



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street • Suite 3050 • Sacramento, CA 95811  
(916) 322-5660 • Fax (916) 322-0886

September 23, 2025

Merritt Perry  
City Manager  
City of Arcata  
736 F Street  
Arcata, CA 95521

Re: Your Request for Informal Assistance  
**Our File No. I-25-093**

Dear Mr. Perry:

This letter responds to your request for advice regarding the conflict of interest provisions of the Political Reform Act (the “Act”).<sup>1</sup> Because your inquiry is general in nature, we are treating your request as one for informal assistance.<sup>2</sup>

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090.

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

### QUESTION

Under the Act, are you prohibited from taking part in governmental decisions involving Danco Builders (“Danco”) in your capacity as City Manager for the City of Arcata (“City”), given that your 23-year-old son is employed by Danco?

### CONCLUSION

No, the Act does not prohibit you from taking part in such decisions, given that your adult son does not qualify as “immediate family” for purposes of the Act’s conflict provisions. Therefore,

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

as long as you do not have any other economic interest in your son (e.g., as a source of income), you do not have an economic interest implicated by governmental decisions involving Danco.

### **FACTS AS PRESENTED BY REQUESTER**

You are the City Manager for the City of Arcata and were appointed to the position in August of 2019. You routinely discuss matters and provide your opinion to the Arcata City Council on projects that come before them for discussion and approval.

Danco is an Arcata based construction company that specializes in residential development, specifically tax credit, and local government subsidized projects across the West Coast. Danco does business with the City of Arcata in multiple ways, including:

#### *West Village Studios*

Danco is the operator of a Project Homekey project that was built with State grant funds that were awarded to the City. The city provides rental assistance to tenants that live in the facility and you are routinely required to sign agreements for rental assistance contracts with Danco, the City and the tenants. This project was constructed prior to you working for the City.

#### *Roger's Garage Project*

Danco is currently developing an affordable housing project in the City of Arcata to which the City is being requested to contribute Community Development Block Grant (CDBG) funding to subsidize the project and make it competitive as a tax credit funded project. The City will also be affirming the CEQA determination made for the project. The project can be approved ministerially, however there will be a certain level of discretionary approval when the project goes through the design review process by the City Planning Commission. The City has already been awarded a \$5M Permanent Local Housing Allocation Program (PLHA) grant to support the project that was developed and awarded prior to you working for the City of Arcata. Prior to your son's employment with Danco, you have discussed the project with the council members and facilitated discussions with the Community Development Director and the Council.

#### *Future Projects*

Danco is considering other multifamily development projects within the City that they have not submitted for land use entitlements. You have not met or discussed any projects with Danco that they are working on but not submitted.

Your 23-year-old son began working for Danco on June 9, 2025. He is a commercial pilot flying Danco employees between job sites along the West Coast. He resides with you and does not pay you rent.

### **ANALYSIS**

Under Section 87100 of the Act, "[a] public official at any level of state or local government shall not make, participate in making or in any way attempt to use the official's position to influence a governmental decision in which the official knows or has reason to know the official

has a financial interest.” “A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of the official’s immediate family,” or on certain specified economic interests. (Section 87103.) These economic interests include “[a]ny source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made. (Section 87103(c).)

The Act defines the term “immediate family” as “the spouse and dependent children.” (Section 82029.) Further, the term “dependent child” means a child of a public official who is under 18 years old and whom the official is entitled to claim as a dependent on the official’s federal tax return. Your son is 23 years old and, therefore, is not a “dependent child” or part of your “immediate family” for purposes of the Act. (Regulation 18229.1.) Therefore, his employment with Danco would only implicate the Act if your son qualified as a different type of economic interest, such as a source of income under Section 87103. However, you have also indicated that he does not pay you rent. Consequently, as long as your son does not qualify as a source of income to you, you do not have a potentially disqualifying economic interest in governmental decisions involving Danco, and you are not prohibited under the Act from taking part in decisions with an effect on Danco.

However, you have indicated the possibility of governmental decisions regarding contracts involving Danco. We must note that with respect to any governmental decision involving a contract, Section 1090 may be implicated. Section 1090 prohibits a public official from having a financial interest in a contract made by the official in the official’s capacity, or by any body or board of which the official is a member. Without a specific contract to consider, we cannot provide determinative advice regarding how Section 1090 may apply to you. (See Section 1097.1.) Generally, we note that past Attorney General Opinions have found that absent a financial relationship between adult relatives (such as a legal obligation to support an adult child, a parent’s incapacity, or a shared ownership interest) the official does not have a “financial interest” under Section 1090 when the contract involves an official’s adult relative. (92 Ops. Cal. Atty. Gen. 19, (2009) [official did not have a financial interest under Section 1090 in agency’s loan to son’s solely-held corporation despite parent-adult child relationship and shared apartment rental where there were no circumstances showing a legal duty for either party to support the other], citing 28 Ops.Cal.Atty.Gen. 168, 169 (1956) [family relationship between county supervisor and his adult brother did not result in a violation of Section 1090 where the brother sold automobiles to the county but there was not a proprietary interest or entitlement for contribution or support between the adult brothers].)<sup>3</sup>

Finally, we note that a family relationship may require recusal under the common-law doctrine against conflicts of interest, a doctrine that is beyond the scope of this analysis. (See 92

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<sup>3</sup> We additionally note that, effective January 1, 2026, for purposes of Section 1091, a public officer will have a “remote interest” in a contract if the public officer’s child is an officer or director of, or has an ownership interest of 10% or more in, a party to a contract entered into by the body or board of which the officer is a member, if this information is actually known to the public officer. (See 2024 Cal. SB 1111.)

Ops. Cal. Atty. Gen. 19, *supra*, for a discussion of the common-law doctrine against conflicts of interest where there may be a temptation to act for personal or private reasons rather than in the public interest.) Prior to taking part in any decision involving Danco or your son, you may wish to seek advice from the City's Attorney regarding the potential application of the common-law doctrine against conflicts of interests.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge  
General Counsel

By:



Kevin Cornwall,  
Senior Counsel, Legal Division

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