



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

January 27, 2010

Brian Oneto
Amador County Supervisor, 5th District
Office of the Board of Supervisors

REDACTED 2

RE: FPPC No. 08/098; Brian Oneto

Dear Mr. Oneto:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act") found in Government Code Section 81000, and following. As you are aware, the Commission received a complaint against you alleging that you failed to disclose multiple real property interests on your 2006 SEI and that you held interests in real property which you failed to disclose on any of your SEIs. We also investigated a potential conflict of interest resulting from your February 26, 2008 vote to postpone a decision on an intergovernmental services agreement with the tribe that had proposed the casino.

Under the Act, various public officials must file a Statement of Economic Interest (Form 700) when they assume office, annually thereafter, and within 30 days of leaving their position. As a county supervisor, your position is specifically designated in the Act (Section 87200.) Under section 87206, an investment or interest in real property, valued at \$2,000 or more, must be disclosed.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC did not find evidence that you held an interest in the Coal Mine Road real property owned by The Oneto Group.

We also investigated the non disclosure of several other real property interests on your SEI in 2006. Although you had a non-delegable duty to understand and abide by the provisions of the Act, we are not moving forward with this matter based on the specific facts of this case. This includes the fact that you filed an Amendment to your 2006 SEI to disclose these property interests before being contacted by the Commission.

Under the Act, no public official at any level of state or local government may make, participate in making, or in any way use or attempt to use his or her official position to

influence a governmental decision in which the official knows or has reason to know he or she has a disqualifying conflict of interest. (Section 87100.)

To determine whether an individual has a disqualifying conflict of interest, the Commission generally employs the following sequenced analysis: (1) is the individual a public official; (2) did the official make, participate in making, or use or attempt to use the official position to influence a governmental decision; (3) what are the official's economic interests, (4) are the official's economic interests directly or indirectly involved in the governmental decision; (5) what is the applicable materiality standard for each economic interest involved; and (6) is it reasonably foreseeable that the governmental decision will have a material financial effect on the official's economic interest.¹ (See Regulation 18700.)

Under Section 87100, a conflict of interest exists when you, as a public official, make, participate in making, or attempt to use your official position to influence a governmental decision in which you know or have reason to know you have a "financial interest." You have 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 you, a member of your immediate family, or, among other things, on any business entity in which you have an investment interest valued at \$2,000 or more, any real property (including leaseholds) in which you have an investment interest valued at \$2,000 or more, or on any source of income aggregating \$500 or more which you received within 12 months of the decision. (Section 87103, subdivision (a), (b) and (c).)

The economic interests that we examined included several real property interests in the vicinity of the proposed casino location. The governmental decision to postpone a vote on the intergovernmental services agreement with the tribe that was backing the casino project did not appear to create a reasonably foreseeable financial effect on your economic interests. The Commission has decided to close this case with this advisory letter.

The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act, so if you need forms or manuals, or guidance regarding your obligations, please call the Commission's Technical Assistance Division at 1-866-275-3772. Please also visit our website at www.fppc.ca.gov.

Sincerely,

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Zachary W. Norton
Commission Counsel
Enforcement Division

¹ The additional two steps of the analysis - whether the public generally exception applies and whether the individual is legally required to participate in the governmental decision - are inapplicable to this matter.