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

August 4, 2010

Alan Bengyel
REDACTED

Warning Letter Re: FPPC Case No. 10/311, Alan Bengyel

Dear Mr. Bengyel:

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 proactive investigation begun against you by the FPPC that alleged you accepted a gift in excess of the limits.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that you accepted a gift from Ecostar USA of travel and meals valued at $4,252. This gift exceeded the $420 gift limit for calendar year 2009. However, we also determined that you were unaware that your travel, on what was apparently agency-approved business paid for by a company that wants to do business with the City of Orange Cove, was subject to the gift limit. The City of Orange Cove approved your travel and informed you that the payment was appreciated because it spared the city expense. City of Orange Cove meeting minutes reflect that you would be traveling at the expense of Ecostar USA. The City Attorney was present at this meeting and did not advise you that the travel was subject to the gift limits. Once you were made aware, by our initial letter to you, of the fact that your travel had exceeded the gift limit, you forwarded a copy of the check paid by the City of Orange Cove to Ecostar USA on July 29, 2010, to reimburse your travel expense.

The Act provides that no individual specified in Section 87200, which includes city managers, shall accept gifts from any single source in any calendar year with a total value of

[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.

more than $250. (Section 89503, subdivision (a).) The $250 gift limit is adjusted biennially to reflect changes in the Consumer Price Index, pursuant to Section 89503, subdivision (f). For calendar year 2009, the applicable gift limit was $420 from a single source in a calendar year. You apparently thought that an exception existed whereby the gift would be a gift to the City of Orange Cove and also apparently you were not warned by the city attorney that this was not, in fact, the case. Regulation 18944.2's exception from the gift limits for gifts to government agencies was recently amended so that it no longer covers third parties' payments for travel by an elected officer or a high-level official listed in Section 87200. (Regulation 18944.2(d)(1).)

Your actions violated the Act because you accepted a gift in excess of $420. However, due to the mitigating circumstances previously identified, we have decided to close this case with a warning letter. Please be aware you will be disqualified for 12 months after receipt of the gift in any decision regarding Ecostar USA.

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 questions regarding this matter, please contact Adrianne Korchmaros at (916) 322-8241.

Sincerely,

REDACTED

Gary S. Winuk, Chief
Enforcement Division

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