

Memorandum

To : Mr. Earl Cantos
Deputy to Board Member

Date: October 2, 1992

From : Mary C. Armstrong
Legal

Subject: **CONTRIBUTION DISCLOSURE OPINION 92-11**
Contribution From Employee Need Not Be Aggregated If
Employee Is Not a Party, Participant or Agent

You have requested our opinion regarding the following question:

A hearing has been scheduled with a taxpayer. The taxpayer has made a contribution of \$249 to a Board Member. The Board Member has also received a personal contribution from an employee of the taxpayer. Although the employee is an attorney, he or she is not representing the taxpayer in the matter before the Board. Must the amount of the two contributions be aggregated for purposes of determining whether or not the Board Member may participate in the hearing?

Government Code section 15626 (c) prohibits participation by a Board Member 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. In determining whether a Board Member has received a contribution in an aggregate amount of \$250 or more, all contributions from the party, any agents of the party, and any participants must be combined. There is no requirement that contributions from individuals who have made a personal contribution but who are in no way involved in the pending adjudicatory proceeding are required to be combined in the aggregate amount for purposes of section 15626. We are therefore of the opinion that a personal contribution from a person who happens to be an employee of a taxpayer with a pending adjudicatory proceeding before the board need not be aggregated with any contributions made by the

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taxpayer, provided that employee is neither an agent or participant in the pending adjudicatory proceeding.

If you have further questions concerning this matter, we will be happy to discuss them with you.

Mary Carmetroy
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cc: Contribution Disclosure Binder Distribution List