IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT, DIVISION ONE

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| **EDEN TOWNSHIP HEALTHCARE DISTRICT,**<br>Cross-complainant and Appellant,<br><br>**v.**<br><br>**SUTTER HEALTH, et al.,**<br>Cross-defendants and Respondents. | Case No. A131616 |



Alameda County Superior Court, Case No. RG09481573
Marshall Whitley, Judge

# AMICUS CURIAE BRIEF OF ATTORNEY GENERAL KAMALA D. HARRIS IN SUPPORT OF APPELLANT EDEN TOWNSHIP HEALTHCARE DISTRICT

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## TABLE OF CONTENTS

Page


Introduction and Interest of Amicus Curiae ..... 1

Argument ..... 2

I. Agreements for the settlement of litigation are contracts subject to the restrictions of section 1090. ..... 2

II. Under section 1090, "participation" is broadly construed, and incomplete "recusal" is no defense. ..... 4

III. The courts liberally construe section 1090 to require only a financial "interest," not a financial benefit ..... 7

Conclusion ..... 15

Certificate of Compliance ..... 16

## TABLE OF AUTHORITIES

Page

CASES

*Carter v. Cohen*
(2010) 188 Cal.App.4th 1038 ..... 10

*Collins v. State Department of Transportation*
(2003) 114 Cal.App.4th 859 ..... 14

*Eldridge v. Sierra View Local Hospital District*
(1990) 224 Cal.App.3d 311 ..... 3

*Fraser-Yamor Agency, Inc. v. County of Del Norte*
(1977) 68 Cal.App.3d 201 ..... 3

*Hamilton v. Town of Los Gatos*
(1989) 213 Cal.App.3d 1050 ..... 6, 7

*Lexin v. Superior Court*
(2010) 47 Cal.4th 1050 ..... passim

*Millbrae Assn. for Residential Survival v. City of Millbrae*
(1968) 262 Cal.App.2d 222 ..... 4

*Miller v. City of Martinez*
(1938) 28 Cal.App.2d 364 ..... 9

*People v. Gnass*
(2002) 101 Cal.App.4th 1271 ..... 3, 8, 9, 10

*People v. Honig*
(1996) 48 Cal.App.4th 333 ..... 3, 10

*People v. Sobel*
(1974) 40 Cal.App.3d 1046 ..... 4

*Stigall v. City of Taft*
(1962) 58 Cal.2d 565 ..... 4

*Thomson v. Call*
(1985) 38 Cal.3d 633 ..... 1, 3, 9

## TABLE OF AUTHORITIES
**(continued)**

**Page**

CASES

*Voss v. Superior Court*
(1996) 46 Cal.App.4th 900 ..... 14

STATUTES

California Code of Regulations
Title 2
§ 18702.1, subd. (c) ..... 6
§ 18702.3 subd. (a) ..... 5
§ 18702.4 subd. (a)(2) ..... 5, 6

Government Code
§ 1090 ..... passim
§ 1091 ..... 3, 8, 9, 10, 12
§ 1091, subds. (b)(1)-(3), (5)-(9), (11)-(13), & (15)-(16) ..... 12
§ 1091, subd. (b)(15) ..... 2
§ 1091.5 ..... 8, 9, 10, 11, 12
§ 1091.5, subd. (a)(2)-(4), (6)-(10), (12)-(13) ..... 11
§ 1097 ..... 3, 8
§ 8920 ..... 14
§ 8920, subd. (a) ..... 14
§ 8921 ..... 14
§ 8924 ..... 14

Political Reform Act of 1974
§ 81000, et seq.. ..... 5
§ 83111.. ..... 5
§ 87100. ..... 5, 6, 7, 13
§ 87103. ..... 13

