FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

June 23, 2011

Wayne Fishback
REDACTED

Warning Letter Re: FPPC No. 10/863; Wayne Fishback

Dear Mr. Fishback:

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 being sent as a result of an FPPC investigation against you. The FPPC initiated its investigation after receiving several referrals from the California Secretary of State. The referrals alleged that you violated the Act's lobbying reporting provisions.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that you violated the Act by failing to timely file eight required reports.

Section 86115 of the Act provides that lobbyist employers must file periodic reports. Section 82039.5 of the Act defines a lobbyist employer as an entity that either "[e]mploys one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action" or "[c]ontracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense, for the purpose of influencing legislative or administrative action." Section 86117(a) provides that these reports "shall be filed during the month following each calendar quarter." The above-mentioned reports are filed by submitting completed Form 635's to the California Secretary of State.

You violated the Act because it did not file eight required Form 635's. Specifically, you did not file Form 635's for the following quarters: January 1, 2007 through March 31, 2007;

[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 18109 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.

April 1, 2007 through June 30, 2007; July 1, 2007 through September 30, 2007; October 1, 2007 through December 31, 2007; January 1, 2008 through March 31, 2008; April 1, 2008 through June 30, 2008; July 1, 2008 through September 30, 2008; and October 1, 2008 through December 31, 2008. Although you failed to file these required reports, we are closing this matter with a warning letter because you do not have a history of violating the Act, you were inexperienced with filing under the Act and the unreported lobbying activity was minimal.

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.

If you have further questions regarding this matter, please contact Dayna Bryant at 916-322-8222.

Sincerely,

REDACTED

Gary S. Winuk
Chief, Enforcement Division

cc: Gloria Gilmore
Political Reform Division
California Secretary of State

GSW/db