

Admin.

September 4, 1996

Memorandum 96-55**Conflict of Interest Code: Disclosure Categories**

The Commission needs to consider revision of disclosure categories under its Conflict of Interest Code whenever new topics are activated. Under our agreement with the Fair Political Practices Commission, the Commission's Conflict of Interest Code needs to be amended within 90 days of commencement of consideration of a topic whose disclosure duties are not covered by existing categories. (A copy of the current Conflict of Interest Code is attached.) This memorandum considers the conflict of interest aspects of topics that have been added by legislative action this session and other topics that may be activated, as discussed in Memorandum 96-58 (new topics and priorities) and its supplement.

Background

The Commission's governmental function does not fit well within the terms of the Political Reform Act of 1976. The Commission's authority is potentially unlimited — it depends upon what the Legislature authorizes for study. Traditionally, the Commission has retained subjects on its calendar for maintenance purposes. The Commission assumes the responsibility of monitoring the experience under statutes enacted on Commission recommendation. Thus, it is important to continue authority to study relatively recent studies. After five or 10 years have passed with no activity, the Commission may drop a study from its calendar.

The Commission's Conflict of Interest Code includes a mechanism for limiting disclosure categories to those matters foreseeably affected by topics considered this year or likely to be considered next year. The process is implemented by a letter from the Executive Secretary to the FPPC conveying the list of active or anticipated topics and correlating the topics with the disclosable financial interests. (A copy of the current letter follows the attached Conflict of Interest Code and will also accompany your packet of materials for next year's annual statement.)

This process permits limitation of items on the list of entities stated in the Commission's Conflict of Interest Code (see page 3 of attached Code). This list cannot be expanded except through amendment of the Code. Last year we went through this cumbersome process and added several categories to cover active

topics that were conceivably not covered. **This year, it does not appear that any revision of the Conflict of Interest Code will be needed.**

As outlined in Memorandum 96-58, the likely new or activated topics are the following:

1. Trial Court Unification

This is a reactivated project and does not involve any foreseeable financial effects.

2. Contract Law

The 1996 resolution provides a new authorization for a study of the law of contracts. Preliminary analysis does not suggest the existence of any new types of foreseeable financial interests that could be materially affected by the Commission study. There is no apparent gap in the existing Conflict of Interest Code in relation to this study, and in any event, it is unlikely that the Commission will begin active consideration for some time.

3. Consolidation of Environmental Statutes

The 1996 resolution provides a new authorization to study “whether the laws within the various codes relating to environmental quality and natural resources should be reorganized in order to simplify and consolidate relevant statutes, resolve inconsistencies between the statutes, and eliminate obsolete and unnecessarily duplicative statutes.” This authorization is explicitly nonsubstantive and does not involve any foreseeable financial effects. Accordingly, there is no need to revise the Conflict of Interest Code in relation to this study.

4. Public Utilities Restructuring

As noted in Memorandum 96-57 and the First Supplement to Memorandum 96-58, the Commission has been assigned “consultation” responsibility in connection with a report on public utilities industry restructuring required from the PUC. In the context of a consultation with the PUC, we do not see that this topic involves any new foreseeable financial effects. However, the “privately owned public utilities” entry on the disclosure list should probably be retained.

5. Other Possible Topics

None of the other possible topics discussed in Memorandum 96-58 appear to involve any foreseeably affected financial interests suitable for identification in the Conflict of Interest Code.

Conclusion

Based on the foregoing assumptions, the staff proposes the following limited financial interest disclosure list for forwarding to the FPPC in accordance with the Commission's Conflict of Interest Code (omitted items are shown in ~~strikeout~~):

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 sale, 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.~~ [unless study of published notice is approved]
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.~~
18. Any entity or person that is a party in unfair competition litigation in California or has been within the past two years.
19. A director of a California corporation.
20. An officer or director of a California unincorporated nonprofit association.

Respectfully submitted,

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