Stats. 1966, 1st Ex. Sess., ch. 163 ..... 14

## TABLE OF AUTHORITIES

Page


COURT RULES

California Rules of Court
Rule 8.200(c)(7) ..... 2

OTHER AUTHORITIES

78 Ops.Cal.Atty.Gen. 230 (1995) ..... 2

80 Ops.Cal.Atty.Gen. 41 (1997) ..... 3

84 Ops.Cal.Atty.Gen. 34 (2001) ..... 2

86 Ops.Cal.Atty.Gen. 138, 139–140 (2003) ..... 9

86 Ops.Cal.Atty.Gen. 142 (2003) ..... 2

89 Ops.Cal.Atty.Gen. 49 (2006) ..... 3

89 Ops.Cal.Atty.Gen. 258 (2006) ..... 2

91 Ops.Cal.Atty.Gen. 1 (2008) ..... 2

http://www.merriam-webster.com ..... 5

## INTRODUCTION AND INTEREST OF AMICUS CURIAE

Government Code section 1090[1] prohibits a public official from being financially interested in a contract in both the official's public and private capacities. (*Lexin v. Superior Court* (2010) 47 Cal.4th 1050, 1073.) As the California Supreme Court has stated, the purpose of section 1090 is to make certain that "every public officer be guided solely by the public interest, rather than by personal interest, when dealing with contracts in an official capacity." (*Thomson v. Call* (1985) 38 Cal.3d 633, 650.) Eliminating temptation for public officials, avoiding the perception of impropriety, and obtaining their undivided loyalty are extremely important public policy goals in California. (*Id.*, at p. 648.)

This case involves the actions of two officials of the Eden Township Healthcare District (the "District"), George Bischalaney and Dr. Francisco Rico, who were, respectively, the Chief Executive Officer and a member of the board of directors of the District. Both are alleged to have actively guided the District through contract negotiations with two private healthcare entities, Sutter Health ("Sutter") and Eden Medical Center, Inc. ("EMC"), at the same time they were receiving income from one of those entities (EMC). The contract negotiations culminated in the "2008 Agreements," which are the subject of this litigation.

The Attorney General is concerned that the trial court's reasoning does not reflect a correct understanding of the law. As California's chief law officer, it is the Attorney General's duty to see that the state's conflict of interest laws are uniformly and adequately enforced. In addition to issuing formal opinions interpreting section 1090, the Attorney General

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[1] All statutory references are to the Government Code unless otherwise indicated.

regularly advises state and local public agencies about conflicts of interest and publishes a manual to help these entities comply with conflict-of-interest laws. To further those goals, the Attorney General respectfully files this amicus curiae brief pursuant to rule 8.200(c)(7) of the California Rules of Court.

## ARGUMENT

### I. AGREEMENTS FOR THE SETTLEMENT OF LITIGATION ARE CONTRACTS SUBJECT TO THE RESTRICTIONS OF SECTION 1090.

Section 1090 provides that an officer or employee of a state or local public agency may not make a contract in which he or she is financially interested. (§ 1090; *Lexin v. Superior Court*, *supra*, 47 Cal.4th at p. 1062, fn. 1.) To determine whether a contract is subject to section 1090, courts refer to general contract principles. (See 89 Ops.Cal.Atty.Gen. 258, 260 (2006); 84 Ops.Cal.Atty.Gen. 34, 36 (2001); 78 Ops.Cal.Atty.Gen. 230, 234 (1995).)[2] The settlement of litigation is a contract as it represents an agreement by disputing parties as to acts they will perform or refrain from performing in order to end the litigation. (See 86 Ops.Cal.Atty.Gen. 142 (2003) and 91 Ops.Cal.Atty.Gen. 1 (2008); see also § 1091, subd. (b)(15) [remote interest exception under specified circumstances for member of body who is a party to the litigation].)

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[2] "Attorney General opinions are entitled to considerable weight. [Citation.] This is particularly true when construing section 1090 and its related provisions because 'the Attorney General regularly advises local agencies about conflicts of interest and publishes a manual designated to assist local governmental agencies in complying with the conflict of interest statutes.' [Citations.] [extra weight should be accorded Attorney General opinions in areas of special expertise]." (*Lexin v. Superior Court*, *supra*, 47 Cal.4th at p. 1087, fn. 17.)

