



FAIR POLITICAL PRACTICES COMMISSION

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

(916) 322-5600 • Fax (916) 322-0586

April 15, 2010

Mr. Gregory Devereaux
County Administrative Officer

REDACTED

**RE: Warning Letter
FPPC No. 10/012; Paul Biane, Gregory Devereaux**

Dear Mr. Devereaux:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act")¹. As you may be aware, the Commission received a complaint against you alleging violations of the conflict of interest provisions of the Act. Specifically, the complaint alleges that you received a gift in excess of the gift limits imposed by the Act in Section 89503. The Commission has decided to close this case with this advisory letter.

This new regulation became operative on August 15, 2008, replacing the old standard articulated under *In re Stone*, where private plane transportation was to be valued using either the commercial fare for an equivalent flight or the charter airfare divided by the number of passengers.

Under the current regulation, a gift of air transportation that is not provided on a "commercial aircraft," is to be valued based on the cost of the normal and usual charter fare or rental charge for a comparable airplane of comparable size, divided by the number of all of the "Designated employees" as defined in Section 82019, Public Officials specified in Section 87200, and officers and employees of the executive, legislative, or judicial branch of the United States government. (Regulation 18946.6.)

Our investigation has revealed evidence that you accepted a gift of travel from Ray Crebs on a private airplane to West Virginia, for a trip which departed from the Chino Airport on September 25, 2008 and returned on September 28, 2008. You reimbursed Mr. Crebs for this flight, based on comparable commercial airfare rates. Your actions violated the Act because you

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 18410 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.

did not properly reimburse Mr. Crebs for your share of the flight, based on comparable charter rates, as required under regulation 18946.6.

In this particular instance, you had planned to take a trip, and sought the advice of the city attorney regarding conflicts and reimbursement, prior to the change in the regulation. The evidence indicates you exercised due diligence in determining the applicable requirements for repaying a gift of airfare on a private plane as they existed when you were planning the trip. The applicable law changed shortly before your trip, but after you sought the advice of the city attorney on the matter, a fact of which you were not aware. Therefore, we have decided to close this case with this warning letter.

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.

If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,

REDACTED

Zachary W. Norton
Commission Counsel
Enforcement Division