

ORIGINAL

Decision No. 87342

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion for the purpose of  
adopting a Conflict of Interest  
Code to govern the conduct of the  
Commission and its employees.

Case No. 10084  
(Filed April 20, 1976)

Donald B. Jarvis, Attorney at Law, for the Division  
of Examiners of the Commission, respondent.  
A. L. Gielegem, for himself, protestant.  
Kenneth J. Kindblad, for the Utilities Division  
staff of the Commission; Alan R. Link, Attorney  
at Law, and Richard T. Gleed, for California  
State Employees' Association; Ann Murphy,  
Attorney at Law, and Sylvia Siegel, for TURN;  
Julian Aiello and Bruce Blanning, for  
Professional Engineers in California Government;  
John Dutcher, for himself; and H. W. Hughes and  
J. C. Kaspar, for California Trucking Association;  
interested parties.  
Thomas J. MacBride, Jr., Attorney at Law, for the  
Commission staff.

FINAL OPINION

On April 29, 1977, the Executive Director received written notice that the Conflict of Interest Code of the Public Utilities Commission had been approved by the Fair Political Practices Commission at its meetings of April 5 and April 21, 1977.

Section 50 of our proposed code was approved without revision by the Fair Political Practices Commission. That section provides that:

"This code shall be effective no sooner than the first day of the fourth calendar month following the date of the receipt by the Executive Director of written notice that the code has been approved by the Fair Political Practices Commission. Upon receipt of such written notice such actual effective date shall be inserted in this section in lieu of this provision as the effective date of the code finally adopted by the Commission."

Since we received the notice referred to on April 29, 1977, we are required to fix as an effective date a date no earlier than August 1, 1977. Should we select that date, designated employees would be required, pursuant to Section 37 of the code, to file by August 31, 1977, statements disclosing all reportable investments and interests in real property held on August 1, 1977. Then, only six months later on March 1, 1978, designated employees would be required to file another statement disclosing all reportable investments, interests in real property, and income held or received during the period August 1 through December 31, 1977. We are of the opinion that two filings in such a short period of time is not only unnecessarily burdensome on the designated employees but also imposes an undue burden on the personnel charged with the responsibility of advising these employees and processing the statements. Since the March 1, 1978 statement would cover only five months of the 1977 calendar year its value as a disclosure device hardly justifies the expenditure of time required to execute the statement.

Also, Ordering Paragraph 3 of Decision No. 86803 requires the Executive Director to establish a training program to explain the Conflict of Interest Code and the Political Reform Act of 1974 to designated employees. Were the code to become effective August 1, 1977, such training program would have to be conducted during June and July and the first filings by designated employees would have to be made during August, months during which most Commission employees are on their vacations.

For the above stated reasons we shall, pursuant to Section 50 of the code and Section 11422(d) of the Government Code fix January 1, 1978 as the effective date of our Conflict of Interest Code.

Designated employees will be required to disclose, by January 31, 1978, all reportable investments and interests in real property held on January 1, 1978. The next statement required of these employees will be due on March 1, 1979. That statement will disclose all reportable investments, interests in real property, and income held or received during the 1978 calendar year. Thereafter, annual statements will be filed each March 1. Of course, new designated employees and designated employees who leave their positions may be required by Sections 38 and 39 of the code to file statements at times other than those described above.

Ordering Paragraphs 3 and 4 of Decision No. 86803 issued January 5, 1977, will be revised by the substitution of the phrase "On or before October 15, 1977," for the phrase "Within forty-five days after the final adoption of the Conflict of Interest Code by this Commission,".

#### Findings

1. The effective date of the Conflict of Interest Code of the Public Utilities Commission should be January 1, 1978.

2. Ordering Paragraphs 3 and 4 of Decision No. 86803 issued January 5, 1977 should be revised by the substitution of the phrase "On or before October 15, 1977," for the phrase "Within forty-five days after the final adoption of the Conflict of Interest Code by this Commission,".

#### Conclusion

The Conflict of Interest Code attached hereto as Appendix A which has been approved by the Fair Political Practices Commission should be adopted by this Commission.

FINAL ORDER

IT IS ORDERED that:

1. The Conflict of Interest Code attached hereto as Appendix A which has been approved by the Fair Political Practices Commission at its meetings on April 5 and April 21, 1977, is adopted by this Commission to become effective January 1, 1978.

2. Ordering Paragraph 3 of Decision No. 86803 issued January 5, 1977, is revised to provide:

"3. On or before October 15, 1977, the Executive Director of this Commission shall supply the designated employees with forms prescribed or approved by the Fair Political Practices Commission for use in connection with this Commission's Conflict of Interest Code and a manual of instruction prescribed or approved by the Fair Political Practices Commission pertaining to compliance with this Commission's Conflict of Interest Code."

3. Ordering Paragraph 4 of Decision No. 86803 issued January 5, 1977, is revised to provide:

"4. On or before October 15, 1977, the Executive Director shall establish a training program to explain the Conflict of Interest Code and the Political Reform Act of 1974 to designated employees."

4. The Executive Director pursuant to 2 Cal. Adm. Code Section 18750 (1) shall transmit to the Office of Administrative Hearings a copy of the Conflict of Interest Code attached hereto as Appendix A.

