



FAIR POLITICAL PRACTICES COMMISSION

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

(916) 322-5660 • Fax (916) 322-0886

June 22, 2012

James L. Porter, Jr.
o/b/o Larry Sevison

REDACTED

Re: Warning Letter – FPPC No. 10/498, Larry Sevison

Dear Mr. Porter:

The Fair Political Practices Commission (the "Commission") enforces the provisions of the Political Reform Act (the "Act")¹ found in California Government Code Section 81000 and following. In May 2010, the Commission received an anonymous telephone complaint alleging violations of the conflict of interest provisions of the Act regarding your client. Specifically, the complainant alleged that on July 24, 2008, as a Governing Board Member of the Tahoe Regional Planning Agency (TRPA), your client voted to reconsider the TRPA Governing Board's denial of the Kings Beach Commercial Core Improvement Project Hybrid 3-Lane Alternative. Additionally, your client allegedly owned real property on a roadway which was predicted would be used during peak traffic times as an alternative route through Kings Beach both during and after construction of the project. At the time of this decision, your client was also a member of the Placer County Planning Commission. The case was closed finding no violation of the Act.

However, in March 2011, the Commission received a follow-up letter from the complainant which identified new information, including that Respondent Sevison, on June 18, 2008, as a member of the Placer County Planning Commission, voted to recommend the Kings Beach Commercial Core Improvement Project Hybrid 3-Lane Alternative to the Placer County Board of Supervisors. Thus, the case was re-opened to investigate the new information provided.

Under the Act, no public official at any level of state or local government may make, participate in making, or in any way use or attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a

¹The 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.

disqualifying conflict of interest. (Section 87100.) 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. (See Regulation 18700.)

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that on or about June 18, 2008: 1) your client was a member of the Placer County Planning Commission; 2) your client voted to recommend to the Placer County Board of Supervisors approval of the Community Plan Amendment to the Kings Beach Commercial Core Improvement Project and certification of the EIR/EIS 3-lane "Hybrid" alternative; 3) your client owned two parcels of real property located on Speckled Street in Kings Beach which were rented to commercial tenants, from whom your client received \$500 or more within 12 months prior to June 18, 2008; 4) your client's real property and the commercial tenants of the real property were indirectly involved in the Kings Beach Commercial Core Improvement Project decision; and 5) the financial effect of the decision on your client's real property and upon your client's commercial tenants was presumed to be immaterial.

As for the commercial tenants, there is no evidence to show that the financial effect of the decision was material because there is no evidence to show that the materiality thresholds pursuant to Regulations 18705.1, subdivision (c)(4), and 18705.3, subdivision (b)(3), could have been met.

However, our investigation revealed that the material financial effect on your client's real property was reasonably foreseeable at the time the decision was made because the Kings Beach Urban Improvement Project Traffic Report ("Traffic Report"), which was part of the Final Environmental Impact Survey for the Kings Beach Commercial Core Improvement Project, stated that Speckled Avenue would likely experience increased traffic due to the construction of the project, as well as after project completion. See Regulation 18705.2, subdivision (b)(1). Thus, regarding your client's real property, your client had a disqualifying conflict of interest under the Act and should have recused himself from voting on these matters.

However, upon review of the evidence available, it appears there are mitigating circumstances. The Traffic Report was not given to the Planning Commissioners on its own. Rather, the Traffic Report was attached as Appendix L of Volume IV of the voluminous EIS Report which was given to the Planning Commissioners shortly before the June 18, 2008 meeting. Also, while the subject of traffic impacts on Hwy 28 through King's Beach and on the adjacent streets within 1-2 blocks of Hwy 28 was heavily discussed by the Planning Commission and the public regarding the Kings Beach Commercial Core Improvement Project, traffic on outlying streets such as Speckled Avenue was not a topic of discussion. Additionally, while your client's real property is within the defined boundaries for the Traffic Study Area in the Traffic Report, the focus of the Planning Commission's vote was the Project Area which included Hwy 28 through

Kings Beach, the adjacent 1-2 blocks, and the lakeshore, all of which are more than 500 feet from your client's real property. Thus, it appears that your client believed in good faith that his property was not within 500 feet of the boundaries of the property at issue. Lastly, it appears that at the time of this decision, funding for the Project was tenuous. Thus, the totality of the circumstances shows that there was minimal public harm in this regard.

This letter serves as a written warning. Your client is advised that his failure to comply with the provisions of the Political Reform Act in the future could result in an enforcement action. Additionally, the information in this case will be retained, and may be used against your client should an enforcement action later become necessary based on future conduct and/or newly discovered information. Please be advised that your client's failure to comply with the provisions of the Act in the future may 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 your client with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Fair Political Practices Commission. If your client wishes to avail himself of these proceedings by requesting that his case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon your 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,

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Angela J. Brereton
Senior Commission Counsel
Enforcement Division