Under section 1090, board members of public agencies are conclusively presumed to have made any contract executed by the board or an agency under its jurisdiction, even if the board member has disqualified himself or herself from any participation in the making of the contract. Therefore, if a board member is financially interested in the contract and no exception applies, section 1090 prohibits the contract from being made. (§ 1090; *Thomson v. Call*, *supra*, 38 Cal.3d at pp. 645 & 649; *Fraser-Yamor Agency, Inc. v. County of Del Norte* (1977) 68 Cal.App.3d 201, 211-212; 89 Ops.Cal.Atty.Gen. 49 (2006).)

However, when an employee or officer of a public agency, as opposed to a board member, is financially interested in the contract, the agency may still enter into the contract, so long as that official does not "make" the contract. (§ 1090; 80 Ops.Cal.Atty.Gen. 41 (1997).)

When a prohibited interest is found, the affected contract is void from its inception (*Thomson v. Call*, *supra*, 38 Cal.3d at p. 646 & fn. 15) and the official who participated in its making is subject to potential civil and criminal penalties. (§ 1097; see *People v. Honig* (1996) 48 Cal.App.4th 289, 333-338.)

Courts consider three factors when analyzing possible section 1090 violations: (1) whether the public official participated in making a contract in his or her official capacity; (2) whether the public official had a cognizable financial interest in the contract; and (3) whether an exception applies under sections 1091 or 1091.5. (*Lexin v. Superior Court*, *supra*, 47 Cal.4th at p. 1074, citing §§ 1090, 1091, & 1091.5; *People v. Gnass* (2002) 101 Cal.App.4th 1271, 1288 fn. 6; *People v. Honig*, *supra*, 48 Cal.App.4th at p. 322.)

Here, it is plain that the 2008 Agreements between the District, Sutter, and EMC are contracts and that section 1090 could apply to them. (See, e.g., *Eldridge v. Sierra View Local Hospital District* (1990) 224 Cal.App.3d

311, 321 [applying section 1090 to a contract made by a hospital district].) The issue in dispute is whether Dr. Rico and Mr. Bischalaney "participated" in the making of the 2008 Agreements in their "official capacities" and were "financially interested" in the 2008 Agreements.

## II. UNDER SECTION 1090, "PARTICIPATION" IS BROADLY CONSTRUED, AND INCOMPLETE "RECUSAL" IS NO DEFENSE.

The courts have established a broad standard under section 1090 for an official's involvement or participation in the making of a contract. Section 1090 can be violated even if an official did not participate personally in the *execution* of the questioned contract; it is enough that he or she had the opportunity to, and did, influence execution directly or indirectly to promote his or her personal interests. (*People v. Sobel* (1974) 40 Cal.App.3d 1046, 1052.)

In furtherance of the goal of preventing conflicts of interest, the courts have found "participation" to encompass a broad range of actions relating to the making of a contract such as preliminary discussions, negotiations, compromises, reasoning, planning, drawing of plans and specifications, and solicitation for bids. (*Millbrae Assn. for Residential Survival v. City of Millbrae* (1968) 262 Cal.App.2d 222, 237; see also *Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569.)

Respondents maintain that Mr. Bischalaney did not "participate" in District deliberations for section 1090 purposes because he had "recused" himself from acting in his capacity as District CEO. But this is irrelevant to the analysis. Moreover, the record shows that even after his announced recusal, Mr. Bischaleney continued to participate in the settlement negotiations.

An official cannot avoid section 1090's prohibition by announcing his or her "recusal" from acting in an official capacity and then resuming participation in a self-declared non-official capacity. To "recuse" means

"to remove [oneself] from participation to avoid a conflict of interest." (*Merriam-Webster.com*. 2011. http://www.merriam-webster.com (last visited July 25, 2011).) Crucial to this concept is the actual fact of non-participation, not continued participation in another capacity. Section 87100 of the Political Reform Act (§ 81000, et seq.), a conflicts-of-interest statute that is *in pari materia* with section 1090 (*Lexin v. Superior Court*, *supra*, 47 Cal.4th at pp. 1090-1091), and related regulations of the Fair Political Practices Commission ("FPPC") make this point. [3]

Section 87100 prohibits a public official from making, participating in making, or using his or her "official position to influence" a governmental decision in which he or she has a financial interest. FPPC regulations provide that an official is attempting "to influence" a decision by his or her own public agency for purposes of section 87100 when, "for the purpose of influencing the decision, the official contacts, or appears before, or otherwise attempts to influence, any member, officer, employee or consultant of the agency. Attempts to influence include, but are not limited to, appearances or contacts by the official on behalf of a business entity, client or customer." (Cal. Code Regs., tit. 2, § 18702.3, subd. (a).)

