



California Fair Political Practices Commission

June 17, 1986

John E. Brown
Best, Best and Krieger
4200 Orange Street
P.O. Box 1028
Riverside, CA 92502

Re: Your Request for Advice
Our Advice No. A-86-172

Dear Mr. Brown:

Thank you for your request for advice on behalf of Banning City Councilwoman and Community Redevelopment Agency Chairwoman Marjorie D. Lawrence, regarding the conflict of interest provisions of the Political Reform Act.^{1/}

QUESTION

Is Councilwoman Lawrence precluded by the Political Reform Act from participating in decisions regarding the building of a new City Hall or the refurbishing and remodeling of the existing City Hall in light of the fact that she owns interests in two parcels of property within the Redevelopment Project Area in close proximity to the City Hall sites?

CONCLUSION

Councilwoman Lawrence must disqualify herself from participating in any decision by the City Council or Redevelopment Agency which will have a significant impact on the completion of any of the projects proposed at the locations currently being considered.

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

FACTS

The City of Banning is currently considering whether to refurbish and remodel the existing City Hall, located at 161 West Ramsey Street, as well as certain proposals to construct a new City Hall on real property located on Ramsey Street between San Gorgonio Avenue and Alesandro Road. Both sites are located within the Banning Downtown Redevelopment Project Area. You have provided us with a map of the Banning Downtown Redevelopment Project which designates the new City Hall site as "Phase I" and the existing City Hall site as "Phase II."

Councilwoman Lawrence and her husband Richard W. Lawrence own a tire sales and service facility and real property located at 376 West Ramsey Street. This real property is located within the Banning Downtown Redevelopment Project Area. This property is 1,200 feet from Phase I and 545 feet from Phase II. The Lawrence's leased the improvements and real property to an unrelated third party for a period of five years beginning November 12, 1985. The monthly payments range from \$1,500 to \$1,750.

Councilwoman Lawrence and her husband are also the owners and sole shareholders of a closely held family corporation known as R & M Lawrence Enterprises, Inc. (R & M)). Councilwoman Lawrence is that corporation's secretary. R & M holds as one of its assets a business known as Sentry Store-N-Lock as well as real property located at 310 East Ramsey Street in the City of Banning, California. Also included on that real property is a commercial building leased as a liquor store known as Logan's Liquors. This real property is located within the Banning Downtown Redevelopment Project Area. This property is 472 feet from Phase I and 1,355 feet from Phase II. As individuals, the Lawrence's sold Sentry Store-N-Lock and the real property to R & M for \$200,000 with \$30,000 down and payments of \$1,555.06 a month for 30 years. Councilwoman Lawrence also receives a monthly salary of \$1,000 from R & M.

ANALYSIS

The Political Reform Act requires that public officials disqualify themselves from making or in any way participating in any decision in which they have a financial interest.

Section 87100. An official has a financial interest in a decision if the decision will have a reasonably foreseeable material financial effect, distinguishable from its effect upon the public generally, on the official or a member of his or her immediate family or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103(a)-(e).

Councilwoman Lawrence has an investment interest worth \$1,000 or more in R & M Enterprises, Inc. She is also secretary of that corporation and receives income from the corporation of \$1,000 per month. Councilwoman Lawrence also has an interest of \$1,000 or more in the real properties located at 376 West Ramsey Street and at 310 East Ramsey

Street.^{2/} Accordingly, she must disqualify herself from any decision which could have a reasonably foreseeable material financial effect on R & M, its subsidiary Sentry Store-N-Lock,^{3/} or on the real properties located at 376 West Ramsey Street and at 310 East Ramsey Street.