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5. The Executive Director shall promptly serve a copy of this decision together with a copy of the Conflict of Interest Code attached hereto as Appendix A upon the Chairman of the Fair Political Practices Commission, upon all parties of record in this proceeding, and upon all designated employees listed in the Conflict of Interest Code.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 17<sup>th</sup> day of MAY, 1977.

Robert Batimnich  
President  
William J. ...  
...  
Richard W. ...  
Commissioners

*Denies but believe  
out of state holdings  
should be disclosed  
Robert Batimnich*

EX-100-100-1

APPENDIX A

CONFLICT OF INTEREST CODE  
APPROVED BY THE  
FAIR POLITICAL PRACTICES COMMISSION  
AND ADOPTED BY THE  
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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(Conflict of Interest and  
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CONFLICT OF INTEREST CODE  
APPROVED BY THE  
FAIR POLITICAL PRACTICES COMMISSION  
AND ADOPTED BY THE  
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Article 1

Title and Definitions

Section 1: This code shall be known and may be cited as the "Conflict of Interest Code of the Public Utilities Commission".

Section 2: Unless the contrary is stated or clearly appears from the context, the definitions set forth in this article shall govern the interpretation of this code.

Section 3: "Business entity" means any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

Section 4: "Civil service employee" means any state employee who is covered by the state civil service system.

Section 5: "Commission" means the Public Utilities Commission of the State of California.

Section 6: "Commission action" means the proposal, drafting, development, enactment or defeat by the Commission of any rule, regulation, or other action in any proceeding before the Commission or any action in which the Commission contracts with a business entity for that entity to provide services or materials to the Commission.

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Section 7: "Designated employee" means:

- (a) The following civil service exempt employees of the Commission:
  - (1) Members of the Public Utilities Commission
  - (2) Executive Director, PUC
  - (3) General Counsel, PUC
- (b) All employees in the following civil service employment classes:
  - (1) Accounting Officer II
  - (2) Administrative Service Officer III, CEA
  - (3) Advisor to a Commissioner, PUC, CEA
  - (4) Assistant Chief, Communications Division
  - (5) Assistant Chief Examiner, PUC
  - (6) Assistant Chief, Finance Division
  - (7) Assistant Chief, Operations Division
  - (8) Assistant Chief, PUC Counsel
  - (9) Assistant Chief, Transportation Division, PUC
  - (10) Assistant Chief, Utilities Division, PUC
  - (11) Chief, Administrative Services Division
  - (12) Chief, Communications Division
  - (13) Chief, Energy Conservation Team, PUC, CEA
  - (14) Chief Examiner, PUC, CEA
  - (15) Chief, Finance Division, CEA
  - (16) Chief, Operations Division
  - (17) Chief, Transportation Division, PUC, CEA
  - (18) Chief, Utilities Division, PUC, CEA
  - (19) Commission Representative, Southern California Area, PUC, CEA
  - (20) Data Processing Manager II
  - (21) Examiner I, PUC
  - (22) Examiner II, PUC

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- (23) Fiscal Officer I
  - (24) Information Officer I
  - (25) Information Officer II
  - (26) Legal Counsel
  - (27) Manager, Rapid Transit System Section
  - (28) Principal Public Utility Financial Examiner
  - (29) Principal, Transportation Division, PUC
  - (30) Principal, Utilities Engineer, PUC
  - (31) PU Counsel I
  - (32) PU Counsel II
  - (33) PU Counsel III
  - (34) PU Financial Examiner IV
  - (35) Research Analyst II (Economic/Resources)
  - (36) Research Specialist II
  - (37) Research Specialist III
  - (38) Research Specialist IV
  - (39) Senior Electrical Engineer
  - (40) Senior Rapid Transit Computer Control Systems Specialist
  - (41) Senior Transportation Engineer
  - (42) Senior Transportation Operations Supervisor, PUC
  - (43) Senior Transportation Rate Expert
  - (44) Senior Transportation Representative
  - (45) Senior Utilities Engineer
  - (46) Supervising Transportation Engineer, PUC
  - (47) Supervising Transportation Rate Expert
  - (48) Supervising Transportation Representative
  - (49) Supervising Utilities Engineer, PUC
  - (50) Supervisor, Operations and Safety Section, PUC
- (c) Special Consultants

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Section 8: "Designated employee" does not include:

- (a) Employees in the following civil service classes:
- (1) Accountant I
  - (2) Account Clerk II
  - (3) Accounting Technician
  - (4) Administrative Assistant I
  - (5) Administrative Service Officer II
  - (6) Assistant Clerk
  - (7) Assistant Engineering Specialist (Utilities)
  - (8) Assistant Statistician
  - (9) Assistant Transportation Engineer
  - (10) Assistant Transportation Operations Supervisor, PUC
  - (11) Assistant Utilities Engineer
  - (12) Associate Data Processing Analyst
  - (13) Associate Personnel Analyst
  - (14) Associate Programmer Analyst
  - (15) Associate Transportation Engineer
  - (16) Associate Transportation Operations Supervisor, PUC
  - (17) Associate Transportation Rate Expert
  - (18) Associate Transportation Representative
  - (19) Associate Utilities Engineer
  - (20) Auditor I
  - (21) Calculating Machine Operator - Key Division
  - (22) Chief Hearing Reporter, PUC
  - (23) Clerk I
  - (24) Clerk II
  - (25) Clerk Typist I
  - (26) Clerk Typist II
  - (27) Computer Operator