The only pertinent exception to this rule allows the official to appear before his or her own agency to influence an agency decision as a member of the general public "to represent himself or herself on matters related solely to the official's personal interests." (Cal. Code Regs., tit. 2, § 18702.4, subd. (a)(2).) The regulations define "personal interests" narrowly, including only an interest in real property or a business entity wholly owned by the official or members of the official's immediate

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[3] Under section 83111, the FPPC "has primary responsibility for the impartial, effective administration" of the Political Reform Act.

family, or any business entity over which the official, or the official and spouse, exercise sole direction and control. (*Id.*, subd. (b)(1).)

Thus, under the Political Reform Act's conflict-of-interest provisions, unless very specific personal interests are involved, an official is deemed to be trying to influence his or her agency when the official makes any appearance before, or contact with, an agency official for the purpose of influencing an agency decision. This does not allow an official to avoid a conflict by simply announcing he or she is not acting in an official capacity. Rather, the rule concludes that the official is always acting in an official capacity when trying to influence an action by his or her agency except in very narrow personal circumstances.

Even if, as the Superior Court concluded, Mr. Bischalaney was acting solely in his capacity as CEO of EMC during the settlement negotiations, his attendance at District closed-session discussions of the 2008 Agreements would by itself be sufficient to constitute "participation" under section 1090.[4] Appellate court decisions and regulations of the FPPC (Cal. Code Regs., tit. 2, § 18702.1, subd. (c)) conclude that attendance at a closed session by a conflicted member of the body is tantamount to participation in one's official capacity for purposes of the Political Reform Act's conflict-of-interest provisions. (§ 87100; *Hamilton v. Town of Los Gatos* (1989) 213 Cal.App.3d 1050, 1054-1059.) The court in *Hamilton* identified several problems that arise when a government official attends a closed session discussion of a matter in which the official has a prohibited interest, including: (1) The appearance of impropriety; (2) Access to confidential information that might affect his or her business interests; and

[4] Amicus recognizes that there appears to be a factual dispute as to whether Mr. Bischalaney actually attended closed sessions of the District board at which the 2008 Agreements were discussed.

(3) A potential subtle influence on board members who must maintain an ongoing relationship with the official. (*Id.*, at p.1058.)[5]

A similar interpretation should be applied to an official's "participation" in the making of a contract under section 1090. As stated above in *Lexin*, the California Supreme Court held that the Political Reform Act's section 87100 and section 1090 are *in pari materia* and should thus be construed together. (*Lexin v. Superior Court*, *supra*, 47 Cal.4th at pp. 1090-1091.)

## III. THE COURTS LIBERALLY CONSTRUE SECTION 1090 TO REQUIRE ONLY A FINANCIAL "INTEREST," NOT A FINANCIAL BENEFIT.

Both Mr. Bischalaney and Dr. Rico received income from EMC while they held official positions with the District and participated in their official capacities in making the 2008 Agreements between the District, EMC and Sutter. Mr. Bischalaney was the Chief Executive Officer at EMC and received an annual salary from EMC in excess of $200,000.00. Dr. Rico was a physician and major shareholder in a medical group that received payments for medical services from EMC. These facts are undisputed. The Superior Court concluded that neither Mr. Bischalaney nor Dr. Rico were financially interested in the 2008 Agreements for purposes of section 1090 because the Agreements did not result in a *financial benefit* to either of these officials. The court misunderstood the law. As explained below, absent an exception, section 1090 requires only a financial *interest*, not a financial *benefit*.

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[5] In *Hamilton*, the court's analysis presumed the official's silent observation of the closed-session meeting. The record in this case indicates that Mr. Bischalaney actually participated in District discussions, some of which may have been in closed session.

