



FAIR POLITICAL PRACTICES COMMISSION

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February 16, 2011

Craig Price, Esq.
o/b/o Terry Hickey Banks

REDACTED

RE: Advisory Letter
FPPC Case No. 10/583; Terry Hickey Banks

Dear Mr. Price:

The Fair Political Practices Commission (FPPC) enforces the provisions of the Political Reform Act (the Act)¹ found in Government Code section 81000, and following. The Enforcement Division received a complaint against your client, Terry Hickey Banks, alleging that Ms. Banks may have violated the conflict of interest provisions of the Act when she discussed and voted as the President of the Carpinteria Unified School District Board of Trustees on or about February 24, 2009, on or about April 22, 2009, and on or about May 25, 2010, on a matter which included a decision to remove the Whitney parcel as a potential site for a school, located within 500 feet of real property in which she had mineral rights. After a full investigation, the Enforcement Division has determined that there is insufficient evidence to find that Ms. Banks violated the Act in this particular circumstance. Therefore, we have decided to close this matter with an Advisory letter.

Our investigation revealed that Ms. Banks has an ownership interest in the mineral rights of a property which was located within 500 feet of the Whitney parcel. Additionally, Ms. Banks voted to remove the Whitney parcel as a potential school site on or about May 25, 2010. However, the Enforcement Division has determined that, in this particular circumstance, it was not reasonably foreseeable that this governmental decision would have a material financial effect on Ms. Bank's interest in the mineral rights. Therefore, the Enforcement Division has decided to close this matter with this Advisory letter.

The primary purpose for the conflict of interest provisions of the Act is to ensure that public officials, whether elected or appointed, perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. (Section 81001, subd. (b).) As a result, Section 87100 prohibits public officials

¹ 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.

from making, participating in making, or attempting to use their official position to influence a governmental decision in which they know, or have reason to know, that they have a financial interest. 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.² (See Regulation 18700.)

Your client's failure to comply with the provisions of the Act in the future may result in an enforcement action against her, including monetary penalties of up to \$5,000 for each violation.

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

If you have questions regarding this matter, please contact us at (916) 322-5660.

Sincerely,

REDACTED

Bridgette Castillo
Commission Counsel
Enforcement Division

² The additional two steps of the analysis are: (a) is the individual a public official; and (b) is it reasonably foreseeable that the governmental decision will have a material financial effect on the official's economic interest.