FAIR POLITICAL PRACTICES COMMISSION
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April 9, 2013

Mr. Charles H. Bell, Jr.
Bell, McAndrews, & Hiltachk
o/b/o Senator Mimi Walters

REDACTED

RE: Advisory Letter
Mimi Walters; FPPC No. 12/324

Dear Mr. Bell:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act").[1] As you are aware, the Commission initiated an investigation regarding the allegation that your client, Senator Mimi Walters, may have violated the prohibition against legislative conflicts of interest when her office made inquiries into a claim for reimbursement submitted by her husband's business. The Enforcement Division has determined that there is insufficient evidence to find that Senator Walters violated the Act in this particular circumstance. Therefore, we have decided to close this matter with an Advisory letter.

Our investigation revealed that on or about December 12, 2011, Senator Walters directed a staffer from her office to make inquiries regarding constituent's complaint that a claim by Drug Consultants, Inc. to the Victim's Compensation and Government Claims Board for payments under a contract for services totaling $105,882.42 was not being processed expediently. The staffer, Mr. Everett Rice, proceeded to make between ten to fifteen telephone calls over the next three months to the three different agencies involved in the processing of the claim to determine its status. Mr. Rice called the employees of the Victim's Compensation and Government Claims Board initially to determine the problem with the claim and then three other times to check on the status of the claim. Mr. Rice called personnel at the California Department of Corrections and Rehabilitation, approximately ten to fourteen times while they were determining the legality of the claim and what recommendation should be made to the Victim's Compensation and Government Claims Board regarding payment to check status and completion date.

[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.

Additionally, Mr. Rice contacted an employee of the California Correctional Health Care Services four times to inquire as to the status while that agency was determining the proper time period and payment amount applicable to the claim.

During this same time, a representative from Drug Consultants, Inc., Mr. Keith Moore, was also making inquires to the same agencies. His inquires were made almost daily. On February 16, 2012, the state Victim Compensation and Government Claims Board approved a partial settlement of $74,404.06 to Drug Consultants, Inc., which was paid to them in the middle of March.

Section 87102.5 applies when determining whether a conflict of interest exists for Members of the Legislature. It states, in short, that if Senator Walters makes, participates in making, or in any way attempts to use her official position to influence any state governmental decision, made in the course of her duties as a member, in which she knows or has reason to know that she has a financial interest, then she has a conflict of interest.

Although this activity creates the appearance of a conflict of interest since the claim was with regard to Senator Walters' husband's company, the contacts by Mr. Rice do not rise to the level of attempting to influence the decisionmaking of the three agencies involved with the processing of the claim. All three agencies stated that Mr. Rice only ever asked for a status update and never spoke about the claim itself. However, even though this was treated as a routine constituent request for help by the Senator's office, the very nature of engaging an agency on an issue with which the Senator has a material financial interest puts her at great risk of crossing the line into participating or influencing a state governmental decision. More care should be taken in the future to avoid such situations. Taking all of the facts of this case into consideration, the Enforcement Division has decided to close this matter with this Advisory letter.

An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that in appropriate circumstances public officials should be disqualified from acting in order that conflicts of interest may be avoided. Your failure to comply with the provisions of the Act in the future may result in an enforcement action against you, 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. You can also visit our website at www.fppc.ca.gov.

Sincerely,

REDACTED

Galena West
Senior Commission Counsel
Enforcement Division