Neither section 1090 nor the statutory scheme (§§ 1090-1097) specifically define the term "financially interested."[6] Rather, the courts have taken a broad view of that term by looking at the purposes of section 1090. As explained in *People v. Gnass*, "section 1090 cannot be interpreted in a restricted or technical manner." (*People v. Gnass*, *supra*, 101 Cal.App.4th at pp. 1298.) Rather, section 1090 is "concerned with any interest, other than perhaps a remote or minimal interest, which would prevent the officials involved from exercising absolute loyalty and undivided allegiance to the best interests of the [state]." (*Ibid.*; see also *Lexin v. Superior Court*, *supra*, 47 Cal. 4th at p. 1075.)

Thus, the ultimate test for whether an official is "financially interested" in a contract under section 1090 is not the certainty of financial gain, the good intentions of the public official, or the ultimate benefit the contract will confer on the agency. It is whether the financial interest is sufficient to potentially compromise the official's duty to the public because of personal financial considerations.

Respondents contend that the interests of the District and EMC in the settlement negotiations were "perfectly aligned" in that they both sought "the continued existence and viability of EMC" and, consequently, Mr. Bischalaney and Dr. Rico had "no personal financial interest" in the contract. But even if the District and EMC had identical interests in making the contract, respondents' argument misses the point. The test for financial interest under section 1090 is not whether the public entity's and contracting party's interests align. Their interests always align to a greater or lesser degree because they are making a contract. Instead, the test is

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[6] As is explained more fully below, sections 1091 and 1091.5 define specific financial interests that, in certain circumstances, will permit the making of the contract, but there is no comprehensive definition of the term "financially interested."

whether an official working for the public entity is financially interested under the liberal construction applied by the courts. The record indicates that Mr. Bischalaney and Dr. Rico both received income from EMC. EMC was a member of Sutter's corporate family and, along with Sutter, a contracting party with the District under the 2008 Agreements.

Absent an exception set forth in sections 1091 or 1091.5, the courts and official opinions of the Attorney General have consistently concluded that when a party contracting with the public agency is a source of income to an agency official who is participating in making the contract, that official is "financially interested" in the contract. (See, e.g., *Thomson v. Call*, *supra*, 38 Cal.3d at p. 645 & fn. 14; *People v. Gnass*, *supra*, 101 Cal.App.4th at p. 1303; *Miller v. City of Martinez* (1938) 28 Cal.App.2d 364, 370 [contract with the petroleum company for which a city council member works is void]; see also 86 Ops.Cal.Atty.Gen. 138, 139–140 (2003) [contract with a city council member's law firm is not permitted].)

Even in *Lexin*, in which the Supreme Court ultimately held that the exception in subdivision (a)(9) of section 1091.5 applied (*Lexin*, 47 Cal.4th at pp. 1084-1085), the Court initially concluded that when salaried city officials were participating in a contract with the city in their capacities as members of the city retirement board, their city employment made them "financially interested" in the contract:

> The . . . defendants are City employees. In their official capacities, they participated in formation of a contract between the [retirement] Board, on which they serve, and the City. Their interests fall squarely within section 1090; they had an employment contract with the entity with which they were negotiating. In the abstract, there is a concern that public officials negotiating with another entity for which they work will have divided loyalties and fail to ensure that the agency they represent (here, [the retirement board]) obtains the best deal from the entity that employs them (here, the City).

(*Lexin v. Superior Court*, *supra*, 47 Cal.4th at p. 1084.)

Again, the emphasis is not on the actual gain to the official, the official's intentions, or the benefit to the agency. It is on the mere *prospect* that the official's judgment will be colored because he or she receives income from the party with whom the official's agency is contracting. Speculation on whether the official intended to enhance his or her financial standing, or on the direct or indirect benefits the official will receive from the contract, is not necessary or even the point. The point is that section 1090 is based upon "[t]he truism that a person cannot serve two masters simultaneously." (*Lexin v. Superior Court*, *supra*, 47 Cal.4th at p. 1073.)

Indeed, the Legislature's intent to give "financially interested" a broad reading is made evident by the statutory scheme of which section 1090 is a part. As stated above, one of the elements in an analysis of section 1090 is whether an exception applies under sections 1091 or 1091.5. (*Lexin v. Superior Court*, *supra*, 47 Cal.4th at p. 1074, citing §§ 1090, 1091, 1091.5; *People v. Gnass*, *supra*, 101 Cal.App.4th at p. 1288, fn. 6; *People v. Honig*, *supra*, 48 Cal.App.4th at p. 322.)

