FAIR POLITICAL PRACTICES COMMISSION
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January 14, 2010

Tommy Jones
Mayor, City of Los Banos

REDACTED

Warning Letter Re: FPPC No. 08/125, Tommy Jones

Dear Mr. Jones:

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. This letter is in response to a complaint filed against you that alleged that you violated the Act's conflict of interest provisions.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that you voted, on January 19, 2005, to approve Resolution 4578, which adopted the Mitigated Negative Declaration, approved the Mitigated Monitoring Program, and approved the "Village Green Subdivision" and again on February 2, 2005, to pre zone the "Village Green Subdivision" property from General Agricultural to Planned Development.

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 or her official position to influence a governmental decision in which the official knows or has reason to know he or she 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

[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.

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

Under Section 87100, a conflict of interest exists when you, as a public official, make, participate in making, or attempt to use your official position to influence a governmental decision in which you know or have reason to know you have a "financial interest." You have a "financial interest" in a decision, within the meaning of Section 87100, if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on any source of income aggregating $500 or more which you received within 12 months of the decision. (Section 87103, subdivision (a), (b) and (c).) An outstanding loan is considered income for purposes of Section 87103(c) as long as the outstanding balance is greater than $500 and for 12 months after the loan is repaid. (*Jordan* Advice Letter, No. A-85-069).

Based on our investigation into the aforementioned allegations, you were a public official at all times relevant to the complaint, and voted on two separate matters pertaining to a Ranchwood Homes project. The economic interests that we examined included personal loans which you received from Greg and Catherine Hostetler. The value of these loans exceeded $500 and they were repaid in full as of April 16, 2004. The governmental decisions involved Ranchwood Homes, not the Hostetlers personally. Therefore, your economic interests were indirectly involved. The decisions, which furthered the development process, had a foreseeable and material economic effect on your economic interests.

You violated the Act because you made governmental decisions while the Hostetlers were still considered sources of income to you. However, due to the specific circumstances of this case outline above, we have decided to close this case with this warning letter.

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.

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[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.

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

Sincerely,

REDACTED

Zachary W. Norton
Commission Counsel
Enforcement Division