copies of FPPC Advice Letters, including those listed below, are available at: <http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

Campaign

Matt Kauble

[I-18-198](#)

The Act does not prohibit or restrict a ballot measure committee from offering to publish, or publishing, a potential contributor's logo or a link to the potential contributor's website on its committee website. However, a contribution received in response to such a solicitation must be reported as a contribution by the committee consistent with the Act's campaign reporting requirements.

Andreas Borgeas

[A-18-222](#)

A candidate's campaign funds may not be used to make payments for travel, food or lodging for "supporters" of a campaign (who are not campaign workers or staff of the committee) to attend a swearing-in ceremony because such costs are not directly related to a political, legislative or governmental purpose. Such payments are, however, permissible when made for campaign workers and staff of the committee up to \$250 per person in the calendar year.

Conflict of Interest

Victoria Loomis

[A-18-210](#)

A water commissioner with a disqualifying conflict of interest resulting from his interests in multi-family and commercial properties may take part in Commission decisions to increase water rates so long as the modified rates are applied equally, proportionally, or by the same percentage to all multi-family and commercial properties in the City.

Jacquelyn Kitchen

[A-18-212](#)

The Act prohibits an official from taking part in decisions relating to planning and development land applications where the firm that employs the official's spouse provides services to the

project proponent because it is reasonably foreseeable those decisions would have material financial effect on the official's source of income.

Betsy Martyn[A-18-167 & 18-216](#)

The Act does not prohibit a member of an airport district's board of directors, who rents an airport facility, from taking part in decisions relating to fuel prices and airport facility rental rates, provided the prices and rates are adjusted equally, proportionally, or by the same percentage for all consumers and renters.

Michelle Marchetta Kenyon[A-18-223](#)

The Act prohibits Mayor from taking part in governmental decisions relating to a residential development project consisting of up to 126 single-family homes, given that the Project is located within approximately 2,517 feet of the Mayor's residence and that street construction and improvements necessary for the Project are located within approximately 650 feet of his residence, because it is reasonably foreseeable the effect of those decisions on traffic and intensity of use of the area surrounding the Mayor's residence would have a material financial effect on the residence.

James H. Wilkins[A-18-227](#)

Assuming a councilmember has a conflict of interest under the Act in a rezoning of property he solely owns, the Act does not prohibit him from recusing himself and participating as a member of the general public in the decision as long as the councilmember follows proper procedures for recusal. Additionally, so long as the rezoning decision at issue is regulatory in nature (and not contingent on providing some type of public improvement or facility as consideration), Section 1090 would not apply to the decision.

Kasey Castillo[I-18-238](#)

If elected to the City Council, the Act's conflict of interest provisions would not prohibit the requestor from serving on the City Council while simultaneously practicing law. However, the requestor may be prohibited from taking part in any City Council decision that has a reasonably foreseeable financial effect on the requestor's financial interests, including the law firm and clients of the firm.

Dorine Martirosian[A-18-241](#)

The Act prohibits Councilmember from taking part in governmental decisions relating to a rent control ordinance because it is reasonably foreseeable those decisions would have a material financial effect on the Councilmember's business interests in two separate limited liability companies which each own a multifamily residential rental property within the City that may be subject to the ordinance.

Alex Myers[I-18-242](#)

The Act's conflict of interest provisions prohibit a planning commissioner from taking part in decisions involving development applications, when a client of his law firm provides free consulting services to the applicant in the hope of ultimately being selected to list and sell the applicant's homes, because it is reasonably foreseeable that the decisions would have a material effect on the official's source of income interest in the client.

Karl H. Berger[A-18-247](#)

Despite interests in property affected by water and wastewater rates, the public generally exception permits directors of a public utility district to take part in a decision to increase water and wastewater rates provided the decision affects all ratepayers in the same manner as an individual director. In addition, compensation from a governmental entity is not considered “income” under the Act, and therefore does not form the basis for a conflict-of-interest.

Conflict of Interest Code**John A. Abaci**[A-18-231](#)

Where City commissions and committees are purely advisory, the members would not be “public officials” as defined by the Act, are not subject to the disclosure and disqualification requirements of the Act, and should not be included in the conflict-of-interest code of the City. While nothing in the Act prohibits the City from requiring disclosure of financial information beyond those specified in the Act, neither the City’s conflict-of-interest code nor any form prescribed pursuant to the Act should be modified to include members of purely advisory bodies.

Gifts**Terry E. Dixon**[A-18-205](#)

Tickets for symphony performances provided to a city councilmember, and board member for the symphony, are considered gifts, are subject to the gift limit, and must be reported on a statement of economic interests if the tickets are used or transferred to guests.

Revolving Door**David Kirby**[A-18-220](#)

Upon leaving his agency, a local official who may assist his spouse’s private consulting firm in providing services to his former agency is not subject to the local one-year ban because his former position is not subject to the ban under Government Code Section 87406.3.

Stephen J. Rooklidge[A-18-224](#)

Former state water engineer whose professional judgement, recommendations, and analyses of data were relied on by his supervisors in taking agency actions participated in making decisions with a foreseeable and material effects on financial interests. Therefore, the official is subject to the one-year ban and the permanent ban under the Act. In his new position, he may not personally contact or communicate with the State Water Board for purposes of influencing proceedings such as the amendment or award of a grant for a period of one year.

Section 1090**Nancy Diamond**[A-18-186](#)

Government Code Section 1090’s conflict of interest prohibition does not prohibit Energy Authority’s board of directors from entering into a purchase agreement for wholesale electricity with a company utilizing the services of the Chair’s employer because the Chair has a remote interest in her employer, so long as the Chair discloses her interest, the interest is noted in the official records, and the Chair recuses herself from providing any advice regarding the agreement.