

P A C I F I C C O R P O R A T E G R O U P , I N C .

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Handwritten stamp: 1990 MAR 23 1 33 PM '90  
F P P C

March 21, 1990

Ms. Colleen McGee  
FAIR POLITICAL PRACTICES COMMISSION  
428 "J" Street, Suite 800  
Sacramento, CA 95814

Dear Ms. McGee:

Per our conversation of March 20, 1990 and the enclosed memorandums dated February 27 and March 13, 1990 that you have provided to us, we understand Pacific Corporate Group, Inc. and its President, Christopher J. Bower, would be exempt from filing Form 721 - Statement of Economic Interests.

In particular, we note the second paragraph of the March 13 memorandum and second page, third paragraph of the February 27 memorandum, which read: "Generally, employees of investment firms, brokerage houses, banks or similar private entities which contract with government agencies to invest public money under the direction of high-level officials are not considered to be public officials included in Section 87200." Accordingly, since we are a private consulting firm contracting with a public governmental agency, our firm and President fall under this category, and we would be exempt from filing Form 721.

Please acknowledge this correspondence and your concurrence with our conclusion in writing so that we may have a written record that there is no need on our part to file Form 721.

Thank you for your assistance and handling this matter in a timely fashion.

Very truly yours,

PACIFIC CORPORATE GROUP, INC.

Philip Posner

PP/jmu

Enclosures



# California Fair Political Practices Commission

March 13, 1990

TO: CITY CLERKS, COUNTY CLERKS, CITY ATTORNEYS, COUNTY COUNSELS,  
CLERKS OF THE BOARDS OF SUPERVISORS AND AGENCY FILING  
OFFICIALS FOR STATEMENTS OF ECONOMIC INTERESTS

FROM: TECHNICAL ASSISTANCE AND ANALYSIS DIVISION

RE: OFFICIALS WHO MANAGE PUBLIC INVESTMENTS: INCLUSION IN  
GOV. CODE SECTION 87200

Attached please find a copy of a recently issued memorandum relating to the application of Government Code Section 87200 to "other public officials who manage public investments."

We believe that the term "other public officials who manage public investments" should be construed narrowly. Thus, individuals who are included are elected officers or high-level public employees who manage public investments, and members of boards and commissions who manage public investments. **Generally, employees of investment firms, brokerage houses, banks, or similar private entities which contract with government agencies to invest public money under the direction of high-level officials are not considered to be public officials included in Section 87200.**

Please note that the Commission will consider a regulation on this matter.

We hope that this interim information will be of assistance to you. If you have any questions, please contact Colleen McGee at (916) 322-5662.

State of California

## Memorandum

To : Interested Persons

Date : February 27, 1990

From : FAIR POLITICAL PRACTICES COMMISSION  
Kathryn E. Donovan

Subject: Officials Who Manage Public Investments (Section 87200)

Effective January 1, 1990, Section 87200 of the Government Code has been amended to add the following to the list of persons who must file Commission Form 721 Statements of Economic Interest:

1. City treasurers
2. County treasurers
3. Other public officials who manage public investments.

Any person who falls within one of these categories, or is a candidate for any of these offices which is elective, is now subject to the broad conflict-of-interest disclosure requirements of Article 2 (commencing with Section 87200) of Chapter 7 of the Political Reform Act (the "Act").<sup>1</sup>

Prior to the amendment of Section 87200, city and county treasurers and other public officials who manage public investments were required to file as "designated employees" under their agency's conflict-of-interest code. Designated employees file a Form 730 Statement of Economic Interests rather than Form 721.<sup>2</sup>

We have received numerous requests for clarification of the term "other public officials who manage public investments." We are in the process of studying this issue and developing regulations. Any regulations adopted by the Commission will be noticed

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<sup>1</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

<sup>2</sup> Commission staff have advised that those persons who have been filing on Form 730 may use that form to file in 1990. They will begin filing on Form 721 commencing with the 1990 statement, filed in 1991. New filers will file Form 721 commencing with the 1989 statements. The filing deadline for new filers is 30 days after assuming office or by January 31, 1990, if they assumed office on or before January 1, 1990.

Interested Persons  
Kathryn E. Donovan  
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and have a public hearing prior to adoption. We will provide you with copies of proposed regulations on this subject and notice of their hearing before the Commission.

We construe the term "public investment" to include investments made with public moneys. "Public moneys" includes all bonds and evidence of indebtedness, and all moneys belonging to the state, or bonds, and evidences of indebtedness received or held by state, county, district, city, town or public agency officers in their official capacity. (Penal Code Section 426.) Therefore, the scope of the amendment to Section 87200 covers all public agencies, including special districts.

Prior to January 1, 1990, Section 87200 applied only to specific elected officers, enumerated high-level public employees such as city managers, county counsels and chief administrative officers, and members of a limited number of boards and commissions. We believe that the term "other public officials who manage public investments" should also be construed narrowly. Thus, individuals who would be included should be elected officers or high-level public employees who manage public investments and members of boards and commissions who manage public investments. This might include, for example, chief financial officers of a public agency, members of public retirement boards, and members of investment advisory boards or commissions. It generally would not include employees of investment firms, brokerage houses, banks, or similar private entities which contract with government agencies to invest public moneys under the direction of these high-level officials.

While we believe that such a construction of "other public officials who manage public investments" is appropriate for purposes of establishing who should be subject to the broad disclosure requirements of Sections 87200 - 87210, this should not be construed as limiting the applicability of the conflict-of-interest provisions or other disclosure provisions of the Act to other persons who might be considered "public officials" under the Act. (Section 82048; Regulation 18700, copy enclosed.) It is the responsibility of each public agency to designate those additional persons in its conflict of interest code and require tailored disclosure on Form 730.

We are in the process of drafting regulations consistent with the above interpretation of Section 87200, with the intent to present them for pre-notice hearing at the Commission meeting scheduled for April 3, 1990.

If you have any questions or comments regarding the above, please contact Margaret W. Ellison or Blanca Breeze at (916) 322-5901.

KED:MWE:form721