Construction and refurbishing of buildings within the redevelopment project area will have a dramatic effect on the value of other real properties within the project area's boundaries. As the Commission said in its Oglesby Opinion 1 FPPC Opinions 71 (No. 75-083, July 2, 1975):

* * *

One of the major goals of a redevelopment plan is increasing the property values, in particular within the project area and directly within the entire community. In redeveloping the blighted areas of the community, all property becomes more valuable, particularly that which has been redeveloped. With regard to the specific plan under consideration ... (the replacement of an abandoned lumber shed with a civic center), the creation of a new civic center will undoubtedly increase the value of property located nearby.

(At p. 10.)

In the present situation, both of the real properties in which Councilmember Lawrence holds financial interests are located within the redevelopment project area. Given this factor and the proximity of these properties to the proposed projects, we believe that the completion of any of the proposed projects will materially affect Councilmember Lawrence's real property interests by significantly increasing both the fair market value of the property and its income producing

^{2/}Interests in real property of an individual include a pro rata share of interests in real property of any business entity in which the individual or his or her immediate family owns a 10% or greater interest. Since Mrs. Lawrence and her husband own 100% of R & M, the real property owned by R & M Enterprises is attributed to her on a 100% basis.

^{3/}See Commission regulation 2 Cal. Adm. Code Section 18706.

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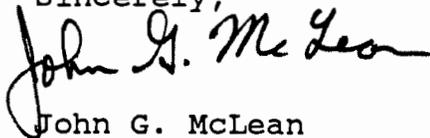
potential. (See, 2 Cal. Adm. Code Section 18702(b)(2), copy enclosed). Accordingly, Councilmember Lawrence must disqualify herself from any decision which will have a significant impact on completion of any of the proposed projects.

The decision regarding whether to build a new City Hall or whether to refurbish the existing City Hall will require Councilmember Lawrence's disqualification since the decision will affect whether any of the projects goes ahead.

The decision regarding financing, design or furnishings will require disqualification if they will affect whether a project goes ahead or will significantly affect the timing of the project, otherwise, such decisions are not likely to have a significant effect upon Councilmember Lawrence's interests.

If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,



John G. McLean
Counsel
Legal Division

JGM:sm

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JAMES H. KRIEGER (1913-1975)
EUGENE BEST (1893-1981)

**ADMITTED IN: NEVADA, NEW YORK
WASHINGTON, D. C. COURT OF CLAIMS

Legal Division
Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95814

Re: Request for Written Advice (City of Banning,
California/Community Redevelopment Agency of
the City of Banning, California)

Ladies and Gentlemen:

We are the City Attorneys of the City of Banning, California, and Counsel to the Community Redevelopment Agency of the City of Banning, California. We have been instructed by the City Council of the City of Banning and the members of the Community Redevelopment Agency of the City of Banning to request your written advice with respect to certain economic interests of Marjorie D. Lawrence, who is a member of the City Council of the City of Banning and Chairwoman of the Community Redevelopment Agency of the City of Banning. Mrs. Lawrence concurred in the decisions of the City Council of the City of Banning and the Community Redevelopment Agency of the City of Banning to make this request for written advice.

As individuals, one of the assets of Mrs. Lawrence and her husband, Richard W. Lawrence, is a tire sales and service facility and real property located at 376 W. Ramsey Street in the City of Banning, California. This real property is located within the Banning Downtown Redevelopment Project Area.

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Mr. and Mrs. Lawrence leased the improvements and real property located at 376 W. Ramsey Street to an unrelated third party for a period of five years beginning November 12, 1985. Enclosed by way of additional background please find a copy of the executed lease agreement evidencing Mrs. Lawrence's interest in the real property located at 376 W. Ramsey Street as well as her source of income from that leasehold interest.

Mrs. Lawrence and her husband, Richard W. Lawrence, are also the owners and sole shareholders of a closely held family corporation known as R & M Lawrence Enterprises, Inc. R & M Lawrence Enterprises, Inc., holds as one of its assets that certain real property and business known as Sentry Store-N-Lock located at 310 E. Ramsey Street in the City of Banning, California. This real property is also located within the Banning Downtown Redevelopment Project Area and includes a liquor store known as Logan's Liquors. Mr. and Mrs. Lawrence, as individuals, sold these businesses and real property to their corporation on February 28, 1986, and have a source of income from the corporation which is detailed in the attached summary prepared by Mrs. Lawrence. In addition, you will note that Mrs. Lawrence receives a salary from R & M Lawrence Enterprises, Inc.

