



FAIR POLITICAL PRACTICES COMMISSION

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

(916) 322-5660 • Fax (916) 322-0886

December 16, 2009

Scott Brady

REDACTED

RE: Warning Letter
FPPC No. 04/072; Scott Brady

Dear Mr. Brady:

The Fair Political Practices Commission (“Commission”) enforces the provisions of the Political Reform Act (the “Act”).¹ As you may be aware, the Commission received complaints against you alleging violations of the conflict of interest provisions of the Act. Specifically, the complaints allege that you, while a member of the Placentia City Council, a member of the Placentia Redevelopment Agency and the Chairman of the On-Trac Joint Powers Authority, made governmental decisions that had a reasonably foreseeable material financial effect on your economic interests. In addition, during the course of the investigation, the Commission has also determined that your 2005, 2006, and 2007 Annual Statements of Economic Interests (“SEI’s”) and your Leaving Office SEI did not include disclosure of a real property interest. The Commission has decided to close this case with this warning letter.

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

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.

decision will have a material financial effect on the official's economic interest.² (See Regulation 18700.)

As a member of the Placentia City Council, a member of the Placentia Redevelopment Agency and the Chairman of the On-Trac Joint Powers Authority, you were a public official under the Act. (Sections 82019 and 82048.) In 2002 and 2003, you voted to designate the survey area for the redevelopment plan and voted to adopt a revised preliminary plan to add property to the redevelopment area. The redevelopment area is non-contiguous and in sections over a large area of the city. Because these decisions are of the type listed in Regulation 18704.2, subdivision (a)(5), to determine if the properties are directly or indirectly involved in the two decisions, a measurement is taken from the distance of the closest point of the redevelopment area, not just the area affected. During this time, you partially owned a property within 500 feet of a section of the redevelopment area making that property directly involved in the two decisions. Since there is a presumption of materiality for directly involved real property interests, you had a conflict of interest in those governmental decisions. (Regulation 18705.2, subd. (a).)

Additionally, you stated on your 2004 Annual SEI that you disposed of this property owned through your business, Carpe Diem Developers, LLC ("Carpe Diem"). However, property records indicate that Carpe Diem never sold the property and currently owns it. Therefore, since you were still disclosing your ownership interest in Carpe Diem on your 2005, 2006, and 2007 Annual SEI's, as well as on your Leaving Office SEI, you should have also been disclosing your ownership of this property.

This letter serves as a written warning. 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.

² The additional two steps of the analysis - whether the public generally exception applies and whether the individual is legally required to participate in the governmental decision - are inapplicable to this matter.

Mr. Scott Brady
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Please feel free to contact me at (916) 322-5660 with any questions you may have regarding this letter.

Sincerely, .

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✓ Galena West
Senior Commission Counsel
Enforcement Division