

ORIGINAL

Decision No. 88032 OCT 25 1977

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)

(See Decision No. 86803 for appearances.)

ORDER REOPENING AND SETTING HEARING

On April 20, 1976 we instituted this proceeding for the purpose of adopting a Conflict of Interest Code. Our adoption of a Code is required by the Political Reform Act of 1974. On January 5, 1977, after public hearings, we issued Decision No. 86803 adopting a Code and directed that the Code be forwarded to the Fair Political Practices Commission for their review pursuant to Government Code Section 87303. On April 27, 1977, the Commission was notified that the Fair Political Practices Commission had revised our Code and approved it as revised. On May 17, 1977, we issued Decision No. 87342 finally adopting the Code and fixing its effective date as January 1, 1978.

Decision No. 86803 went beyond the requirements of the Political Reform Act and discussed and interpreted Section 303 of

the Public Utilities Code.<sup>1/</sup> That interpretation is embodied, without revision, in Section 26 of the Conflict of Interest Code adopted by Decision No. 87342.<sup>2/</sup>

Since the adoption of the Code, numerous practical problems have arisen out of the provisions of Section 26. Our Finance Division has discovered many large companies that, for purposes ancillary to their principal business, possess permitted carrier authority. While this authority generates miniscule, and often no, revenue for the company, Section 26 would appear to prohibit designated employees from ownership in the large companies that, either directly or through a subsidiary, possess this authority.

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1/ "303. No person in the employ of or holding any official relation to any corporation or person that is subject in whole or in part to regulation by the Commission, and no person owning stocks or bonds of any such corporation or who is in any manner pecuniarily interested therein shall be appointed to or hold the office of commissioner or be appointed or employed by the commission. If any such person becomes the owner of such stocks or bonds or becomes pecuniarily interested in such corporation otherwise than voluntarily, his office or employment shall become vacant unless within a reasonable time he divests himself of such ownership or interest."

2/ "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."

We now question whether such an interpretation of Section 303 is reasonable.

Therefore, IT IS ORDERED that:

1. Case No. 10084 is reopened for the purpose of reconsidering:
  - a. The interpretation of Section 303 of the Public Utilities Code embodied in Decisions Nos. 86803 and 87342.
  - b. Whether the Commission's Conflict of Interest Code should contain any interpretation of Section 303.
  - c. Whether our conclusions with respect to Ordering Paragraphs 1.a and 1.b above require modification of the Commission's Conflict of Interest Code (Appendix A to Decision No. 87342).
2. Public hearing shall be held before Commissioner Gravelle and/or Administrative Law Judge Cline on Thursday and Friday, December 1 and 2, 1977, at 9:30 a.m. in the Commission Courtroom, State Building, 350 McAllister Street, San Francisco.

3. The Executive Director is ordered to serve a copy of this order on the Chairman of the Fair Political Practices Commission, on all appearances in Case No. 10084, and on all designated employees of the Commission as defined in Section 7 of the Conflict of Interest Code.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 25<sup>th</sup>  
day of OCTOBER, 1977.

William G. ... President  
...  
Richard D. ...  
... Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.