As a long time resident of the City of Banning, and as a community activist prior to her election to the City Council of the City of Banning, Mrs. Lawrence has formed very strong opinions about certain efforts to refurbish and remodel the existing City Hall of the City of Banning which is located at 161 W. Ramsey Street as well as certain proposals to construct a new City Hall on certain real property also located on Ramsey Street between San Gorgonio Avenue and Alesandro Road. A map detailing the boundaries of the Banning Downtown Redevelopment Project, the location of the proposed new City Hall site (Phase I) and the existing City Hall site and surrounding commercial buildings presently owned by the Community Redevelopment Agency of the City of Banning (Phase II) as well as the properties owned by Mr. and Mrs. Lawrence and R & M Lawrence are shown on the attached map. In addition, you will note that we have indicated the distances to the real property either owned and currently leased to a third party by Mrs. Lawrence, individually (Dick's Tire Mart), or owned by R & M Lawrence Enterprises, Inc. (referred to as Logan's Liquor).

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Mrs. Lawrence has inquired whether she must disqualify herself from voting as a member of the City Council of the City of Banning on the financing of a new City Hall to be located at the site indicated on the enclosed map. She has also inquired whether she can vote as a member of the Community Redevelopment Agency of the City of Banning on the proposed rehabilitation of the existing City Hall and surrounding commercial buildings, which are presently owned by the Community Redevelopment Agency of the City of Banning, which would be rehabilitated by a private firm under contract to the Community Redevelopment Agency of the City of Banning. The refurbished City Hall would then be leased back to the City. The commercial buildings would be leased and operated by the redeveloper. Mrs. Lawrence has further inquired whether she can vote on matters relating to the financing of the repair and remodeling of the existing City Hall and surrounding buildings in the event the City or the Community Redevelopment Agency of the City of Banning should determine to finance such renovations out of public funds. On a related item, Mrs. Lawrence has inquired whether she can vote as a member of the City Council of the City of Banning or a Chairwoman of the Community Redevelopment Agency of the City of Banning on certain proposals by private firms to finance the renovation of the existing City Hall and/or the construction of a new City Hall at the locations shown on the enclosed map. In the event it is determined that Mrs. Lawrence cannot vote on one or more of these issues because of conflicts of interest, she has further inquired whether she can vote on the specific methods of financing or subsequent budgeting of funds for such projects, because of the allocation of public monies involved. Finally, Mrs. Lawrence has inquired whether or not she can vote on all or any portion of the matters relating to the erection of a new City Hall, including such items as financing methods, interior and exterior designs and furnishings. Finally, she has inquired whether she can participate in any of the discussions relating to these matters during proceedings of either the Community Redevelopment Agency or the City Council of the City of Banning.

We thought it best to inform you in regard to the above inquiries, that Mrs. Lawrence has conscientiously and consistently consulted with our office on these matters and we have, in fact, rendered a personal and confidential written opinion dated February 14, 1986, a copy of which is enclosed for your information. Mrs. Lawrence has consented to our releasing this

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opinion to you for your review. If you require any additional information, please do not hesitate to contact me. It would be appreciated, given the importance of these issues to Banning, if you could render your written opinion to me at the address noted herein at your earliest possible convenience.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John E. Brown". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

John E. Brown of
Best, Best & Krieger
City Attorneys,
City of Banning,
Counsel, Community
Redevelopment Agency,
City of Banning

