



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

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

Subject: Advice Letter Report and Commission Review

Date: August 5, 2019

The following advice letters have been issued since the July 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>.

Conflict of Interest

Jason Zaragoza

[A-19-078](#)

While the Act prohibits an official, with a property interest within 500 feet of a golf course, from participating in decisions relating to the course's budget and contract with the course operator that may affect the financial viability of the course, the official may be able to participate in decisions relating to the use of specific course facilities further away from the official's property, so long as they are not inextricably interrelated to decisions that relate to the course as a whole.

Glenn Spitzer

[I-19-136](#)

Planning Commissioner with 106 shares of stock in a large company valued at \$3,312.50 has an economic interest in the company and may not take part in decisions with a foreseeable and material effect on the company. However, because the interest falls within the small shareholder exception in Regulation 18702.1(b), the official is disqualified from a decisions involving a permit for the company only if the decision may (1) a change the company's gross revenues, or the value of its assets or liabilities, in an amount equal to or more than \$1,000,000 or five percent of the company's annual gross revenues or (2) result in the company incurring or avoiding expenses in an amount equal to \$250,000 or one percent of the company's annual gross revenues. Additionally, the official is disqualified if he knows or has reason to know that the company has property effected by the decision and there is clear and convincing evidence that the decision will have a substantial effect on the property.

Gifts

Sandra Nakagawa

[A-19-123](#)

Payments by Alumni Network for public officials, who are current and former fellows, and their guests to attend a reunion camping trip are reportable gifts to the public officials who attend the trip. These gifts are subject to the Act's gift limit and conflict of interest provisions. The reportable amount of the gifts is the fair market value of the gifts received by the public officials

and their guests. If the fair market value cannot be determined because the gift is unique or unusual, the official must make a reasonable approximation by taking into account the price of similar items, or a good faith estimate if similar items are not available.

Revolving Door

Jose L. Angel

[A-19-096](#)

Under Act's revolving door provisions, a former employee of a regional water quality control board is not prohibited by the one-year ban from providing policy and technical advice to his current private employer so long as the former state official does not appear before or communicate with his former state agency. Additionally, the former state employee is not prohibited under the permanent ban from assisting the private employer with technical compliance under an existing permit so long as there are no future proceedings before the State involving the permit.

Section 1090

Lynn Tracy Nerland

[A-19-066](#)

Section 1090 prohibits Councilmember from obtaining a loan through the City's First-Time Homebuyer Program where the Councilmember participated in the establishment of the Program. The government contract at issue would not involve standard goods or services at set rates. Instead, it would deal with the acquisition of a government loan which involves more complex considerations in that the applicant must qualify, and the individual approving the loan must exercise a certain degree of discretion and judgment prohibited under Section 1090.

Charles B. Christensen

[A-19-097](#)

An advisory board member will not violate Section 1090 by accepting employment with an entity that will receive funding recommended by the board, as long as the board member recuses himself from any recommendations involving his potential employer.

Tom Schroeter

[A-19-113](#)

Under the Act, Councilmember with an interest in an aviation business located at the municipal airport was prohibited from taking part in budgetary decisions involving potential airport repairs that would have a foreseeable, material financial effect on his business. The Councilmember was also prohibited from directly or indirectly attempting to influence the City Council in the execution of airport repair contracts. However, the Councilmember could permissibly take part in the final vote to adopt or reject the budget after separate decisions affecting the entire jurisdiction were finalized, and could also take part in properly segmented decisions, under Regulation 18706 of the Act and Section 1090.

Daniel Sodergren

[A-19-116](#)

The noninterest exception under Section 1091.5(a)(8) permits Human Services Commissioner to vote on Commission recommendations to the City Council relating to the award of specified grants where the Commissioner is an uncompensated board member of a nonprofit that will apply for such a grant and the Commissioner's interest is noted in the Commission's official records.

Dennis J. Stryker

[A-19-134](#)

Section 1090 does not prohibit City from entering into a project contract where a subconsultant of the prime design engineering firm previously worked as a subconsultant to a different prime design engineering firm and provided technical analysis determining the feasibility of certain structures that will ultimately be part of the current project, as the facts did not indicate that the subconsultant exerted influence over the City's contracting decisions.