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- (28) Customer Service Representative, PUC
- (29) Data Processing Technician
- (30) Data Processing Trainee
- (31) Delineator
- (32) Duplicating Machine Operator I
- (33) File Clerk II
- (34) Graduate Legal Assistant
- (35) Graduate Student Assistant
- (36) Hearing Reporter, PUC
- (37) Hearing Transcriber Typist, PUC
- (38) Junior Utilities Engineer
- (39) Key Data Operator
- (40) Key Data Supervisor I
- (41) Legal Assistant
- (42) Legal Secretary
- (43) Legal Stenographer
- (44) Legal Typist
- (45) Machine Operator I
- (46) Material and Stores Supervisor I
- (47) Personnel Assistant Trainee
- (48) Personnel Manager II
- (49) Programmer
- (50) PU Financial Examiner II
- (51) PU Financial Examiner III
- (52) Research Analyst I
- (53) Research Analyst II (Economical/Financial)
- (54) Secretary I
- (55) Secretary II
- (56) Senior Account Clerk



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- (57) Senior Clerk
- (58) Senior Clerk Typist
- (59) Senior Data Processing Analyst
- (60) Senior Delineator
- (61) Senior File Clerk
- (62) Senior Hearing Reporter, PUC
- (63) Senior Hearing Transcriber Typist, PUC
- (64) Senior Legal Stenographer
- (65) Senior Legal Typist
- (66) Senior Stenographer
- (67) Senior Machine Operator
- (68) Senior Programmer Analyst
- (69) Staff Data Processing Analyst
- (70) Staff Programmer Analyst
- (71) Staff Services Analyst
- (72) Stenographer
- (73) Stock Clerk
- (74) Student Assistant
- (75) Student Assistant - Engineering and Architectural Sciences
- (76) Supervising Account Clerk
- (77) Supervising Calculating Machine Operator
- (78) Supervising Cashier Clerk I
- (79) Supervising Clerk I
- (80) Supervising Clerk II
- (81) Supervising Clerk Typist I
- (82) Supervising File Clerk I
- (83) Supervising Hearing Transcriber Typist, PUC
- (84) Supervising Legal Stenographer I
- (85) Supervising Stenographer I

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- (86) Supervisor, EDP
- (87) Training Officer II
- (88) Transcriber
- (89) Transportation Analyst I
- (90) Transportation Analyst II
- (91) Transportation Analyst III
- (92) Volunteer Student Assistant
- (93) Warehouse Worker

(b) Employees in employment classes inadvertently omitted from Section 7(b) or Section 8(a), or which may be created after the adoption of this code, until such time as such employment classes are included in Section 7(b) by amendment of this code.

(c) Employees included in employment classes set forth in Section 7 above, who are on terminal vacation or sick leave immediately prior to their retirement or termination of their employment in the service of this Commission and at the time this code becomes effective.

Section 9: "Employee" means any person employed by the Commission including civil service employees, civil service exempt employees and consultants.

Section 10: "Executive Director" means the Executive Director of the Commission.

Section 11: "Gift" means any payment to the extent that consideration of equal or greater value is not received. Any person, other than the defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. The term "gift" does not include informational material, such as books, reports, pamphlets, calendars or periodicals. No payment for travel

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or reimbursement for any expenses shall be deemed "informational material". The term "gift" also does not include free admission, food, beverages, or similar nominal benefits provided to a person at the event at which he speaks or provides a similar service.

Section 12: "Immediate family" means the spouse and dependent children. Whenever disclosure of investments or interests in real property is required by this code, investments and interests in real property of members of the immediate family of which investments and interests in real property the designated employee has, or should have, knowledge shall also be disclosed.

Section 13: (a) "income" means, except as provided in subsection (b), income of any nature from any person that has an interest in real property in the State of California, or does business in or plans to do business in the State of California or has done business in the State of California during the two years prior to the time any statement is required under this code or from any business entity that is a parent, subsidiary or otherwise related business entity. Income from such sources includes but is not limited to any salary, wage, advance, payment, dividend, interest, rent, capital gain, return of capital, gift (including any gift of food or beverage), loan, forgiveness or payment of indebtedness, discount in the price of anything of value unless the discount is available to the members of the public without regard to official status, rebate, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual owns, or spouse owns, a ten percent interest or greater and of which spouse's interest the designated employee has, or should have knowledge, directly or indirectly.

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(b) "Income" does not include:

(1) Campaign contributions required to be reported under Chapter 4 of the Political Reform Act of 1974.

(2) Salary and reimbursement for expenses or per diem received from a state or local government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic, charitable, or employee organization.

(3) Gifts of informational material, such as books, pamphlets, reports, calendars, or periodicals.

(4) Free admissions, food, beverages, or similar nominal benefits provided to a person at the event at which he speaks or provides a similar service.

(5) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.

(6) Gifts and loans from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, or first cousin, or the spouse of any such person; provided that a gift or loan from any such person shall be considered income if the donor or lender is acting as an agent or intermediary for any person not covered by this paragraph.

(7) Loans by commercial lending institutions in the regular course of business.

(8) Any devise or inheritance.

(9) Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency.