JEB:jwr
Enclosures
cc: Marjorie D. Lawrence
City Clerk

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February 14, 1986

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**ADMITTED IN: NEVADA, NEW YORK
WASHINGTON, D. C. COURT OF CLAIMS

Marjorie K. Lawrence,
Councilwoman
City of Banning
P.O. Box 998
161 W. Ramsey Street
Banning, CA 92220

PERSONAL & CONFIDENTIAL

Dear Councilwoman Lawrence:

You and I have had occasion over the past year to discuss certain of your financial interests which could disqualify you from participating in certain decisions of the City Council and Redevelopment Agency of the City of Banning. During the course of our discussions you will recall that I have rendered certain legal advice to you with respect to the requirements of the Political Reform Act. In addition, it is my understanding that you have sought and have been given additional legal advice on this subject by one or more attorneys in the City of Banning. We have now been asked by you, in your capacity as Chairwoman of the Community Redevelopment Agency of the City of Banning and City Councilwoman of the City of Banning to furnish you with a written opinion to guide you in these matters.

For purposes of this opinion we understand that you and your husband own, or have a controlling interest in a corporation which owns, real property located in Banning, California, at 376 W. Ramsey Street and 310 E. Ramsey Street. A tire repair and servicing facility (Dick's Tyre Mart) is located on the property located at 376 W. Ramsey Street and the property is presently leased to an unrelated third party for a five year term. Under the terms of the lease agreement, we understand there is no way to increase or decrease the monthly rental rate. A mini

Marjorie K. Lawrence,
Councilwoman
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storage facility is located on the property at 310 E. Ramsey Street and this property is presently owned and maintained by a corporation controlled by you and your husband.

The City Council of the City of Banning has created a Community Redevelopment Agency and has declared itself to be the governing body of the Agency. Since your election to the City Council, the Agency has considered a variety of downtown redevelopment projects, including: (1) Refurbishment and remodeling of the downtown City Hall and associated commercial buildings; and (2) Construction of a new civic center, and associated commercial facilities, downtown.

You, as Chairwoman of the Agency, have disclosed these financial interests within the Agency's Downtown Redevelopment Project Area on your annual Statement of Economic Interests. In addition, your property located at 376 W. Ramsey Street is within several blocks of the City's existing City Hall which is located at 161 W. Ramsey Street. We have assumed for purposes of our analysis that both of the properties in which you have a direct or indirect interest are worth One Thousand Dollars (\$1,000) or more each.

You have inquired whether these facts could disqualify you from participating in decisions to either renovate the existing City Hall, and appurtenant commercial facilities, or construct a new Civic Center, and appurtenant commercial facilities, within the same general area, under California Government Code Section 87100.¹

ANALYSIS

California Government Code Section 87100 contains the basic conflict of interest prohibition and provides:

No public official at any level of state or local government shall make, participate in the making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

1. All statutory references are to the California Government Code unless otherwise noted.

Marjorie K. Lawrence
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To be subject to the prohibition noted above, all three stated requirements must be satisfied. You must be a public official; make, participate in making, or attempt to use your official position to influence the governmental decision; and know or have reason to know that you have a financial interest in the governmental decision.

As Chairwoman of the Community Redevelopment Agency of the City of Banning, you are clearly a public official within the meaning of Section 82048. Furthermore, by participating in discussions and debate of the Community Redevelopment Agency in both open and closed sessions, by offering your opinion on matters before the Agency, and by verbally presenting your analysis of issues and calling other members' attention to various matters, you make, participate in making or attempt to use your official position to influence governmental decisions within the meaning of Section 87100. The remaining part of this opinion letter, therefore, will focus on whether or not you have "financial interest" which could be affected by certain in the governmental decision concerning the renovation of and refurbishment of the existing City Hall or the construction of a new civic center.

Government Code Section 87103 defines "financial interest" as follows:

An 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:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

Marjorie K. Lawrence
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(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made. (d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, or indirectly, or beneficially a 10-percent interest or greater.

