

Memorandum 92-76

Subject: Conflict of Interest Code

Last year, the Commission decided to seek amendment of our agency Conflict of Interest Code to adopt a new procedure for adjusting disclosable interests based on topics under active consideration. The purpose of the new procedure would be to permit the Commission to add new types of financial interests to the list of reportable interests as they are discovered and to remove irrelevant types of financial interests from the list of reportable interests, depending on the subjects under Commission consideration. The procedure we envision would avoid the cumbersome process of amending the Commission's Conflict of Interest Code through the Fair Political Practices Commission (FPPC) and thus would tend to keep the Commission's Code more relevant to what is on the Commission's agenda.

The Fair Political Practices Commission has adopted a simplified procedure for making amendments in agency codes that do not involve changes in the classification of designated employees, i.e., the persons who are subject to reporting requirements. Since our proposal would not change disclosure categories, we believe the simplified procedure should be appropriate. This will avoid the cost and bother of publishing notice in the Notice Register, adopting a comment period, reviewing comments, filing with the Office of Administrative Law, etc.

Our conversations with FPPC staff, the most recent being this morning, confirm that they are open to our proposed revisions through the simplified procedure. Thus, if the Commission approves this course of action, we will prepare the necessary paperwork and seek amendment of the Commission's Conflict of Interest Code.

We would leave the existing reportable interests on the list and add other potentially relevant interests (such as heir-tracing firms and appraisal businesses), but limit the disclosure duty to a subset of the listed interests. The subset would be determined based on the

relation of the financial interests to topics considered by the Commission during the previous 12 months or likely to be considered during the 12 months following the end of the applicable financial interest reporting period. Specific guidance as to disclosable interests would be determined from the Annual Report and by the Executive Secretary. A letter determining the reportable interests would be filed with the FPPC at least annually -- probably during January in conjunction with the start of the financial statement season.

The staff proposes to revise Disclosure Category 1 substantially as follows, subject to technical revision to work out language acceptable to the FPPC (insertions and deletions indicated by underscoring and strike-out):

Category 1

A designated employee in this category must disclose the following:

1. Interests in real property.
2. Investments in business entities listed below.
3. Personal income from entities or persons listed below.
4. Business entity income from entities or persons listed below.
5. Business positions in entities listed below.

The following entities and persons listed below, in the jurisdiction of California, constitute the financial interests ~~which of a type that~~ foreseeably may be materially affected by a Law Revision Commission decision concerning a topic on the Commission's Calendar of Topics Authorized for Study:

1. Banks, savings and loan institutions, credit unions, and other financial institutions.
2. Mortgage brokers.
3. Collection agencies.
4. Any entities or persons whose primary activity in California is the making of secured or unsecured loans.
5. Any entities or persons whose primary activity in California is the leasing or development of real estate.
6. Any entities or persons whose primary activity in California is the leasing of personal property.
7. Insurance companies.
8. Public entities, so long as the income is not excluded by Government Code Section 82030(b)(2).
9. Title insurance companies.
10. Newspaper companies.
11. Corporate sureties.
12. Adoption agencies.
13. Persons engaging in private placing for adoption of more than one child per year.
14. Privately owned public utilities.

15. Law firms.
16. Any entities or persons engaged in the business of tracing heirs.
17. Any entities or persons engaged in the business of appraising property.

Financial interests on this list are reportable if they relate to active topics on the Commission's calendar of topics. Active topics are topics the Commission has considered during the 12 months preceding, or to be considered during the 12 months following, the end of the applicable filing period, and are determined from the Commission's Annual Report, as specified by the Executive Secretary in a letter filed with the Fair Political Practices Commission.

Respectfully submitted,

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