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

November 18, 2009

✓ District Attorney Robert Kochly
Office of the District Attorney
Contra Costa County

REDACTED

Patricia Daniels
Secretary of the District Attorney
Office of the District Attorney
Contra Costa County

REDACTED

RE: **Advisory Letter**
FPPC Case No. 090760; Robert Kochly and Patricia Daniels

Dear Mr. Kochly and Ms. Daniels:

The Fair Political Practices Commission (FPPC) enforces the provisions of the Political Reform Act (the Act) found in Government Code Section 81000, and following. As you are aware, we recently received a sworn complaint alleging that you violated the Act's requirements regarding the Statement of Economic Interests (Form 700) filing officer's duties by placing restrictions on a person requesting statements of economic interests filed with your agency. Additionally, the complaint alleges that you have failed to review the statements, failed to appropriately follow through with late filers and non-filers, and failed to keep a log of filers.

The person or agency that receives and retains original Forms 700 is the "filing officer" under the Act. (GC § 82027.) Each filing officer must assign a specific individual to perform the required duties of the filing officer. (Regulation 18227). The Act gives a board of supervisors the authority to designate an agency to perform filing officer functions and, according to the conflict of interest code for Contra Costa County approved by the Contra Costa County Board of Supervisors, the Office of the District Attorney, with the Secretary of the District Attorney acting as the specific individual fulfilling the duties, is the filing officer for the Forms 700 filed by employees of the District Attorney's office. As the assigned filing officer, Ms. Daniels is required to perform a number of duties with regard to the Form 700, including supplying the form to those required to file, determining whether statements have been filed and conducting reviews of those statements, notifying the filer if

proper statements have not been filed, notifying the filer of any errors or omissions on the form, reporting violations of the Act to appropriate agencies, and keeping a log of all statements filed with the agency. (Regulation 18115, copy enclosed.)

All reports and statements filed pursuant to the Act are public records open for public inspection and reproduction and no conditions whatsoever may be imposed upon persons wanting to inspect or reproduce reports and statements filed under this title nor may any information or identification be required from such persons. (GC § 81008.) Anyone requesting a filed Form 700 may remain anonymous. Requiring a requestor to provide his or her name, information or identification contradicts the specific language of Section 81008 and the policy of protecting the anonymity of requestors so that they are not deterred from requesting particular reports or statements out of fear that their request to see the document will be used against them by a government official or agency. In your agency's procedures for handling requests for the Form 700, you must make clear that requestors are not required to identify themselves. Further, Section 81008 requires that "[e]very report and statement filed pursuant to this title is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practicable, *but in any event not later than the second business day following the day on which it was received.*" (GC § 81008, emphasis added.)

In an effort to prevent further complaints against your agency, we provide this guidance. Failure to comply with the provisions of the Act may result in an enforcement action against you, including monetary penalties of up to $5,000 for each violation.

The FPPC publishes forms and manuals to facilitate compliance with the Act. If you need forms or a manual, or guidance regarding your obligations, please call the FPPC's Toll-Free Advice Line at 1-866-275-3772. Please also visit our website at www.fppc.gov.

If you have questions regarding this matter, please contact us at (916) 322-5660.

Sincerely,

REDACTED

Adrianne Korchmaros
Political Reform Consultant
Enforcement Division

Enclosures

cc:

Elle Falahat
Lynda Cassady, Chief, FPPC Technical Assistance Division
(additional persons copied are listed on the next page)