Your equity interest either directly, or indirectly through a corporation which you control, in real property located at 376 W. Ramsey Street in the City of Banning with a fair market value worth more than one thousand dollars (\$1,000), clearly brings you within the provisions of Section 87103(b) dealing with interests in real property. In addition, your receipt of a monthly rental income from the lessor of your property located at 376 W. Ramsey Street provides a source of income to you within the meaning of Section 87103(c). Therefore, the determinative issue

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with respect to whether you have a "financial interest" in the various City Hall projects proposed is whether it is reasonably foreseeable that that decision will have a material financial effect, which is distinguishable from its effect on the public generally, on your interest in the leased property, or on your lease of located at 376 W. Ramsey Street, which is a source of income to you.

With respect to the "reasonably foreseeable" test, it seems clear that this criterion is satisfied only as to your interest on real property. It seems not only foreseeable, but certain that the rehabilitation of the existing City Hall, as well as the complete renovation of appurtenant commercial facilities, will have a financial effect on real property located in the immediate vicinity of this particular portion of the downtown area in the City of Banning. As to your source of income from your tenant located at 376 W. Ramsey Street, it does not appear that any of the proposed City Hall projects will have a material financial effect since under the terms of your lease we understand that the lease payments are fixed and under these circumstances, even when the assessed valuation of the leased property changes, the amount of the lease payments representing income to you will not change.

The most important inquiry is whether this financial effect will be material within the meaning of Section 87103. Any analysis of whether or not you can participate in decisions regarding these City Halls, and appurtenant commercial projects, must turn on the specific guidelines which are relevant to a determination of whether a financial effect on real property owned by you will be material. 2 Cal.Abm. Code Section 18702(b)(2) provides as follows:

(b) In determining whether it is reasonably foreseeable that the effects of a governmental decision will be significant . . . consideration should be given to the following factors:

(2) Whether in the case of a direct or indirect interest in real property of one thousand dollars (\$1,000) or more held by a public official, the effect of the decision will be to increase or decrease:

Marjorie K. Lawrence
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(A) The income producing potential of the property by the lesser of:

1. One thousand dollars (\$1,000) per month; or
2. Five percent (5%) per month if the effect is fifty dollars (\$50.00) or more per month; or

(B) The fair market value of the property by the lessor of:

1. Ten thousand dollars (\$10,000); or
2. One half (1/2) of one percent (1%) if the effect is one thousand dollars (\$1,000) or more.

Since a corporation which you control also owns and operates a business located at 310 E. Ramsey Street, you might also wish to look at the effect that any of these proposed projects may have on your investment in the corporation closely held by yourself and in particular any interests in real property or income received by that corporation. You should refer to the following test:

(1) In the case of a business entity in which the public official has a direct or indirect investment worth more than one thousand dollars (\$1,000), or in the case of a public official who is a director, officer, partner, trustee, employee, or holds any position of management in a business entity:

(A) Whether the effect of the decision will be to increase or decrease the annualized gross revenue of the business entity by one percent (1%) or more or the annual net income of the business entity by .5 percent or more;

Marjorie J. Lawrence,
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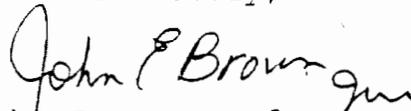
(B) Whether the effect of the decision will be increase or decrease the assets or liabilities of the business entity by fifty thousand dollars (\$50,000) or more, or by .5 percent of its current assets or liabilities, whichever is less.

In deciding whether or not you can participate in decisions regarding specific Downtown Redevelopment Projects, these specific guidelines should be particularly relevant. Since they are complicated, however, I thought it also might be helpful to you to include several recent opinions of the Fair Political Practices Commission which should provide you with further detailed assistance to enable you to make decisions on a case by case basis.