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(10) Income, other than gifts, received from business entities or persons outside the jurisdiction of the State of California and not doing business within the jurisdiction of the State of California at any time during the two years prior to the time any statement or other action is required under this code.

(11) Dividends, interest or any other return on a security which is registered with the Securities and Exchange Commission of the United States Government.

Section 14: "Interest in real property" includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the State of California if the fair market value of the interest is greater than one thousand dollars (\$1,000). Interests in real property of an individual include a pro rata share of interests in real property of any business entity or trust in which the individual owns, or spouse owns, a ten percent interest or greater, directly, indirectly or beneficially, and of which spouse's interest the designated employee has, or should have knowledge.

Interest in real property does not include interest in real property located outside the State of California.

Section 15: "Investment" means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the State of California, or does business or plans to do business in the State of California, or has done business within the State of California during the two years prior to the time any statement is required under this code. No asset shall be deemed an investment unless its fair market value exceeds \$1,000. The term

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"investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, or any bond issued or other debt instrument issued by any government or governmental agency. Investments of an individual includes a pro rata share of investments of any business entity or trust in which the individual owns, or spouse owns a ten percent interest or greater, directly, indirectly or beneficially, and of which spouse's interest the designated employee has, or should have, knowledge.

Section 16: "Period covered" by a statement required to be filed by this code means, unless a different period is specified, the period beginning with the day after the closing date of the most recent statement which has been filed and ending with the closing date of the statement in question. If the person filing the statement has not previously filed a statement, the period begins on the effective date of this code.

Section 17: "Person" means any individual, partnership, firm, proprietorship, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.

Section 18: "Statement", unless otherwise indicated, means a statement of reportable interests required by this code.

Section 19: Unless a term is defined differently in this code, the definitions contained in Chapter 2 of the Political Reform Act of 1974, Government Code Section 82000 et seq., and regulations promulgated by the Fair Political Practices Commission, 2 California Administrative Code Section 18700 et seq., shall govern the construction of this code.

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Article 2

General Prohibitions

Section 20: No designated employee shall take Commission action, participate in taking Commission action, or in any way attempt to use his official position to influence Commission action, or the action of a Commissioner, in which he knows or has reason to know he has a financial interest.

Section 21: Section 20 does not prevent any employee from taking Commission action or participating in the taking of Commission action to the extent that his participation is legally required for the action taken.

Section 22: Any person who has prior knowledge, or should have prior knowledge, of a conflict of interest situation which may disqualify an Examiner from participating as a hearing officer in a proceeding and who seeks to disqualify such Examiner from participating in a proceeding by reason of such conflict of interest must file the motion to disqualify the Examiner prior to the first day of hearing. A motion to disqualify an Examiner which is filed prior to the first day of hearing shall be referred to the presiding officer for decision. A motion to disqualify an Examiner which is filed after the hearing has commenced shall be referred to the Chief Examiner for decision, and the Examiner shall continue to participate as a hearing officer in the proceeding until he is actually disqualified pursuant to Section 29.

Section 23: A designated employee has a financial interest in a Commission action within the meaning of this code if it is reasonably foreseeable that the Commission action will have a material financial effect, distinguishable from its effect on the public generally, on:

(a) Any business entity in which the employee has a direct or indirect investment worth more than one thousand dollars (\$1,000);

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(b) Any real property in which the employee has a direct or indirect interest worth more than one thousand dollars (\$1,000);

(c) Any source of income, other than loans by commercial lending institutions in the regular course of business, aggregating two hundred fifty dollars (\$250) or more in value received by or promised to the employee within twelve months prior to the time when the Commission action is taken; or

(d) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of any designated employee, of which investment or interest the designated employee has, or should have, knowledge, or any investment or interest owned by an agent on behalf of the designated employee, by any business entity controlled by the employee or by a trust in which the employee has a substantial interest. A business entity is controlled by a designated employee if the interests held by the designated employee, his agents, his spouse and dependent children of whose investments or interests the designated employee has, or should have, knowledge, constitute more than fifty percent of the ownership interest in the entity. A designated employee has a substantial interest in a trust when the value of the present or future interests in the trust held by the designated employee, his spouse and dependent children of whose interest he has, or should have, knowledge, exceeds one thousand dollars (\$1,000).

Section 24: An employee who has a financial interest which it is reasonably foreseeable may be materially affected by Commission action has an affirmative duty either to divest himself pursuant to Section 28



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of the financial interest creating the conflict of interest within thirty days after he becomes aware of the conflict situation or to disqualify himself from taking or participating in the Commission action in which he has a conflict of interest.

Section 25: No conflict of interest situation arises because a designated employee who is participating in a utility rate proceeding is himself a member of a class of customers whose rates are in issue in the proceeding, or has a financial interest in a customer (e.g., a commercial or industrial concern) which is a member of a class of customers whose rates are involved in a Commission proceeding even though such customer has entered an appearance and actively participates in the proceeding.

Section 26: Because of Section 303 of the Public Utilities Code a designated employee who acquires ownership of stocks or bonds or a pecuniary interest in any business entity that is subject in whole or in part to regulation by this Commission or in any holding company or conglomerate which has a controlling interest in any business entity that is subject in whole or in part to regulation by this Commission shall divest himself of such ownership or interest within a reasonable time after he becomes aware or should have knowledge that the business entity is subject in whole or in part to regulation by this Commission or that the holding company or conglomerate has a controlling interest in a business entity which is subject in whole or in part to regulation by this Commission.

