



F A I R P O L I T I C A L P R A C T I C E S C O M M I S S I O N

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July 16, 2009

Mr. Brian T. Hildreth, Esq. o/b/o Mr. Demitrios Tatum  
Bell, McAndrews & Hiltachk, LLP  
455 Capitol Mall, Suite 801  
Sacramento, CA 95814

**Re: Warning Letter  
FPPC Case No. 08/815, Demitrios Tatum**

Dear Mr. Hildreth:

I understand that your office represents Demitrios Tatum in connection with the above-referenced matter. Please let me know if this is incorrect, and I will send a copy of this letter directly to Mr. Tatum.

As you know, the Enforcement Division of the Fair Political Practices Commission (the "FPPC"), which enforces the provisions of the Political Reform Act (the "Act"),<sup>1</sup> received complaints alleging that Mr. Tatum, the Merced County Executive Officer, accepted an over-the-limit gift from a developer, Pacific Holt Corporation, by paying substantially less than the fair market value for a parcel of land that the developer sold to Mr. Tatum, in violation of Section 89503. After investigation, the FPPC is closing its file on this matter without initiating an enforcement action. This is a warning letter.

At the time in question, Section 89503 prohibited Mr. Tatum from accepting gifts from Pacific Holt Corporation in any calendar year with a total value of more than \$360. (See also Regulation 18940.2.)

Based upon our investigation and the information provided with the complaints, it appears that in January 2005, Mr. Tatum may have violated Section 89503 by accepting an over-the-limit gift when he purchased a parcel of land from Pacific Holt Corporation for \$245,000.

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<sup>1</sup> The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. FPPC regulations 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.

Before Mr. Tatum bought the parcel, it was acquired by Merced County (Mr. Tatum's employer) for \$300,000 in 2003. From approximately mid-2004 through the beginning of 2005, Merced County, Pacific Holt Corporation and Mr. Tatum worked out an arrangement whereby Merced County transferred the parcel in question to Pacific Holt Corporation in exchange for a second parcel of equal value ("the replacement parcel") that Pacific Holt Corporation caused to be traded to Merced County, and Pacific Holt Corporation immediately sold the parcel from Merced County to Mr. Tatum for \$245,000. Immediately before the replacement parcel was traded to Merced County for the parcel that was ultimately sold to Mr. Tatum, a third party owned the replacement parcel. Pacific Holt Corporation caused the third party to transfer the replacement parcel to Merced County by paying the third party \$500,000.

Considering that Merced County and Pacific Holt Corporation agreed that both parcels were of equal value, Pacific Holt Corporation's payment of \$500,000 for the replacement parcel created the appearance that Mr. Tatum was paying only \$245,000 for a parcel that was worth \$500,000. However, investigation revealed that some of Pacific Holt Corporation's payment to the third party may have included an option to purchase more land in the future. Nevertheless, your letter of June 30, 2009 (third paragraph of the second page) acknowledged that the actual value of the exchange of the two parcels was \$300,000.

We were unable to obtain contracts or other documents substantiating that a portion of Pacific Holt Corporation's \$500,000 payment to the third party was for an option to purchase more land in the future. However, we obtained a statement from the third party to the effect that of the \$500,000 in question, \$315,000 was for the purchase price of the replacement parcel. On the other hand, we obtained a statement from Pacific Holt Corporation to the effect that the amount attributable to the purchase price of the replacement parcel was approximately \$273,000. Neither the third party nor Pacific Holt Corporation provided corroborating documents.

Additionally, in connection with Mr. Tatum's purchase of the property that Pacific Holt Corporation acquired from Mr. Tatum's employer, a Land Appraisal Report was prepared for County Bank. The report, dated November 11, 2004, stated that the value of the parcel was in the range of \$252,300 to \$336,000. Ultimately, the report estimated the market value of the parcel to be \$255,000, and the report noted: "FINAL OPINION OF VALUE IS OVER SALES PRICE, APPEARS TO HAVE SOLD UNDER MARKET."

Regardless of whether the value of the parcel in question was \$255,000 (per the County Bank appraisal), \$273,000 (per Pacific Holt Corporation), \$300,000 (per your letter), \$315,000 (per the third party) or \$500,000 (based upon the amount that Pacific Holt Corporation paid for the replacement parcel), the difference between the value of the parcel in question and Mr. Tatum's purchase price of \$245,000 appears to be in the range of thousands of dollars and well in excess of the gift limit of \$360.

However, you correctly point out in your letter of June 30, 2009 that property appraisal is an inexact science, and it appears from our investigation that Mr. Tatum did not treat his acquisition of the parcel as a gift because he may have believed that his purchase price of \$245,000 was close to the fair market value of the parcel in question. For future reference, Mr. Tatum may familiarize himself with gift limits and related reporting requirements by reviewing Sections 87200, et seq. (particularly Section 87207), 89503, and Regulation 18940.2. Note that the gift limit is adjusted every odd-numbered year.

Although we have decided not to pursue an enforcement action in this matter, the information in this case will be retained and may be used against Mr. Tatum should an enforcement action become necessary due to newly discovered information and/or Mr. Tatum's failure to comply the Act in the future.

Please note that our Legal Division and Technical Assistance Division can provide advice and assistance for issues which may arise in the future. Mr. Tatum may contact either division by calling our toll-free number: 1-866-ASK-FPPC (1-866-275-3772). Also, Mr. Tatum may refer to the FPPC website at [www.fppc.ca.gov](http://www.fppc.ca.gov) for current information.

Mr. Tatum's cooperation in ensuring that the requirements of the Act are consistently satisfied is greatly appreciated.

Sincerely,



Neal P. Bucknell  
Commission Counsel  
Enforcement Division

cc: Mr. Terry Adams  
Mr. David Corser