



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

March 20, 2023

Jon Primuth
Partner of Lagerlof LLP
jprimuth@southpasadenaca.gov

Re: Your Request for Informal Assistance
Our File No. I-23-025

Dear Mr. Primuth:

This letter is in response to your request for advice regarding conflict-of-interest provisions of the Political Reform Act (the Act).¹ Please note that we are only providing advice under the conflict-of-interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090. Because your request involves general guidance not limited to a specific decision, we are treating it as one for informal assistance pursuant to Regulation 18329(b)(6)(F). Informal assistance does not provide the requester with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).) Nothing in this letter should be construed as an evaluation of any conduct which may already have taken place, and any conclusions drawn apply only to prospective actions. (See Regulation 18329(c)(4)(A).)

QUESTION

As a general matter, do you have a financial interest under the Act in City of South Pasadena decisions regarding Colantuno, Highsmith and Whatley LLP (CHW), the law firm that currently serves as its City Attorney, due to the fact that you are employed by a law firm which was created from a merger with another predecessor law firm that jointly represented a client with CHW in a lawsuit that resolved in 2016?

CONCLUSION

Based on the facts provided, you have not identified CHW as a source of income to you or your employer pursuant to Section 87103. Thus, the conflict-of-interest provisions of the Act generally would not require you to disqualify yourself from participating in decisions regarding CHW under these facts.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS AS PRESENTED BY REQUESTER

You are an equity partner in Lagerlof LLP, a law firm based in Pasadena with 42 attorneys, covering five substantive areas of law, including trust and estate, real estate, public agency, corporate, and commercial litigation. You became a partner at Lagerlof LLP in 2020, after a merger of your prior firm with two other firms, including the law firm Lagerlof, Senecal, Gosney and Kruse (LSGK). After a merger in January 2020, the combined law firm became Lagerlof LLP.

You are an elected member of the City Council in the City of South Pasadena (the City), which currently contracts with the law firm CHW for City Attorney and other legal services. An attorney at CHW serves as the City Attorney.

In 2016, LSGK and CHW jointly represented a public agency client, a water district, in the Santa Clarita Valley about 37 miles from the City. The two law firms were co-counsel in a lawsuit and provided the agency with litigation and general representation. The case did not involve the City in any way. CHW and LSGK were co-counsel because one was the general counsel for the agency and other was the litigation counsel. The case ended in 2016 and the two firms have not had any joint clients since then. At the time of the joint representation, you were not a member of LSGK. The attorneys representing CHW in the 2016 matter are not involved in the legal services currently being provided by CHW to the City.

On January 1, 2020, LSGK merged with two other law firms and you became a partner of the resulting merged law firm Lagerlof, LLP. Since 2016, neither LSGK nor the merged firm Lagerlof, LLP have jointly represented a client with CHW. Since its founding in 2020, Lagerlof LLP has had no economic relationship or legal ties with CHW or any of its attorneys. The two firms do not share any personnel or facilities.

ANALYSIS

The Act's conflict of interest provisions prohibit a public official from taking part in a governmental decision if it is reasonably foreseeable that the decision would have a material financial effect on one or more of the official's financial interests distinguishable from the decision's effect on the public generally. (Sections 87100 and 87103.) Relevant to your request, an official's interests that may give rise to a disqualifying conflict of interest under the Act are set forth in Section 87103; they include:

- A business interest in any business entity in which the official has a direct or indirect investment worth \$2,000 or more (Section 87103(a)), or in which the official is a director, officer, partner, trustee, employee, or holds any management position (Section 87103(d)).
- A source of income interest in any source from whom the official receives \$500 or more in value in the 12 months prior to when the decision is made including a pro rata share of income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. (Sections 82030 and 87103(c).)

- An interest in the official's personal finances including those of immediate family members. (See Section 87103.)²

A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official's agency. (Regulation 18701(a).) Regarding financial interests not explicitly involved in a decision, a financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable. (Regulation 18701(b).) Different standards apply to determine whether a reasonably foreseeable financial effect on an interest will be material depending on the nature of the interest. (See Regulation 18702.)

You have identified financial interests in your law firm as both a business interest and source of income. You are a partner for the law firm will receive more than \$500 income from the firm in any 12-month period. You also have a source of income interest in any client of your law firm from whom you have received \$500 or more in value in the 12 months prior to when such a decision is made.

However, these facts do not establish that you have a financial interest in CHW for purposes of Section 87103. CHW has never been a source of income to you. The joint representation between CHW and LSGK ended in 2016 and the two firms have not had any joint clients since then. At the time of the joint representation, you were not a member of LSGK. The attorneys representing CHW in the 2016 matter are not involved in the legal services that CHW is currently providing the City. Since 2016, neither LSGK nor the merged law firm Lagerlof, LLP have jointly represented a client with CHW. Since its founding in 2020, Lagerlof LLP has had no economic relationship or legal ties with CHW or any of its attorneys and the two firms do not share any personnel or facilities.

Therefore, as a general matter, you have provided no indication that decisions involving CHW may impact your financial interests in your law firm and any potential interest in a client of your law firm. Based on the facts provides, you have no financial interest in CHW due to the past joint representation, such that the Act would prohibit your participation in a governmental decision involving CHW. You may wish to seek further advice in the event that a particular decision would implicate a financial interest pursuant to Section 87103.³

² Regulation 18702.5(c) provides that a decision's financial effect on an official's interest in his or her personal finances is not considered separately if the decision affects the official's business interest or real property interest. Accordingly, we will not analyze any effect on your personal finances.

³ Decisions involving a contract may implicate a separate body of law, Section 1090. We do not provide general advice on Section 1090 questions. Please seek additional advice, as needed, if a Section 1090 question arises.

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

Sincerely,

Dave Bainbridge
General Counsel

/s/ John M. Feser Jr.

By: John M. Feser Jr.
Senior Counsel, Legal Division

JMF:aja