Section 27: No conflict of interest situation arises because a designated employee owns stocks or bonds or has a pecuniary interest in a mutual fund (including investment trust, investment company and limited partnership exchange fund), an insurance company, a bank or other financial institution which has investments in or has made loans

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to a business entity which is subject in whole or in part to regulation by this Commission, until such time as the designated employee has knowledge that a contract between such a mutual fund (including investment company, investment trust and limited partnership exchange fund), insurance company, bank or other financial institution and a business entity subject in whole or in part to regulation by this Commission has become an issue in a matter involving Commission action in which such designated employee is participating.

The provisions of this section shall not apply to a designated employee who owns or whose spouse owns, directly, indirectly or beneficially, and of which spouse's interest the designated employee has, or should have, knowledge, a ten percent interest or greater in such a mutual fund, insurance company, bank or other financial institution.

Section 28: A designated employee may remove a conflict of interest situation arising out of his ownership of an investment or interest in real property and thereby make it unnecessary for him to disqualify himself:

(a) By filing with the Executive Director a Conflict of Interest Statement and Statement of Intention to Divest under the Conflict of Interest Code on the form shown in Appendix A attached hereto promptly upon his becoming aware that a conflict of interest situation has arisen; and

(b) By filing with the Executive Director a Statement of Actual Divestment to Remove Conflict of Interest under the Conflict of Interest Code on the form shown in Appendix B attached hereto within thirty days after the corresponding Conflict of Interest Statement and Statement of Intention to Divest under the Conflict of Interest Code was filed with the Executive Director.

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The filing of such statements and the divestment pursuant thereto shall render the designated employee immune from any disciplinary action that could otherwise be initiated by the Commission by reason of the conflict of interest and shall be evidence of good faith on the part of the designated employee in any claim or action under the Political Reform Act of 1974.

Section 29: (a) When a designated employee ascertains that a conflict of interest situation has arisen prior to hearing with respect to an assignment and he does not desire to remove the conflict of interest pursuant to the provisions of Section 28 above, he shall cease all work on and take no further action in connection with such assignment, and he shall promptly file with his supervisor a Conflict of Interest and Disqualification Statement under the Conflict of Interest Code of the Public Utilities Commission in the form shown in Appendix C, attached hereto. If the supervisor accepts the disqualification of the designated employee and refers the assignment to another employee, nothing further need be done by the designated employee under this section. If the supervisor rejects the disqualification, the designated employee shall comply with the supervisor's direction to resume working on the assignment or to continue working on the assignment, until he is notified by the Executive Director that the direction of the supervisor has been countermanded and he has been disqualified from taking further action on the assignment by the Executive Director.

(b) When a designated employee ascertains that a conflict of interest situation has arisen during the course of a hearing and the designated employee does not wish to remove the conflict of interest pursuant to the provisions of Section 28 above, he shall promptly file with his supervisor a Conflict of Interest and Disqualification Statement under the Conflict of Interest Code of the Public Utilities Commission in

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the form shown in Appendix C attached hereto. The designated employee shall nevertheless continue working and taking action on his assignment until such time as the supervisor accepts the disqualification of the designated employee and refers the assignment to another employee, or if the supervisor has rejected the disqualification, until such time as the Executive Director has notified the designated employee that the direction of the supervisor for him to continue working and taking action on the assignment has been countermanded and he has been disqualified from taking further action on the assignment by the Executive Director.

(c) Whenever a supervisor of a designated employee who has filed a conflict of interest and disqualification statement with his supervisor has rejected the disqualification and has directed the designated employee to resume or continue working and taking action on an assignment despite his declared conflict of interest, the Executive Director may countermand the direction of the supervisor by notifying in writing both the supervisor and the designated employee of his decision to countermand the direction of the supervisor.

(d) If, pursuant to the procedures set forth in this section, a designated employee is required to resume or to continue working and taking action on an assignment despite a declared conflict of interest and pursuant to such sections or to such direction the designated employee resumes or continues to work and to take action on such assignment, compliance with the provisions of this section by the designated employee or his supervisor shall be deemed evidence of good faith on the part of such persons in any claim or action under the Political Reform Act of 1974 by reason of the designated employee's resuming or continuing to work and take action on the assignment despite

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his declared conflict of interest. This immunity of course, will not apply to any action taken by the designated employee subsequent to the time he is notified by the Executive Director that the Executive Director has disqualified the designated employee from taking further action on the assignment involved with the conflict of interest.

(e) The designated employee and the supervisor shall each retain a copy of all statements filed pursuant to the provisions of this section. Three copies of such statements shall be filed with the Executive Director who shall retain one copy in his public files in San Francisco and one copy in his public files in Los Angeles and send the original to the Fair Political Practices Commission in Sacramento. The Executive Director shall file copies of any directives issued by the Executive Director pursuant to this section at the offices of the Commission in San Francisco and Los Angeles and with the Fair Political Practices Commission in Sacramento.

(f) Notwithstanding the other provisions of this Section 29, a Conflict of Interest and Disqualification Statement of a member of the Commission, the Executive Director, or the General Counsel shall be final and not subject to review.

Article 3

Reporting of Financial Interests

Section 30: Every designated employee, other than a member of the Commission, shall file, in a manner prescribed by this article, statements disclosing all reportable interests, as defined in Sections 31-36, held by the designated employee.

