



FAIR POLITICAL PRACTICES COMMISSION

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April 24, 2015

George Leage
City Council Member
City of Morro Bay

Advisory Letter Re: FPPC No. 14/120

Dear Mr. Leage:

The Fair Political Practices Commission (FPPC) enforces the provisions of the Political Reform Act (Act).¹ The FPPC Enforcement Division conducted an investigation to determine if you had committed a violation of the Act's conflict of interest prohibition. The investigation resulted from a newspaper article questioning whether your business received public money to cater an event. According to the article, while serving as a member of the Morro Bay City Council you voted in favor of allocating \$15,000 in city funds to the Morro Bay 50th Anniversary Celebration Committee ("Celebration Committee") and some of those funds may have been used to pay for a party (the "Kick-off party") catered by your restaurant. The Enforcement Division has decided to close its file without initiating an administrative action due to a lack of evidence of a violation of the Act.

A public official may not make, participate in making or 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.² A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on any business entity in which the official has a direct or indirect investment worth two thousand dollars or more, or on a source of income of the official from which the official received \$500 or more in income in the previous 12 months.³

As a member of the Morro Bay City Council you were a public official. By voting in favor of allocating \$15,000 in city funds to the Celebration Committee, you participated in a governmental decision.

¹ The 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 FPPC are contained in Sections 18110 through 18997 of Title 2, Division 6 of the California Code of Regulations.

² Section 87100

³ Section 87103

The only issue then in determining if you had a conflict of interest was whether you had a financial interest in the decision to provide funding to the Celebration Committee. The Enforcement Division's investigation found that at the time of voting for the \$15,000 allocation, you had agreed to cater the Kick-off party. The Celebration Committee had Great American Fish Company, which you own, and Off the Hook, which your sister owns, cater the event. You help your sister operate Off the Hook but you do not own any portion of the restaurant nor receive any income from it. Off the Hook received \$3,000 from the Celebration Committee for catering the Kick-off party while Great American Fish Company was paid nothing. Tickets to the Kick-off party sold for \$50 per person and approximately 200 people attended the event. Revenue from ticket sales more than covered the cost of the Kick-off party.

Great American Fish Company and Off the Hook were not the subject of the decision to allocated \$15,000 to the Celebration Committee so the restaurants were indirectly involved in the decision under the Act.⁴ That being the case, in order to find that the decision would have a material financial effect on you, the financial effect on each restaurant would have to reach certain monetary thresholds contained in Regulation 18705.1 subdivision (c)(4). The amount of money at issue in this case does not reach those monetary thresholds so any financial effect that the decision would have had on either one of those restaurants would not be considered material. That being the case, you did not have a financial interest that was materially affected by the decision so you did not violate that Act.

While you did not violate the Act in this instance, you should be careful not to participate in a governmental decision that would have a material financial effect on a business that you own or manage. Even governmental decisions that negatively affect a business can create a conflict of interest for an elected official that has a financial interest in that business.

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 have any questions or need assistance, please call the Commission's Technical Assistance Division at 1-866-275-3772, or visit our website at www.fppc.ca.gov.

Sincerely,



Dave Bainbridge
Senior Commission Counsel
Enforcement Division

⁴ Regulation 18704.1