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

October 30, 2009

Shaun E. Faber

REDACTED

Re: Warning Letter
FPPC Case No. 06/745, Shaun Faber

Dear Mr. Faber:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act")[1]. This letter is in response to a complaint filed with our office alleging two violations of the Act. First, it was alleged that you made, participated in making, or influenced governmental decisions regarding Gregory D. Service of Service Structures, a construction management firm, and Redwood Enterprises, a property management firm. Specifically, it alleges that on four instances you voted on City of Santa Rosa Design Review Board matters during the years 2003 through 2005 and City of Santa Rosa Planning Commission matters during 2005 where you had conflicts-of-interests. Second, the complaint alleges that you failed to disclose income from customers listed on your website on your Statements of Economic Interests ("SEIs"). The Commission has decided to close this case with this advisory letter.

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 official position to influence a governmental decision in which he knows or has reason to know he 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

[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.

involved; and (6) is it reasonably foreseeable that the governmental decision will have a material financial effect on the official's economic interest. (See Regulation 18700.)

As to the first allegation, an official has an economic interest in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on any source of income amounting to $500 or more, received within 12 months preceding the decision. (Section 87103(c); Regulation 18703.3(a)(1).) We have found that in the years 2000 and 2002, your architectural firm received income from Gregory D. Service and/or Service Structures. However, since this income producing activity predates all of the governmental decisions mentioned in the complaint by at least 12 months, you did not have the economic interest in the governmental decisions necessary to cause a conflict of interest.

As to the second allegation that occurred when you were on the Design Review Board, Section 87302 of the Act requires every state and local agency to develop a conflict of interest code. This code must require persons involved in the making or participing in the making of decisions which may foreseeably have a material effect on any financial interest to disclose reportable interests. Public officials are required to file a SEI each year disclosing the reportable economic interests that he or she held during the preceding calendar year. Your actions violated the Act because you did not disclose reportable interests on your annual SEI in 2002. Specifically, on Schedule C of your SEI, you initially failed to report economic interests from the following parties: Energy Compliance Source, Amar & Anita Hanspal, Pinnacle Homes, HCV Investors Inc., Waterford Associates, Rivendale Homes, Tremblay Construction, Alan Strachan, DeAngelis Construction, FCR Construction, Michael & Marianne Dolan, Christopherson Homes, Menlo Oaks Construction, and Cobblestone Homes. However, you did file an amended annual SEI in 2005 with this information before being contacted by the FPPC.

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.

Sincerely

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Ty D. Mooré
Commission Counsel
Enforcement Division