Section 1091.5 defines specific "non-interests," which are financial relationships or interests that are deemed sufficiently minimal to allow an official's full participation in the contracting process. Section 1091 deals with "remote" financial relationships or interests, which, if one exists for the public official in question, permits the public body of which the official is a member to make the contract so long as the official does not participate in the process.

These provisions illustrate that, unless one of these exceptions apply, the Legislature intended that a public official is "financially interested" in his or her sources of income. (See *Carter v. Cohen* (2010) 188 Cal.App.4th 1038, 1046 [when interpreting a statute, a court begins with the fundamental rule that it "should ascertain the intent of the Legislature so as

to effectuate the purpose of the law. . . . Moreover, the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole"].)

Applying these principles of statutory construction, we start with section 1090 itself, which prohibits a public official from making a contract in which he or she is "financially interested." Although, as noted earlier, neither section 1090 nor the scheme of which it is a part specifically defines the term "financially interested," nevertheless, the types of financial interests that are considered sufficiently minimal or remote to avoid application of section 1090 *are* specified in sections 1091 and 1091.5, and they are instructive on how the Legislature intended to treat sources of income under section 1090.

Examining sections 1091 and 1091.5, it is significant that neither contains a general exception for the circumstance where the other contracting party is a source of income to an official but the contract itself provides no financial benefit to that official. In other words, contrary to the analysis of the court below, the Legislature has not generally exempted from the definition of "financially interested" a situation where the other contracting party is a source of income to an official but the contract itself has no financial impact on the official. Rather, both sections have very narrow and specific exceptions relating to sources of income and contract benefits.

Section 1091.5 ("non-interests") provides several exceptions in which the contracting party is or could be a source of income in some form to an agency official participating in making the contract. (See (§ 1091.5, subd. (a)(2)-(4), (6)-(10), (12)-(13).) Without detailing all of these exceptions, we note that each contains very specific conditions in which the exception will apply. For example, subdivision (a)(8) permits an official to participate in making a contract with a tax-exempt, non-profit entity of

which the official is an officer and that supports the functions of the official's agency so long as the official is *not compensated* by that entity. Also, subdivision (a)(9) provides that an official is not financially interested in a contract with a government agency that is a source of salary to the official "unless the contract directly involves *the department* of the government entity that employs the officer or employee." (Emphasis added.) Both exceptions clearly illustrate the Legislature's concern for bias when an official participates in making a contract with his or her direct source of income, regardless of whether the contract itself actually benefits the official.

As mentioned, section 1091 ("remote interests") provides exceptions that permit a public body to make the contract so long as a member of that body does not participate in the contracting process. Because the official is prohibited from participation in making the contract, section 1091 contains more and broader source-of-income-related exceptions than the non-interest provisions in section 1091.5. (See § 1091, subds. (b)(1)-(3), (5)-(9), (11)-(13), & (15)-(16).) But, again, the exceptions are very specific and there is no general exception for contracts with sources of income to the official where the contract in issue provides no additional benefits to the official.

Subdivision (b)(1) of section 1091 illustrates this point perfectly for this case. This provision permits a contract between a government body (e.g., the District here) and a 501(c)(3) non-profit entity of which the government body's board member is a compensated officer or employee (e.g., EMC in this case) so long as the board member does not participate in making the contract. The exception provided by subdivision (b)(1) would not apply in this case because it is undisputed that Dr. Rico participated in making the 2008 Agreements, and the exception is not applicable to Mr. Bischalaney, because he is not a board member. Nevertheless, this exception again illustrates the Legislature's intended treatment of sources

of income under section 1090. The Legislature thought it necessary to provide a specific exception to section 1090 allowing a public body to contract with a 501(c)(3) non-profit *corporation so long as an agency official who is compensated by the non-profit does not participate in making the contract.* Stated otherwise, the Legislature believed that, without such an exception, section 1090 would apply.