In the Fair Political Practices Commission Opinion dated July 2, 1975, which I am enclosing you will note that the Commission analyzes the circumstances under which the Chairman of the Redevelopment Agency of the City of Antioch should disqualify himself from participating in a decision to adopt a redevelopment Plan. I am also enclosing another more recent 1977 Opinion of the Fair Political Practices Commission which discusses a rezoning decision which would permit the construction of a senior citizen highrise complex located several hundred feet from six parcels of real property owned by the Mayor of Santa Clara. You will note that the Commission concluded that the Mayor had a financial interest in the decision to rezone the nearby property and therefore must disqualify himself from making, participating in making or in any way attempting to use his official position to influence that decision.

I hope that this opinion letter and the enclosed materials are helpful to you. If you require additional assistance, please let me know.

Yours sincerely,



John E. Brown of
Best, Best & Krieger
City Attorney,
City of Banning

JEB:jwr
Enclosures

FEDERAL EXPRESS

R & M LAWRENCE ENTERPRISES, INC.

Incorporated under the Laws of the State of California March 8, 1978. Richard W. & Marjorie D. Lawrence, 20 shares of capital stock. Richard W. Lawrence, President. Marjorie D. Lawrence, Secretary. DBA Dick's Tire Mart, 376 W. Ramsey Street, Banning, California.

Sold Dick's Tire Mart November 9, 1985. Richard & Marjorie Lawrence leased building and property to new owner for five years. Copies of lease pertaining to lease amounts and terms inclosed.

On February 28, 1986, Richard & Marjorie Lawrence sold to R & M Lawrence Enterprises, Inc. that certain business known as Sentry Stor-N-Lock located at 310 E. Ramsey Street, Banning, California. Sale consisted of mini storage building, including managers apartment and commercial building leased as a liquor store. Terms of the sale are as follows: \$200,000.00, \$30,000.00 down, payments of \$1,555.06 a month for 30 years.

Salaries: Corp. Marjorie - \$1,000.00 a month, Richard \$ -0-. Other sources of income: Lease payments on Dick's Tire Mart; 310 E. Ramsey - \$1,550.00 a month..

QUESTIONS:

Can I vote on the site of a new City Hall?

Can I vote on the rehab of the old City Hall and surrounding buildings, if done by a private firm?

Can I vote to repair and remodel present City Hall and surrounding buildings, if paid for by the City itself?

Can I vote on the inclosed proposals of GWB?

Can I vote on the inclosed proposal of C M Properties?

If I can not vote on the above issues, can I vote on how to finance the projects, since public money will be used?

Since the GWB proposal include financing, interior and exterior designs and furnishing, can I vote at any time during the negotiating? Can I participate in the discussions during the CRA or City Council meetings?

LEASE AGREEMENT

This lease is made between and executed by RICHARD W. and MARJORIE D. LAWRENCE, of Banning, California, herein called Lessor, and LELAND G. USHER, of Yucca Valley, California, herein called Lessee.

1. DESCRIPTION OF PREMISES

Lessor leases to Lessee, and Lessee hires from Lessor, as herein provided, the premises located at 376 W. Ramsey Street, Banning, California, consisting of real property and improvements thereon, and described more particularly as a retail tire outlet, previously doing business as DICK'S TIRE MART.

2. TERM

The term of this lease is five (5) years, beginning November 12, 1985 and terminating November 12, 1990.

3. RENT

The total rent under this lease is Ninety-Nine Thousand Dollars (\$99,000.00). Lessee agrees to pay Lessor such amount in installments according to the following schedule of payments.

