

Memorandum

To : Mrs. Janice Masterton

Date : May 29, 1991

From : Mary C. Armstrong
Legal

Subject: Contribution Disclosure Opinion No. 91-13
Contribution from Former Agent
Travelers Insurance Company - Travelers Indemnity Company
June 5, 1991 Hearings

This is in response to your memorandum of May 28, 1991. You have requested our opinion regarding the following situation.

On June 5, 1991, the Board is scheduled to hear claims for refund by Travelers Insurance Company and Travelers Indemnity Company (Travelers). On May 13, 1991, Mr. Curtis S. Krause, Counsel for Travelers, informed you that Gibson, Dunn & Crutcher (Gibson, Dunn) represented Travelers during an earlier Petition for Redetermination which addressed many of the issues raised in the claims for refund. Mr. Krause states that although no formal termination of services occurred "until recently" that in fact no work was performed by Gibson, Dunn. He states specifically that Gibson, Dunn has not represented the Board with regard to the claims for refund, did not participate in the preparation or drafting of the current claims for refund, nor did it do any work in the preparation for the hearing. Our files indicate that Gibson, Dunn represented Travelers in the Petition for Redetermination (filed November 1987). The last contact in our files indicating representation by either Gibson, Dunn or its employee, Mr. Stephen Tolles, is July 28, 1989.

The law firm in question, Gibson, Dunn, reports that it made a \$1,000 contribution to Controller Gray Davis on September 13, 1990 and a \$500 contribution to Matthew Fong on August 28, 1990. In addition, a contribution to Ernest Dronenburg was made on April 5, 1990. You have requested our advice regarding whether these contributions disqualify the Members in question from participating in the June 5, 1991 hearing of Travelers' claims for refund.

Government Code Section 15626(c) provides that a Board Member shall not participate if he or she has received a

contribution of two hundred and fifty dollars (\$250) or more during the preceding 12 months from a party or his or her agent. The term "agent" means any person who represents a party in an adjudicatory proceeding (Gov. Code § 15626(h)(4).) Under the facts presented, it does not appear that Gibson, Dunn has represented Travelers in the pending adjudicatory proceeding. We are, therefore, of the opinion that the contributions made by Gibson, Dunn do not require disqualification by any of the Board Members or the Controller. We also note that even if Gibson, Dunn were considered an agent, the April 5, 1990 contribution to Mr. Dronenburg would not result in disqualification since it is outside the requisite "preceding 12 month" reporting period.

Mary Armstrong

MCA:wk
3088C

cc: Honorable Brad Sherman
Honorable William Bennett
Honorable Ernest J. Dronenburg, Jr.
Honorable Matthew K. Fong
Honorable Gray Davis
Ms. Cindy Rambo
Mr. David H. Levine
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