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

September 28, 2009

Kristy and Thomas Sayles
Kristy Sayles for Mayor and Kristy Sayles for City Council

REDACTED

Warning Letter: **Re: FPPC No. 07/531, Kristy Sayles, Kristy Sayles for Mayor, Kristy Sayles for City Council and Thomas Sayles**

Dear Mr. and Mrs. Sayles:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act"),[1] found in Government Code sections 81000, et seq. This letter is in response to a complaint filed against you in 2007 alleging that you violated the campaign reporting requirements of the Act, and that Mrs. Sayles violated the conflict of interest provisions of the Act. Specifically, the complaint alleged that you failed to properly report campaign activities in connection with a 2007 fundraiser, and other reporting errors in connection with loans and expenditures made by your controlled committees - Kristy Sayles for Mayor ("KSM") and Kristy Sayles for City Council ("KSCC").

As the candidate of these campaign committees, Mrs. Sayles is responsible for campaign reporting errors and omissions, and Mr. Sayles, as the designated treasurer of the campaign committees, is likewise responsible for reporting errors and omissions made by the committees.

The conflict of interest allegation stemmed from campaign contributions Mrs. Sayles received from developers who appeared before her during city council matters. Based on our review, the conflict of interest allegation is unfounded. In order for a public official to have a conflict of interest, there must be an economic interest affected by the official's decision-making.

[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.

The complaint alleged that campaign contributions from various developers were a disqualifying source of income to Mrs. Sayles. However, the Act specifically excludes campaign contributions from the definition of income in Section 82030, subdivision (b)(1), and they are not a disqualifying economic interest for conflict of interest purposes.

The complaint also alleged that Mrs. Sayles, KSM and Mr. Sayles failed to report contributions received and expenditures made in connection with a fundraiser held at the Alder Market in March 2007. Based on our review of your campaign filings, the fundraising activities were reported on the semi-annual campaign statement filed on August 20, 2007 for the period of January 1, 2007 through July 31, 2007. This campaign statement should have been for the reporting period January 1, 2007 through June 30, 2007, and filed by July 31, 2007. Although this filing was 20 days late, it appears that the information regarding the fundraiser was properly reported.

The complaint also questioned a $10,000 expenditure on the above campaign statement made to Lucas Business Systems in Modesto, and claimed that you could not have spent this much money on campaign literature. Based on our interview of Mrs. Sayles and our review of your campaign records, it appears that you incurred copying charges in approximately this amount by using the printer at Sayles Construction, the construction company where Mr. Sayles worked, and which was owned by another family member. Mrs. Sayles stated that she thought it would look improper to show a payment to her husband's employer on her campaign filings. You therefore made the $10,000 payment directly to a vendor of Sayles Construction – Lucas Business Systems. You produced records to substantiate that you did incur copying charges equal to this amount for Mrs. Sayles' mayoral campaign. Pursuant to Section 84211, subdivision (k), you should have made the payment directly to Sayles Construction and reported it as such on your campaign statement. Although this allegation is founded, it appears it was an isolated incident and there was little public harm from the misreporting. As such, we have determined not to prosecute you for this violation.

In addition to the above allegations, during the course of our investigation, several minor reporting errors and omissions were discovered. Mrs. Sayles retained legal counsel and agreed to file amended campaigns statements to correct these reporting errors. To date, we have not received copies of these amended filings, but believe that you may have filed them following your interview with Commission staff Teri Rindahl in October 2007. Please forward copies to our office so that we may include them in our investigative file.

Based on the foregoing facts and circumstances, you violated Section 84211, subdivision (k) by failing to make and report an expenditure to the proper source, and by failing to timely file

a semi-annual campaign statement. You also committed other minor reporting errors that were to have been corrected by amended filings.

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 a 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.

Please feel free to contact me at (916) 322-5660 with any questions you may have regarding this letter.

Sincerely,

REDACTED

Melodee A. Malnay
Staff Counsel IV
Enforcement Division

cc: Brian T. Hildreth, Esq.