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

September 1, 2009

Brent Ives

REDACTED

Re: Warning Letter
FPPC Case No. 07/002; Brent Ives

Dear Mr. Ives:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act")[1]. As you may be aware, in addition to your self-reporting to the Commission, we also received a complaint against you alleging violations of the conflict of interest provisions of the Act. Specifically, the complaint alleges that you made and participated in making governmental decisions that had a reasonably foreseeable material financial effect on the clients of your business, BHI Management Consulting ("BHI"), while serving as the Mayor of Tracy from 2000 through 2006. The Commission has decided to close this case with this warning 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 her official position to influence a governmental decision in which she knows or has reason to know 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.[2] (See Regulation 18700.)

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[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 18110 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.

[2] 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.

As the Mayor of Tracy during this time, you were a public official under the Act. (Sections 82048 and 87200.) By voting and participating in discussions during city council meetings, you made and participated in making governmental decisions. According to our investigation, you had economic interests in several companies doing business in Tracy through BHI. However, many businesses, including some of those listed in the complaint, appeared to be economic interests of yours because you listed them as clients on BHI's website, even though they did not in fact meet the threshold to qualify as an economic interest under the Act.

In this matter, the allegations in the complaint and the testimony you provided to the Commission, depict a conflict of interest you had when you voted and participated in discussions to allow Tracy Auto Land LLC to expand the Tracy Toyota parking lot in exchange for making improvements to the public portions of the property in December 2002. At the time of the vote and discussion, Tracy Toyota was an economic interest of yours. This was a violation of Government Code Section 87100. Additionally, as you discovered during your meeting with the Commission in December 2006, you had incorrectly reported the income received through your business in violation of Government Code Section 87203. Immediately following that meeting, you amended your Statements of Economic Interests to correctly report your income. Additionally, since 2004, you have taken steps to assure that you no longer have clients within the jurisdiction in order to avoid future conflicts of interest. Taking into consideration many factors, including those listed above and the fact that you do not have a history of violating the Act, we are closing this matter with a warning letter.

This letter serves as a written warning. You are advised that failure to comply with the provisions of the Act in the future could result in an enforcement action. Additionally, the information in this case will be retained, and may be used should an enforcement action later become necessary based on future conduct and/or newly discovered information. 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.

The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act and provides guidance regarding filing obligations over the telephone and through written advice. 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. If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,

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Galena West
Senior Commission Counsel
Enforcement Division