

Memorandum

To : Mrs. Janice Masterton

Date : July 1, 1991

From : Mary C. Armstrong

Subject: Contribution Disclosure Opinion No. 91-17
Preceding Twelve Months

This is in response to your memorandum of June 6, 1991 in which you have requested our opinion regarding the application of the "preceding twelve months" and "adjudicatory proceedings before the Board" language in Government Code Section 15626 in determining whether previous agents and/or participants are subject to contribution disclosure requirements.

Government Code Section 15626(c) provides that:

"No member shall make, participate in making, or in any way attempt to use his or her official position to influence, the decision in any adjudicatory proceeding pending before the board if the member knows or has reason to know that he or she received a contribution or contributions in an aggregate amount of two hundred fifty dollars (\$250) or more within the preceding 12 months from a party or his or her agent, or from any participant or his or her agent, and if the member knows or has reason to know that the participation has a financial interest in the decision, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7 of Title 9.

Section 15626(h)(2) and (3) further provide:

"'Party' means any person who is the subject of an adjudicatory proceeding pending before the board.

"'Participant' means any person who is not a party but who actively supports or opposes a particular decision in an adjudicatory

proceeding pending before the board and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7 of Title 9. A person actively supports or opposes a particular decision if he or she lobbies in person the members or employees of the board, testifies in person before the board, or otherwise acts to influence the members of the board."

In reading these two sections together, it is clear that Section 15626 is designed to cover the particular "adjudicatory proceeding pending before the board." Any contributions from an agent who has represented a party in another matter before the Board or from a participant in another matter before the Board within the preceding 12 months would not require disclosure or disqualification under Section 15626. For example, Lawyer A represents Company X in a Petition for Redetermination before the Board in August 1990. Lawyer A is dismissed in October 1990. Lawyer B represents Company X in a Claim for Refund before the Board in June 1991. Would a contribution from Lawyer A in September 1990 require disclosure or disqualification by a Board Member at the Claim for Refund hearing in June 1991? No, because Lawyer A is not representing Company X in "the adjudicatory proceeding pending before the board" in June 1991. The fact that a contribution was made is irrelevant under the plain language of Section 15626(c).

Mary Cunningham

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