



## **“This Letter Is Not An Interpretive Opinion”**

By Keith Paul Bishop on December 13, 2011

### **Interpretive Opinions**

While SEC practitioners are undoubtedly familiar with no-action letters, they may be less familiar with the practice of obtaining interpretive opinions under the California Corporate Securities Law. Corporations Code Section 25618 authorizes the Commissioner to honor requests for interpretive opinions. An interpretive opinion offers far more protection than a no-action letter from the SEC staff. Section 25700 provides immunity from liability for “any act done or omitted to be done in good faith in conformity with any . . . written interpretive opinion of the commissioner . . . notwithstanding that the . . . written opinion may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.”

### **Requesting an Interpretive Opinion**

The Commissioner is not obligated to honor every request for an interpretive opinion. If you’re considering a request, you should review Commissioner’s [Release 61-C](#) which explains how to make a request and provides examples of requests that will likely be declined. If you’re interested in seeing interpretive opinions that have been issued, the Commissioner has posted a few on the Department’s [website](#). Abridged versions of the Commissioner’s interpretive opinions are also available as annotations to each section of the Corporate Securities Law in Marsh & Volk, *Practice Under the California Securities Laws*, for which I serve as a practice consultant.

### **Not an Interpretive Opinion**

In some cases, the Commissioner will decline to issue an interpretive opinion but will nevertheless provide written guidance. These letters will carry the legend “This Letter is Not an Interpretive Opinion”. In a [post](#) last week regarding the Green Bay Packers, I mentioned that I didn’t know whether the Packers had requested an interpretive opinion. It turns out that they did submit a request in 1997 and received this [response](#) from the Department of Corporations.

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## Lucia Dagen

California and its mild mediterranean climate are about as far removed as one can get from the cold and dark winters of Norway and Sweden. Nonetheless, my household is today celebrating St. Lucia's Day. Essentially, this involves a daughter, a white gown with a red sash and a crown with candles (now electric). The daughter brings coffee and lussekatter (saffron flavored buns) to the parents. If you can't imagine the scene, check out Carl Larsson's 1908 painting or these more recent [pictures](#) from Sweden.

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