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

September 29, 2009

Kevin Faulconer

REDACTED

RE: FPPC No. 06/110; Kevin Faulconer

Dear Mr. Faulconer:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act") found in Government Code Section 81000, and following. As you are aware, the Commission received a complaint against you alleging that you violated conflict of interest provisions of the Act. These allegations referred to your votes regarding the Centre City Redevelopment Project deadline extension on April 4, 2006 and approval of funding for a pedestrian bridge over Harbor Boulevard on May 23, 2006, while a member of the San Diego City Council.

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 governmental decision will have a material financial effect on the official's economic interest.[1] (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,

[1] 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.

distinguishable from its effect on the public generally, on you, a member of your immediate family, or, among other things, on any business entity in which you have an investment interest valued at $2,000 or more, any real property (including leaseholds) in which you have an investment interest valued at $2,000 or more, or 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).)

The economic interests that we examined included two businesses owned by your spouse, and the real property interests associated with those businesses (the leased property). Both businesses are located in excess of 500 feet from the bridge project location. One is located within the City Centre Redevelopment Project boundaries and the other is located outside the project's boundaries. The governmental decisions regarding the bridge project, where neither of your economic interests were directly involved, did not appear to create a reasonably foreseeable financial effect on your economic interests. In addition, while one of the properties lies within the boundaries of the redevelopment project, the second governmental decision mentioned in the complaint does not appear to create a reasonably foreseeable financial effect on your economic interests. The Commission has completed a review of the forgoing allegations and closed this case without finding a violation.

The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act, so if you need forms or manuals, or guidance regarding your obligations, please call the Commission's Technical Assistance Division at 1-866-275-3772. Please also visit our website at www.fppc.ca.gov.

Sincerely,

REDACTED

Zachary W. Norton
Commission Counsel
Enforcement Division