



FAIR POLITICAL PRACTICES COMMISSION

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December 2, 2009

Donna Sneden
San Diego State University
Instructional Technology Services

REDACTED

**RE: Warning Letter
FPPC Case No. 06/538; Donna Sneden**

Dear Mrs. Sneden:

The Fair Political Practices Commission ("FPPC") enforces the provisions of the Political Reform Act (the "Act")¹. This letter is in response to a complaint filed against you that alleged you violated the Act's conflict of interest provisions.

The FPPC has completed its investigation of the facts of this case. Specifically, the FPPC found that you are an employee of the San Diego State University ("SDSU"). You have been a procurement cardholder since 2001 and make purchases on behalf of SDSU. Additionally, your husband worked for Datel Systems, Inc. until October 2005. You made procurement cardholder purchases from Datel Systems, Inc., while the company was still a source of income to you. The FPPC has determined that you violated the conflict of interest provisions of the Act and failed to disclose a source of income on your 2005 Annual Statement of Economic Interest ("SEI"), further discussed below.

Conflict of Interest

The primary purpose for the conflict of interest provisions of the Act is to ensure that public officials, whether elected or appointed, perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have

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 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.

supported them. (Section 81001, subd. (b).) As a result, Section 87100 prohibits public officials from making, participating in making, or attempting to use their official position to influence a governmental decision in which they know, or have reason to know, that they have a financial interest. 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.² (See Regulation 18700.)

Based on the evidence obtained, during all relevant times, you were: 1) an employee of San Diego State University ("SDSU"); 2) made purchases from Datel Systems, Inc. on behalf of SDSU; 3) had a community property interest in your husband's income from Datel Systems, Inc.; 4) Datel Systems, Inc. was directly involved in the governmental decision because you were making purchases from a source of income to you; 5) the financial effect is presumed to be material; and 6) the material financial effect was reasonably foreseeable. Thus, you had a disqualifying conflict of interest under the Act.

Statement of Economic Interests

Additionally, Section 87300 requires every agency to adopt and promulgate a conflict of interest code. Under Section 87302, subdivision (a), an agency's conflict of interest code must specifically designate the employees of the agency who are required to file SEIs, disclosing their reportable investments, business positions, interests in real property, and sources of income. Section 82019, subdivision (c), and Section 87302, subdivision (a), further provide that the individuals who are to be designated in an agency's conflict of interest code are the officers, employees, members, and consultants of the agency, whose position with the agency entails making, or participating in making, governmental decisions that may have a reasonably foreseeable material financial effect on one or more of the individual's economic interests.

Under Section 87300, the requirements of an agency's conflict of interest code have the force of law, and any violation of those requirements is deemed a violation of the Act.

In 2005, SDSU's Conflict of Interest Code required that you disclose "investments and business positions in any business entity of income, including gifts, loans, and travel payments, from any source which is the type to contract with the campus to provide supplies, materials, including books and periodicals, equipment, services, or work of the type utilized by the school, department, or area for which the designated employee has decision-making authority or for which the designated employee participates in the making of the decision."

You violated the Act because you failed to disclose your community property interest in your husband's income from Datel Systems, Inc., which contracted with SDSU to provide supplies.

² The additional two steps of the analysis are inapplicable in this matter.

This letter serves as a written warning. The Commission has decided to close this case with this warning letter, based in part, on the fact that you were provided incorrect advice from your SDSU superiors, you were not provided any ethics training prior to becoming a procurement cardholder, and you were not required to file a SEI prior to 2005. However, 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.

The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act. If you need forms or manuals, or guidance regarding your obligations, please call the Commission's Technical Assistance Division at 1-866-275-3772. Please also visit our website at www.fppc.ca.gov.

Please feel free to contact me with any questions you may have regarding this letter.

Sincerely,

REDACTED

Bridgette Castillo
Commission Counsel
Enforcement Division