

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

West Valley Area
5825 De Soto Avenue
Woodland Hills, CA 91367
818-888-0980
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



March 23, 2016

File No.: 580.11744.14781

Corey Eib
16045 Sherman Way #H-63
Van Nuys, CA 91406

Subject: OBJECTION: CORY EIB PEACE OFFICER STATUS REQUEST

This letter will serve as our response to your request, which was received by our office on March 18, 2016. We are objecting on the follow grounds:

This office is unable to respond to this discovery request. Upon investigation and reasonable search the responding party lacks the ability to comply due to the fact that we have no records responsive to your request. Please direct your correspondence to:

California Highway Patrol
Case Management Unit
601 North 7th Street
Sacramento, CA 95811

If you have any questions or need further assistance, please contact Sergeant J. Key during normal business hours at (818) 888-0980.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. J. Starling Jr.", with a stylized flourish at the end.

J. J. STARLING Jr., Captain
Commander
West Valley Area



Corey Eib
c/o 16045 Sherman Way #H-63
Van Nuys, California
Non-Domestic

CHP West Valley Division
Attn: JJ Starling
5825 De Soto Ave
Woodland Hills, CA 91367

RE: Peace Officer Status

Dear Mr. Starling,

I have received several letters from you in recent months where you use CHP letterhead and indicate your title as a commander of the California Highway Patrol.

Penal Code Section 830.2 states the following:

The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the Department of the California Highway Patrol including those members designated under subdivision (a) of Section 2250.1 of the Vehicle Code, provided that the primary duty of the peace officer is the enforcement of any law relating to the use or operation of vehicles upon the highways, or laws pertaining to the provision of police services for the protection of state officers, state properties, and the occupants of state properties, or both, as set forth in the Vehicle Code and Government Code.

CA Gov Code 1363 requires that all officers whose jurisdiction is not limited to any county 'shall' be filed at the Secretary of State.

1363. (a) Unless otherwise provided, every oath of office certified by the officer before whom it was taken shall be filed within the time required as follows:

(1) The oath of all officers whose authority is not limited to any particular county, in the office of the Secretary of State.

As there is no record you or the other individuals listed in a letter dated March 8, 2016 from the California Secretary of State has filed an oath of office as is required of all officers, including peace officers, I require you provide evidence that you are a legitimate California Peace officer at the time you placed the above referenced letter(s) into the USPS mails using the title CHP Commander. Please respond to this written communication at the address above.

Failure to respond or provide evidence that you are a legitimate California Peace officer will obligate me to take appropriate legal action against you as provided by Federal Law.

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Your prompt response to this matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Cory Zil". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Enc: Letter dated March 8, 2016 from California Secretary of State – 1 page
Comptroller document S-2307 RE Office of Personnel Management (re: CalPers
participation) – 4 pages



**Secretary of State
Business Programs Division**

Notary Public, P.O. Box 942877, Sacramento, CA 94277-0001

March 8, 2016

Corey Eib
C/O 16045 Sherman Way #H
Suite 63
Van Nuys, CA 91406

Dear Mr. Eib:

The Secretary of State houses oaths of office pursuant to Government Code section 1363. A diligent search of our files did not return oaths of office for the following individuals:

CHP Commissioner Joseph A. Farrow
CHP Officer C.D. Aubrey, Chief Southern Division
CHP officer J.J. Starling, Commander West Valley Division
CHP Officer R. Romo, Commander, Captain Internal Affairs Sacramento
CHP Officer Sgt. Key ID #14781, West Valley Division

Failure to locate an oath of office for an individual does not indicate that the individual is required to file an oath of office pursuant to Government Code section 1363 or that the individual is in violation of the law for failure to file. There is no statutory or regulatory authority prescribing the filing process or penalties for failure to file an oath of office with the Secretary of State pursuant to Government Code section 1363. Therefore, the Secretary of State does not issue certificates of no record for oaths of office.

Sincerely,

Toni Baxter, Analyst
Notary Public & Special Filings Section
Business Programs Division



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON

B-23607

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Federal Security Administrator,
Federal Security Agency.

Published
21 Comp. Gen. 811

My dear Mr. McNutt:

I have your letter of February 3, 1942, as follows:

"Paragraph 11 of the National Youth Administration Appropriation Act of 1942 provides as follows:

"Par. 11. No person shall be employed or retained in employment in any administrative position, or in any supervisory position on any project, and no person shall receive assistance in the form of payments or otherwise from the United States for services rendered under the National Youth Administration, under the appropriation in paragraph 1 or paragraph 2 unless such person before engaging in such employment or receiving such assistance subscribes to the following oath:

"I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office (or employment) on which I am about to enter (or which I now occupy). So help me God."

