



FAIR POLITICAL PRACTICES COMMISSION

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

(916) 322-5660 • Fax (916) 322-0886

February 10, 2010

Mr. David I. White

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**Warning Letter Re: FPPC No. 09/267, David I. White**

Dear Mr. White:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act"),<sup>1</sup> found in Government Code Section 81000, et seq. This letter is in response to a complaint filed against you that alleged you failed to comply with the Political Reform Act's conflict-of-interest requirements for public officials.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that you violated the Act's conflict-of-interest provisions by voting to appoint yourself as Mayor of the City of Riverbank.

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 official position to influence a governmental decision in which he knows or has reason to know he 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

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

financial effect on the official's economic interest.<sup>2</sup> (See Regulation 18700.)

As a Riverbank City Council member, you were a public official under the Act. (Sections 82048 and 87200.) By voting in your capacity as a city council member to appoint yourself Mayor of Riverbank at the January 30, 2009 city council meeting, you participated in making a governmental decision. In this matter, the allegations in the complaint turn on whether it is reasonably foreseeable that a material financial effect on your personal finances would result from your vote to appoint yourself as Mayor of Riverbank.

Based on our investigation into this matter, there is sufficient evidence to establish that there was a reasonably foreseeable material financial effect on your personal finances as a result of the governmental decision you participated in making. Specifically, as a city council member, you received a \$350 per month salary. (Riverbank Municipal Code Section 30.02 (B).) The salary for the Mayor of Riverbank during that time was \$400 per month. (*Id.*) Since it was reasonably foreseeable that your participation in the vote to appoint yourself Mayor of Riverbank would have a material financial effect your personal finances by raising your salary by \$50 per month, or \$600 a year, you violated the Act's conflict of interest provisions. (See Regulations 18705.5 and 18706.)

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to \$5,000 for each violation.

A warning letter is an FPPC case resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Fair Political Practices Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the FPPC will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the FPPC's website ten (10) days from the date of this letter.

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<sup>2</sup> 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.

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Please feel free to contact me at (916) 322-7776 with any questions you may have regarding this letter.

Sincerely,

Sukhi K. Brar  
Commission Counsel

SKB:fp