State of California

Board of Equalization

Memorandum

To : Mrs. Janice Masterton

Date : April 15, 1992

From : Mary C. Armstrong
Legal

Subject : TRICO BANCSHARES
87A-0224 and 90A-0061-CD
PETITION FOR REHEARING
CONTRIBUTION DISCLOSURE OPINION 92-3

This is in response to your memorandum of March 23, 1992 in which you requested an opinion regarding the following:

Does the fact that each Board Member was sent a letter, dated March 12, 1992 from Mr. Christopher E. Chenoweth of the California Bankers' Association, cause the above-referenced matter to be considered an adjudicatory proceeding within the meaning of Government Code Section 15626?

Government Code Section 15626(h)(5) defines the term "adjudicatory proceeding" as "a matter for adjudication that has been scheduled and appears as an item on a meeting notice of the board as required by Section 11125 as a contested matter for administrative hearing before the board members. A consent calendar matter is not included unless the matter has previously appeared on the calendar as a non-consent item, or has been removed from the consent calendar for separate discussion and vote, or the item is one about which the member has previously contacted the staff or a party."

As we understand it, this matter is a Petition for Rehearing. We have consistently advised the Board that a Request or Petition for Rehearing, which is listed on a "non-appearance" agenda, is not an adjudicatory proceeding within the meaning of Section 15626. This is true whether or not the original hearing was an adjudicatory proceeding because the Petition for Rehearing is, in our opinion, an entirely new matter before the Board.

The fact that Mr. Davis and the other Board Members received the March 12, 1992 letter from the California Bankers' Association would not in itself cause an otherwise calendared consent or non-appearance item to be considered "adjudicatory"

within the meaning of Section 15626(h)(5). As stated above, the matter has not been previously calendared as a "non-consent" item because it is an entirely new matter. The matter has not been removed for separate discussion and vote and the item is not one about which the Member has previously contacted the staff or a party. The statute states that if the Member initiates action by contacting the staff or the party, the matter becomes adjudicatory, but it does not have a reciprocal requirement for unsolicited material from parties, participants or agents. As such, under the facts presented, this matter is not an adjudicatory proceeding within the meaning of Section 15626.

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

Mary C. Armstrong

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