FAIR POLITICAL PRACTICES COMMISSION
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October 12, 2009

Irene Burkey

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Warning Letter Re: FPPC No. 06/699, Feather River Community College District; and Irene Burkey

Dear Ms. Burkey:

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 violations of the Act's conflicts of interests provisions.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that in October 2004 and in May 2005, you violated the conflicts of interests provisions of the Act as a member of the Board of Trustees for the Feather River Community College District ("FRCCD").

The Act prohibits a public official from making decisions in which he/she has a financial interest. Specifically Government Code Section 87100 of the Act states: "No public official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest." To determine whether an individual has a disqualifying conflict of interests, the FPPC generally employs the following sequenced analysis: 1) was the individual a public official; 2) did the official make, participate in making, or use or attempt to

[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.

use his official position to influence a governmental decision; 3) what are the public official's economic interests; 4) was the economic interest affected by the decision, either directly or indirectly; 5) was the economic interest materially affected by the decision; 6) was it reasonably foreseeable that the economic interest would be materially affected by the decision. (See Regulation 18700.)

Based on the evidence obtained during our investigation, your actions violated the Act because on or about October 28, 2004 and May 26, 2005: 1) you were a member of Board of Trustees for the Feather River Community College District ("FRCCD"); 2) you voted regarding a commercial warrant issued by Feather River College to Chester Community Chorus; 3) you were an officer/director of Chester Community Chorus, and within the 12 months prior to October 28, 2004 and May 26, 2005, you received $500 or more from Chester Community Chorus, which was therefore a source of income to you; 4) Chester Community Chorus was directly involved in the decisions because the commercial warrants were issued to it; 5) the financial effect of the decisions on your economic interest was material; and 6) the material financial effect was reasonably foreseeable. Thus, you had disqualifying conflicts of interests under the Act and should have recused yourself from voting and participating in these matters.

However, upon review of the evidence available, it appears there are mitigating factors. The commercial warrants upon which you voted were issued by Feather River Community College over 30 days prior to the dates of the decisions you made, and there is no evidence suggesting that you were involved in the issuance process. Thus, the public harm in this instance 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.

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

Sincerely,

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Angela J. Brereton
Commission Counsel
Enforcement Division