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Section 31: A reportable interest for the Executive Director, the General Counsel, and an Advisor to a Commissioner, a consultant, and any other designated employee who reports directly to a Commissioner or to the Commission and is not employed in a particular division of the Commission staff, includes any investment, interest in real property, and income within the State of California, subject, of course, to the limitations provided in the definitions of the terms "investment", "interest in real property", and "income" set forth in this code.

Section 32: For designated employees in the Communications Division of the Commission, a reportable interest is:

(a) Any investment in or income from:

(1) A telephone corporation or a telegraph corporation subject to the jurisdiction of the Commission; or

(2) A parent or subsidiary of a business entity described in subsection (a)(1).

(b) Any interest in real property if:

(1) The property is located in whole or in part within the service area or proposed service area of a business entity described in subsection (a)(1), and

(2) The designated employee knows, or has reason to know that:

(i) The initiation of service by a business entity described in subsection (a)(1) to the property has been an issue in any Commission proceeding during the 12 months prior to the effective date of any statement required by Sections 37, 38, or 39; or

(ii) The initiation of such service will become an issue in a Commission proceeding within the 12 months following the effective date of any statement required by Sections 37, 38, or 39.

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Section 33: For designated employees in the Transportation Division of the Commission, a reportable interest is any investment in, or income from:

(a) A railroad corporation, airline common carrier, pipeline corporation, passenger stage corporation, highway carrier of property, vessel operator, warehouseman, freight forwarder, express corporation, or charter-party carrier of passengers subject to the jurisdiction of the Commission; or

(b) Any parent corporation or subsidiary of a business entity described in subsection (a); or

(c) A business entity which the designated employee knows, or has reason to know:

(1) Has been named as a shipper-respondent in any Commission proceeding, the principal subject of which is a business entity described in subsection (a), during the 12 months prior to the effective date of any statement required by Sections 37, 38, or 39; or

(2) Is under investigation or consideration for investigation to be named as a shipper-respondent in such a proceeding within the 12 months following the effective date of any statement required by Sections 37, 38, or 39.

(d) A business entity which the designated employee knows, or has reason to know:

(1) Has instituted a reparations action against a business entity described in subsection (a) with the Commission during the 12 months prior to the effective date of any statement required by Sections 37, 38, or 39; or

(2) Intends to institute such an action within the 12 months following the effective date of any statement required by Sections 37, 38, or 39.

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Section 34: For designated employees in the Operations Division, the Utilities Division, or the Energy Conservation Team of the Commission, a reportable interest is:

(a) Any investment in or income from:

(1) A gas corporation, electric corporation, water corporation, heat corporation, or sewer corporation subject to the jurisdiction of the Commission;

(2) A parent or subsidiary of a business entity described in subsection (a)(1); or

(3) A business entity which regularly supplies petroleum, natural gas, fuel oil, or other forms of energy to a business entity described in subsection (a)(1).

(b) Any interest in real property if:

(1) The property is located in whole or in part within the service area or proposed service area of a business entity described in subsection (a)(1), and

(2) The designated employee knows, or has reason to know that:

(i) The initiation of service by a business entity described in subsection (a)(1) to the property has been an issue in any Commission proceeding during the 12 months prior to the effective date of any statement required by Sections 37, 38, or 39; or

(ii) The initiation of such service will become an issue in a Commission proceeding within the 12 months following the effective date of any statement required by Sections 37, 38, or 39.

Section 35: For the Commission Representative, Southern California, Information Officers I and II, and designated employees in the Legal Division, other than the General Counsel, in the Finance Division, and in the Examiners Division, a reportable interest is any interest defined as a reportable interest in Sections 32, 33, or 34.



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Section 36: A reportable interest for the Accounting Officer II, the Administrative Service Officer III, CEA, the Chief of the Administrative Services Division, Data Processing Manager II, and the Fiscal Officer I is any investment in or income from a business entity which contracts with the Commission to provide goods, services, or materials to the Commission.

Section 37: Designated employees employed by the Commission at the time of the effective date of this code shall file statements on forms provided by the Executive Director within thirty days after the effective date of this code. The statements shall disclose all reportable investments and interests in real property held by the designated employee on the effective date of this code. Subsequent statements shall be filed by the designated employees annually thereafter on forms provided by the Executive Director. Such subsequent statements shall disclose the reportable investments and interests in real property held at any time during the reporting period together with the dates on which any such investments or interests in real property were acquired or disposed of during the reporting period and any reportable income received during the reporting period. The annual date for filing these subsequent statements shall be March 1. The reporting period for these statements shall be the previous calendar year.

Section 38: A new civil service designated employee shall within thirty days after commencing employment, file a statement disclosing all reportable investments and interests in real property. Any other new designated employee shall file such a statement not less than ten days before assuming office unless an earlier assumption of office is required by emergency circumstances. Thereafter, the new designated employees shall file annual statements as set forth in Section 37 provided that the first such statement shall cover only that portion of the calendar year

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subsequent to the effective date of the designated employees employment. The Personnel Officer of the Commission shall furnish a copy of this code to each new designated employee on the date he accepts employment as a designated employee with the Commission and shall advise such new designated employee of his legal obligation to file such statements.