The treatment of financial interests in two other conflict-of-interest laws is also illustrative of the Legislature's intent in section 1090. As mentioned, the Political Reform Act's conflict-of-interest provisions are similar to section 1090 in that they prohibit a public official from participating in a governmental decision in which the official has a financial interest. (§ 87100.) But in one respect, they provide a counter-example relevant here. Unlike section 1090, the Political Reform Act specifically defines the term "financial interest" in section 87103.[7] By doing so, the Political Reform Act's approach is specifically *exclusive* of non-enumerated interests. In contrast, section 1090, by not specifically defining the term "financially interested" evidences an *inclusive* general legislative intent -- i.e., unless the interest is clearly remote or minimal [see *Lexin v. Superior Court*, *supra*, 47 Cal. 4th at 1074], a financial relationship is covered).

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[7] Section 87103 defines the following as a "financial interest": (1) an investment by the official or immediate family member of $2,000 or more in a for-profit entity or trust; (2) an interest by the official or immediate family member of $2,000 or more in real property; (3) being an employee of, or holding a position of officer, partner, or management in a for-profit entity; (4) a source of income (to the official or through a community property interest in the spouse's income) of $500 or more in the prior 12 months; (5) the annual source of gifts meeting or exceeding the Act's gift limit (currently $420 per source annually); and (6) a direct financial effect on the official or immediate family member at a dollar amount defined in FPPC regulations.

It is instructive to note as well that section 8920, passed in 1966 (Stats. 1966, 1st Ex. Sess., ch. 163, p. 721) -- at a time when section 1090 already contained the current "financially interested" requirement (see Stats. 1963, ch. 2172) -- is a special conflict-of-interest statute applicable only to legislators, legislative staff (see § 8924), state elective or appointive officers, and judges. Section 8920 generally prohibits these individuals from engaging in official activity if the official "has reason to believe or expect that he will derive a *direct monetary gain or suffer a direct monetary loss*" by reason of that activity. (See §§ 8920(a), 8921; emphasis added.) The Legislature's addition of the "direct" monetary gain or loss requirement in section 8920 at a time when section 1090 contained the current "financially interested" requirement strongly suggests that the Legislature recognized the much broader application of section 1090 and knew how to craft legislation that was narrowed to focus on a direct financial benefit. The Legislature is presumed to be aware of existing laws and judicial decisions interpreting those laws when it enacts legislation. (*Voss v. Superior Court* (1996) 46 Cal.App.4th 900, 925.) Furthermore, when a statute referencing one subject contains a particular provision, the omission of the same provision from a similar statute on the same subject is significant to show that a different intention existed. (*Collins v. State Department of Transportation* (2003) 114 Cal.App.4th 859, 867–868.)

As is evident, section 1090's statutory scheme, especially when compared to treatment of "financial interest" in other conflict-of-interest laws, shows that, absent an exception, the Legislature considered a public official to be "financially interested" in his or her sources of income regardless of whether the contract in issue conferred any additional financial benefits on the official.

## CONCLUSION

Insofar as the trial court misapplied the law to the facts in this case, the judgment should be reversed.

Dated: August 10, 2011

Respectfully submitted,

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## CERTIFICATE OF COMPLIANCE

I certify that the attached AMICUS CURIAE BRIEF OF ATTORNEY GENERAL KAMALA D. HARRIS IN SUPPORT OF APPELLANT EDEN TOWNSHIP HEALTHCARE DISTRICT uses a 13 point Times New Roman font and contains 4,312 words.

Dated: August 10, 2011

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## DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Eden Township Healthcare District v. Sutter Health, et al.**

No.: **A131616**

I declare:
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 10, 2011, I served the attached

**AMICUS CURIAE BRIEF OF ATTORNEY GENERAL KAMALA D. HARRIS IN SUPPORT OF APPELLANT EDEN TOWNSHIP HEALTHCARE DISTRICT**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102, addressed as follows:

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Clerk of the Court
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4797
(4 copies)
(Hand Deliver)

Alameda County Superior Court
Rene C. Davidson Courthouse
1225 Fallon Street
Oakland, CA 94612

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 10, 2011, at San Francisco, California.

Susan Chiang
Declarant

Signature

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