FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

September 3, 2010

Mr. Brian Hildreth
Bell, McAndrews & Hiltachk, LLP
o/b/o Debbie Giordano; Debbie Giordano for Milpitas City Council
REDACTED

RE: **Advisory Letter**
FPPC No. 10/720; Debbie Giordano; Debbie Giordano for Milpitas City Council; and Alan David, Treasurer

Dear Mr. Hildreth:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act"),[1] found in Government Code section 81000, et seq. As you know, the FPPC received a complaint against your client. After review of the complaint, the Enforcement Division has decided to close its file on this matter with an advisory letter. The basis for this decision follows.

One of the allegations in the complaint was that the contributions received from Matteson Development Partners and its subsidiaries, otherwise known as doing business as (dba), were not the true source of the contributions and therefore your client was in violation of local campaign ordinances. As you addressed in your August 26, 2010 letter, the Enforcement Division does not have the authority to enforce local ordinances.

However, the Act does require committees to disclose contributions received and if necessary, to aggregate those contributions. Specifically, Section 84211 subdivision (f)(6) requires the cumulative amount of contributions to be disclosed when received from the same person. Regulation 18215.1 provides the rules for the aggregation of contributions for purposes of determining when contributions are aggregated under the provisions of this title. Basically, contributions made by entities that are majority-owned

[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 18109 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.

by any person shall be aggregated with the contributions of the majority-owner and all other entities majority owned by the person, unless the entities act independently in their decision to make contributions.

If there are any indications (i.e. all businesses located at the same address, continuous check numbers, and checks all made on the same date) that these contributions were directed and controlled by the same person, a good-faith effort to determine if these contributions should be aggregated for reporting purposes must be made, and the campaign disclosure form(s) must be amended to reflect this information. Since there are indications these contributions may have been directed and controlled by the same person, the Commission is forwarding the complaint and relevant information to the City Attorney and/or Civil Prosecutor for interpretation and enforcement of the local ordinance, as stated in your letter.

Another allegation stated in the complaint was your client's failure to disclose occupation and employer information for contributions received of $100 or more. Section 84211 requires for reportable contributions the name of the contributor's employer, or if self-employed, the name of the business. The term "self-employed" as a description for "employer" may be used to disclose this information so long as the description also indicates the name of the contributor's business or, if no name indicates that fact. (*Warren Advice Letter* No. I-07-152.) An amendment is needed for any contribution reported that does not disclose this information. For example, if a contributor named John Doe is a sole proprietor of a law firm, it would be disclosed as "self-employed -- John Doe, attorney at law." If John Doe is self-employed and has no formal name for the business, the business would properly be disclosed as "self-employed -- no business name" or "self-employed -- John Doe."

Your cooperation in ensuring that the requirements of the Act are consistently satisfied is greatly appreciated. If you have any questions regarding this matter, please feel free to contact me at 916-327-2018.

Sincerely,
REDACTED

Teri Rindahl
Political Reform Consultant
Enforcement Division

cc: Milpitas City Attorney
Santa Clara County District Attorney