Section 39: Designated employees leaving a position specified in Section 7 shall, within thirty days after leaving such position, file a statement disclosing all reportable interests held by them during the period between the date of the last statement required by Sections 37 or 38 and the date of leaving such position. This section shall not apply to designated employees who leave a position specified in Section 7 in order to immediately assume employment with the Commission in another position specified in Section 7 for which the definition of reportable interest, provided for in Sections 31-36, is the same.

Section 40: When an investment or an interest in real property is required to be disclosed under this Article, the statement shall contain:

- (a) A statement of the nature of the investment or interest;
- (b) The name of the business entity in which each investment is held and a general description of the business activity in which the business entity is engaged;
- (c) The address or other precise location of the real property;
- (d) A statement whether the fair market value exceeds ten thousand dollars (\$10,000) and whether it exceeds one hundred thousand dollars (\$100,000);
- (e) In the case of an investment which constitutes fifty percent or more of the ownership interest in any business entity, disclosure of the investments and interests in real property of the business entity; and

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(f) If the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

For purposes of this Article, an interest in real property does not include the principal place of residence of the designated employee.

Section 41: (a) When income is required to be reported under this Article, the statement shall contain, except as provided in subsection (b):

(1) The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value during the reporting period, or twenty-five dollars (\$25) or more in value during the reporting period if the income was a gift, and a general description of the business activity, if any, of each source;

(2) A statement whether the aggregate value of income from each source was greater than one thousand dollars (\$1,000) during the reporting period and whether it was greater than ten thousand dollars (\$10,000) during the reporting period;

(3) A description of the consideration, if any, for which the income was received; and

(4) In the case of a gift, the amount and the date on which the gift was received.

(b) When income of a business entity, including income of a sole proprietorship, is required to be reported under this Article, the statement shall contain:

(1) The name, address and a general description of the business activity of the business entity;

## APPENDIX A

(2) In the case of a business entity which provides legal or brokerage services, the name of every person who paid fees to the business entity if the employee's pro rata share of fees from such person was equal to or greater than one thousand dollars (\$1,000) during the reporting period; and

(3) In the case of a business entity not covered by subsection (2), the name of every person from whom the business entity received payments if the employee's pro rata share of the gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during the reporting period.

Section 42: If a designated employee has no interests to declare, he shall write "none" on the schedules furnished by the Executive Director. Blank schedules are not acceptable.

Section 43: All statements required by this Article shall be filed with the Executive Director on forms provided by the Executive Director. The Executive Director shall make and retain one copy in his files in the San Francisco office of the Commission and one copy in his files in the Los Angeles office of the Commission.

### Article 4

#### Interpretation of the Code

Section 44: Any designated employee may request the Executive Director to issue an opinion with respect to his duties under this code. The Executive Director shall, within fourteen days, either issue an opinion or advise the person who made the request whether the opinion will be issued. Copies of such opinions shall be delivered to the designated employee requesting the opinion and to the Fair Political Practices Commission in Sacramento and shall be maintained in the files of the Commission for public inspection at its San Francisco office and its Los Angeles office.

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No person who acts in good faith on an opinion issued to him by the Executive Director shall be subject to discipline by the Commission for so acting provided the material facts are stated in the opinion request. Action in conformity with such opinion shall be deemed evidence of good faith on the part of the designated employee in any claim or action under the Political Reform Act of 1974.

Opinions issued by the Executive Director may be modified or revised by the Executive Director or by the Fair Political Practices Commission but such modifications or revisions shall be prospective in effect and only after notification has been given to the designated employee who requested the opinion.

### Article 5 Enforcement

Section 45: Any designated employee other than a member of the Commission who violates any provision of this code is subject to discipline by the Commission, including dismissal, subject to the provisions of Section 19570 et seq. of the Government Code.

Section 46: Any designated employee who realizes an economic benefit as a result of a violation of Article 2 of the code is liable pursuant to Section 91005(b) of the Political Reform Act of 1974 in a civil proceeding brought by the Fair Political Practices Commission or by a person residing in the State of California for an amount up to three times the value of the designated employee's benefit.

Section 47: Sections 45 and 46 do not preclude criminal action against a designated employee who violates this code, pursuant to Chapter 11 of the Political Reform Act of 1974.

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Section 48: Nothing in this code shall exempt a designated employee from compliance with the applicable provisions of any statute including, but not limited to, Section 303 of the Public Utilities Code or the Commission's Statement of Incompatibility promulgated pursuant to Section 19251 of the Government Code.

Section 49: Where a claim or action is filed under the Political Reform Act of 1974 against a designated employee and said designated employee has complied with the provisions of this code and has been acting within the scope of his employment the Commission shall undertake the designated employee's defense under the provisions of Part 7 (commencing at Section 995 et seq.) of the Government Code.

The Commission's liability for any subsequent judgment or any payment pursuant to any compromise or settlement on such claim or action shall be governed by the provisions of Government Code Section 825.

Article 6  
Effective Date

Section 50: This code shall be effective on January 1, 1978.