<u>YEAR</u>	<u>MONTHLY RENT</u>	<u>TOTAL RENT FOR THE YEAR</u>
1	\$ 1,550.00	\$ 18,600.00
2	\$ 1,600.00	\$ 19,200.00
3	\$ 1,650.00	\$ 19,800.00
4	\$ 1,700.00	\$ 20,400.00
5	\$ 1,750.00	\$ 21,000.00
	TOTAL	<u>\$ 99,000.00</u>

The rent indicated above is payable in monthly installments as set forth above and is due on the 12th day of each month commencing November 12th, 1985 and each month thereafter during the term of the lease. Should any payment be more than ten (10) days late a five (5%) percent late

27. EFFECT OF EMINENT DOMAIN PROCEEDINGS

Eminent domain proceedings resulting in the condemnation of a part of the premises leased herein that leave the rest usable by Lessee for purposes of the business for which the premises are leased will not terminate this lease, unless Lessor at his option terminates it by giving written notice of termination to Lessee. The effect of such condemnation, should such option not be exercised, will be to terminate the lease as to the portion of the premises condemned, and leave it in effect as to the remainder of the premises. Lessee's rental for the remainder of the lease term shall in such case be reduced by the amount that the usefulness of the premises to him for such business purposes is reduced. All compensation awarded in the eminent domain proceeding as a result of such condemnation shall be Lessor's. Lessee hereby assigns and transfers to Lessor any claim he may have to compensation for damages as a result of such condemnation.

28. OPTION TO RENEW

Lessor grants Lessee an option to renew this lease for two (2) successive additional five (5) year periods after expiration of the terms of this lease at a rental rate to be negotiated between the parties at the time the Lessee gives notice to Lessor of his intention to exercise his option to renew. To exercise such option Lessee must give Lessor written notice of his intention to do so at least ninety (90) days before this lease expires.

29. FIXTURES

In addition to the real property and improvements thereof which is the subject of this lease, included also are the following fixtures which are attached to the real property:

- (1) Two (2) hoists;
- (2) Two (2) compressors;
- (3) Heater;
- (4) Air conditioner;
- (5) Two (2) water coolers;
- (6) Built in counter and desk combination with cupboards and drawers;

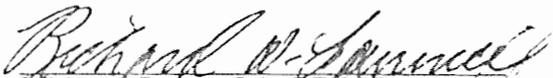
- (7) Cabinet/cupboards with doors below and shelves above;
- (8) Permanent cupboards and shelves in office;
- (9) Built in cabinet work bench in the service area;
- (10) Attached angle iron tire racks in service area;
- (11) All light and plumbing fixtures.
- (12) Any and all shelving and tire racks attached to the building; and
- (13) Storage trailer.

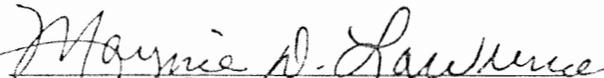
Lessee agrees to maintain the fixtures in the same or similar condition as they were in at the commencement of this agreement.

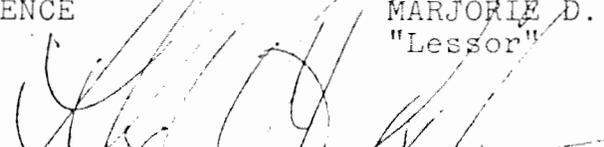
30. RIGHT OF FIRST REFUSAL

Should Lessor, during the lease term, elect to sell all or any portion of the leased premises, Lessee shall have the right of first refusal to meet any bona fide offer of sale on the same terms and conditions of such offer, and on failure to meet such bona fide offer within thirty (30) days after written notice thereof from Lessor, Lessor shall be free to sell the premises or portion thereof to such third person in accordance with the terms and conditions of his offer.

Executed this 31 day of October, 1985 at Banning, California.


RICHARD W. LAWRENCE
"Lessor"


MARJORIE D. LAWRENCE
"Lessor"


LELAND G. USHER
"Lessee"



California Fair Political Practices Commission

May 23, 1986

John E. Brown
Banning City Attorney
Best, Best & Krieger
P.O. Box 1028
Riverside, CA 92502

Re: 86-172

Dear Mr. Brown:

Your letter requesting advice under the Political Reform Act has been received on May 22, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

A handwritten signature in cursive script that reads "John G. McLean".

John G. McLean
Counsel
Legal Division

JGM:plh