



## FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2 20

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February 15, 2013

Marden Wilber

**REDACTED**

**RE: Advisory Letter – Marden Wilber, FPFC No. 11/649**

Dear Mr. Wilber:

The Fair Political Practices Commission (“Commission”) enforces the provisions of the Political Reform Act (the “Act”)<sup>1</sup> found in Government Code Section 81000, et. seq. As you may be aware, the Commission was investigating whether you were in violation of the Act’s conflict of interest provisions when serving on the Board of Directors (“Board”) for the North San Joaquin Water Conservation District (“District”).

**We have determined that there is insufficient evidence to find you violated the Act. As a result, we are closing this case with this Advisory Letter.**

You should be aware that the Act prohibits public officials from making, participating in making or influencing governmental decisions in which the official has a material financial interest. Specifically, Section 87100 of the Act states: “No public official at any level of state or local government shall make, participate in 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.”

To determine whether an individual has a disqualifying conflict of interests, the Commission employs the following analysis: 1) was the individual a public official; 2) did the official make, participate in making, or use or attempt to use his official position to influence a governmental decision; 3) what are the public official’s economic interests; 4) was the economic interest affected by the decision, either directly or indirectly; 5) was the economic interest

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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 18109 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.

materially affected by the decision; and 6) was it reasonably foreseeable that the economic interest would be materially affected by the decision. (See Regulation §18700.)

In your case, you voted as a member of the Board on multiple occasions against collecting delinquent ground water charges from customers of the District when you had a material financial interest, as a customer who had not paid the ground water charges, in the matter. In most cases your actions would have violated the Act. But in this case your votes against collecting the ground water fees similarly affected a significant portion of the District's customers due to the substantial percentage of customers who also had not paid the ground water charges. So the "Public Generally" exception applies and, while you may have had a conflict of interest, it did not constitute a violation of the Act. (See Regulation §18707.2, subdivision (c).)

If not for the large number of customers who also had not paid the ground water charges, you would have violated the Act. In the future, you should consult with legal counsel or the Commission before voting on matters in which you may have a financial interest. The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act and provides guidance regarding your obligations over the telephone and through written advice. If you need assistance, call the Commission's Technical Assistance Division at 1-866-275-3772 or visit our website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

Sincerely,

**REDACTED**

Dave Bainbridge  
Commission Counsel  
Enforcement Division

Cc: Steven Raddigan