APPENDIX A TO CONFLICT OF INTEREST CODE

Conflict of Interest Statement and  
Statement of Intention to Divest  
Under the Conflict of Interest Code  
Of the Public Utilities Commission

I, the undersigned, a designated employee as defined in Section 7 of the Conflict of Interest Code of the Public Utilities Commission, have a financial interest in the following named business entity:

\_\_\_\_\_  
The nature and value of such financial interest are as follows:  
\_\_\_\_\_

\_\_\_\_\_  
In the ordinary course of my duties, I shall be participating in the following action or decision affecting such business entity:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
In order to remove the conflict of interest and make it unnecessary for me to disqualify myself from this assignment I hereby declare that within thirty days from the date of this statement I shall sell or otherwise dispose of my financial interest in the above named entity.

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature of designated employee)

The above statement was filed with the Executive Director  
on \_\_\_\_\_

\_\_\_\_\_  
(Signature of Executive Director)

Note: The original and two copies of this statement are to be filed with the Executive Director of the Public Utilities Commission and one copy is to be retained by the designated employee.

APPENDIX B TO CONFLICT OF INTEREST CODE

Statement of Actual Divestment  
To Remove Conflict of Interest  
Under Conflict of Interest Code  
Of the Public Utilities Commission

I, the undersigned, a designated employee as defined in Section 7 of the Conflict of Interest Code of the Public Utilities Commission, on \_\_\_\_\_(date) filed a statement of intention to divest myself of all financial interest in \_\_\_\_\_(entity) and hereby declare under penalty of perjury that on \_\_\_\_\_(date), I actually did sell or otherwise dispose of such financial interest in order to remove the conflict of interest occasioned by my ownership of such financial interest.

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature of designated employee)

The above statement was filed with the Executive Director  
on \_\_\_\_\_

\_\_\_\_\_  
(Signature of Executive Director)

Note: The original and two copies of this statement are to be filed with the Executive Director of the Public Utilities Commission and one copy is to be retained by the designated employee.



APPENDIX C TO CONFLICT OF INTEREST CODE  
Page 1 of 4

Conflict of Interest and Disqualification  
Statement under the Conflict of Interest  
Code of the Public Utilities Commission

I, the undersigned, a designated employee as defined in Section 7 of the Conflict of Interest Code of the Public Utilities Commission, have a financial interest in the following named business entity:

\_\_\_\_\_  
The nature and value of such financial interest are as follows:  
\_\_\_\_\_

\_\_\_\_\_  
In the ordinary course of my duties, I shall be participating in the following action or decision affecting such business entity:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
For the above reasons, I disqualify myself from this assignment and request that it be reassigned to another employee.

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature of Designated Employee)

\_\_\_\_\_  
Date received  
by Supervisor

\_\_\_\_\_  
(Signature of Supervisor)

\_\_\_\_\_  
(Title of Supervisor)

APPENDIX C TO CONFLICT OF INTEREST CODE  
Page 2 of 4

Statement of Action  
By Supervisor on  
Disqualification Statement

I have reviewed the above declaration. Your disqualification is accepted, and the above assignment has been referred to \_\_\_\_\_. You are directed to take no further action on the above assignment because of your declared conflict of interest.

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature of Supervisor)

\_\_\_\_\_  
(Title of Supervisor)

\_\_\_\_\_  
Date Designated Employee  
received a copy  
of this direction

\_\_\_\_\_  
(Signature of Designated Employee)

I have reviewed the above declaration and your disqualification is rejected for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
You are hereby directed to continue or resume working on the above assignment despite your declared conflict of interest until you have been notified by the Executive Director that this direction has been reversed and you have been disqualified from taking further action on the above assignment by the Executive Director.

APPENDIX C TO CONFLICT OF INTEREST CODE

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You will be notified if the Executive Director confirms this direction to you to continue working on the above assignment despite your declared conflict of interest.

The Conflict of Interest Code of the Public Utilities Commission provides that where you have filed a Conflict of Interest and Disqualification Statement and have been directed by your supervisor to continue working and taking action on the assignment involved in such statement despite your declared conflict of interest and pursuant to such notice you continue your work and take action on such assignment you shall be immune from any disciplinary action that could otherwise be initiated by the Commission by reason of your conflict of interest and compliance with such directive shall be deemed to be evidence of good faith on your part on any claim or action under the Political Reform Act of 1974. This immunity of course, will not apply to any action taken by you subsequent to the time you are notified by the Executive Director that he has disqualified you from taking further action on the above assignment.

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature of Supervisor)

\_\_\_\_\_  
(Title of Supervisor)

\_\_\_\_\_  
Date Designated Employee  
received a copy  
of this direction

\_\_\_\_\_  
(Signature of Designated Employee)

APPENDIX C TO CONFLICT OF INTEREST CODE  
Page 4 of 4

The foregoing conflict of interest statement and disqualification statement together with the statement of action by the supervisor on the disqualification statement were filed with the Executive Director on \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Executive Director)

Note: The original and two copies of these statements are to be filed with the Executive Director of the Public Utilities Commission, one copy is to be retained by the designated employee, and one copy is to be retained by the supervisor of the designated employee.

CERTIFICATION OF FPPC APPROVAL

After hearing pursuant to Government Code  
§87311 and 2 Cal. Adm. Code §18750, et  
seq., the Conflict of Interest Code of the  
Public Utilities Commission

was approved, pursuant to  
attached statement of revision\*, on 4-5-77  
by the Fair Political Practices Commission.



By: Gale Baker

Effective: pursuant to  
Government Code §11422.

\*revisions herein incorporated.