



FAIR POLITICAL PRACTICES COMMISSION

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

(916) 322-5660 • Fax (916) 322-0886

September 18, 2013

Jennie Unger Skelton, Esq.
o/b/o Harry D. Wardwell

REDACTED

Re: Warning Letter
FPPC No. 12/293: Harry D. Wardwell

Dear Ms. Skelton:

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. This case was opened by the Commission in response to conflicts of interests allegations raised in a California State Audit from March of 2012 (Report #2011-113). Specifically, the audit alleges that your client failed to publicly identify Rabobank as a financial interest giving rise to a conflict of interest when he recused himself from a vote regarding the approval of the Lease/Purchase financing for pharmacy equipment funded by Rabobank at the October 16, 2008 SVHS meeting.

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 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.)

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.

Additionally, Section 87105, subdivision (a) requires public officials who manage public investments, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, to do all of the following:

- (1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.
- (2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.
- (3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.
- (4) Notwithstanding paragraph (3), a public official described in subdivision (a) may speak on the issue during the time that the general public speaks on the issue.

The FPPC has completed its investigation of the facts in this case. Specifically, the Commission found that on or about October 16, 2008 the SVHS Board voted to approve the Lease/Purchase financing of the acquisition of Equipment and Software Products for the Pharmacy Department. The value of the agreement was not to exceed 2.5 Million Dollars. The resolution in this regard identified Rabobank N.A. as the lender.

Your client recused himself from discussing and voting on the matter, and he abstained from the vote. However, the evidence shows that your client did not specifically identify his conflict when he abstained, and did not leave the room.

The evidence also shows that it was common knowledge among the Board Members that your client was employed by Rabobank, and your client did not participate in the planning, discussion, or vote on the resolution.

This letter serves as a written warning. You are advised that your 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 you should an enforcement action later become necessary based on future conduct and/or newly discovered information. Please be advised that your 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 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 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,

REDACTED

Angela J. Brereton
Senior Commission Counsel
Enforcement Division