"Although this Agency is familiar with the rule set forth in United States v. Flanders, 112 U. S. 88; United States v. Eaton, 169 U. S. 331; 4 Comp. Dec. 496; 8 Comp. Dec. 199; 4 Comp. Gen. 245; and 39 Op. Atty. Gen. No. 79, the National Youth Administration requests a decision, because of the particular wording of paragraph 11, quoted above, as to the availability of funds for the payment of employees who have been properly appointed but who have not executed oaths of allegiance prior to the performance of services but have executed such oaths prior to the time when checks are to be drawn in their favor.

"The National Youth Administrator advises that this question has not been raised at an earlier date since the General Accounting Office permitted the practice of pre-auditing pay rolls involving the execution of oaths subsequent to the performance of services, and, as he states, questionable payments were cleared in that manner.

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"Your decision is therefore respectfully solicited."

Section 1756, Revised Statutes, the statute construed in the case of United States v. Flanders, 112 U. S. 28, referred to in your letter, required the taking of a specified oath by persons appointed to any office of honor or profit upon the basis of two factors, namely, (1) "before entering upon the duties of such office," and (2) "before being entitled to any part of the salary or other emoluments thereof." In said decision the Supreme Court of the United States held as follows:

"* * * The compensation is given by the statute to the collector, when appointed, and is based wholly on the amount of moneys paid over and accounted for. If he is appointed, and acts, and collects the moneys, and pays them over and accounts for them, and the government accepts his services and receives the moneys, his title to the compensation necessarily accrues, unless there is a restriction growing out of the fact that another statute says that he must take the oath 'before being entitled to any of the salary or other emoluments' of the office. But, we are of opinion that the statute is satisfied by holding that his title to receive, or retain, or hold, or appropriate, the commissions as compensation, does not arise until he takes and subscribes the oath or affirmation, but that, when he does so, his compensation is to be computed on moneys collected by him, from the time when, under his appointment, he began to perform services as collector, which the government accepted, provided he has paid over and accounted for such moneys. This was, in substance, the charge given, and it was correct."

Section 1756, Revised Statutes--the statute considered in the court decision, supra--was repealed in toto by section 2 of the act of May 13, 1884, 23 Stat. 22, but said act required that thereafter the oath taken in such cases should be "as prescribed in section

seventeen hundred and fifty-seven of the Revised Statutes." Said section 1757, Revised Statutes, requires the taking of the oath by persons in such cases only upon the basis of one factor, namely, "before entering upon the duties of his office."

Relative to the application of the provisions of section 1757, Revised Statutes, it was stated in 4 Comp. Gen. 845, as follows:

"It appears that [redacted] was appointed to the commission on July 3, 1924, but was not notified of his appointment until July 15, 1924, on which date he took the oath of office. Section 1757, Revised Statutes, and the act of May 13, 1884, 23 Stat. 21, require generally that an officer of the United States shall take the oath of office before entering upon his duties. These provisions have been held to be directory only. United States v. Eaton, 169 U. S. 331. The accounting officers have followed the decision cited and held that unless an appointment stipulated taking the oath of office as a condition precedent to make the appointment effective, the officer or employee would be entitled to compensation from the date of acceptance of the appointment, provided the oath had been taken prior to the payment of compensation; that is, the oath must be taken before the officer or employee is entitled to payment, but the oath having been taken the right to compensation may relate back to the date of the acceptance of the appointment in the absence of any restriction in the appointment itself. See 24 Comp. Gen. 547."

There is for noting that paragraph 11 of the National Youth Administration Appropriation Act, ^{55 Stat. 489} quoted in your letter, not only provides that "no person shall be employed" before taking the oath but also, that "no person * * * shall be retained in employment"; and there is for noting, also, that the parenthetical insertion in the language of the oath itself permits the application of the oath to the "duties of the office or employment * * * which I now occupy," thus making the oath applicable to those already in the service. The basis for the requirement of the oath here would, in effect,

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seem to be the same as that required by the oath prescribed by section 1757, Revised Statutes, which section relates to "every person elected or appointed." In other words, the rule stated by the Supreme Court of the United States in the Flanders case, supra, appears properly for following in the application of the statute quoted in your letter, as both seem to contemplate that the appointment or employment may become effective before the oath is taken but that the right to receive compensation does not spring into being until the oath shall have been executed. Compare decision B-23157, dated January 31, 1942, involving a substantially identical situation.

Answering your question specifically, you are advised that employees of the National Youth Administration should where practicable be required to take the prescribed oath before being permitted to enter upon duty; and even where that is not practicable they may not be paid from the appropriation here involved until they shall have taken the said oath but, in such cases, the oath when taken will relate back to the date they entered upon duty under proper authority and will entitle them to pay from that date.

Respectfully,

[Signed] Lindsay C. Warren

Comptroller General
of the United States.