



September 5, 2023

Sarah Lang
On behalf of Linda Austin
Sent via email: slang@bmhlaw.com

Re: Warning Letter re: FPPC No. 2018-0458, In the Matter of Linda Austin

Dear Sarah Lang:

The Enforcement Division of the Fair Political Practices Commission (“FPPC”) enforces the provisions of the Political Reform Act (the “Act”).¹ As you are aware, the Enforcement Division received numerous sworn complaints against your client, Linda Austin, in her capacity as a member of the Oceano Community Services District Board (“OCSD”) and the South San Luis Obispo County Sanitation District Board (“SSLOCSB.”) The complaints included allegations that your client failed to fully and accurately disclose some financial interests on Statements of Economic Interests. In addition, the complaints alleged that Austin had conflicts of interest when making decisions as a Board member of the two Boards because of her interests in several real properties in the jurisdictions. The Enforcement Division has completed its investigation of the facts of this case. There is insufficient evidence that a conflict of interest has occurred. However, there is evidence that Austin failed to report at least three parcels on Austin’s 2020 candidate SEI and Annual SEI and failed to disclose some pass-through income on an SEI.

No public official at any level of state or local government may make, participate in making, or in any way attempt to use their official position to influence a governmental decision in which the official knows or has reason to know they have a financial interest.² A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on the official, the official’s immediate family, or on the official’s financial interest or interests.³

As a Board Member of the OCSD and SSLOCSB, Austin has made many governmental decisions, including voting on Intent to Serve letters, recommendations to staff regarding the direction of the Districts, improvements to infrastructure, and more. In general, the complainant made allegations that Austin was conflicted from making decisions related to the business of the Boards because of Austin’s real property interests in the jurisdiction and within close proximity to facilities or infrastructure owned by the Districts. The investigation determined that though Austin owns real property in the district, there is insufficient evidence to show that these decisions would have a unique or special effect on Austin’s real property interests. The decisions at issue involved improvements to flood control, backup facilities in the event of a failure in a primary piece of

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Section 87100.

³ Section 87103.

infrastructure, and other projects designed to improve access to clean, reliable water. These decisions benefit the entire district and local community. As such, there is insufficient evidence that Austin had a conflict of interest.

Section 87300 of the Act requires every state and local agency to develop a Conflict of Interest Code. This Code requires individuals who participate in making decisions that may foreseeably have a material financial effect on any financial interest belonging to that person to disclose all reportable interests on SEIs.⁴ Individuals required to file SEIs must file within 30 days of assuming office, annually thereafter at the time specified by the Code, and within 30 days of leaving office.⁵ In addition, candidates for such positions must file an SEI to disclose the financial interests received during the immediately preceding 12 months.⁶

Your client violated the Act by failing to disclose three real property interests and failing to disclose some pass-through sources of income. Specifically, you provided information that Austin had a partial interest in a pasture on Silver Spur Place, referred to as parcel 061-161-024; a vacant lot, referred to as parcel 061-011-013; and the address 2000 Delta Street, referred to as parcel 061-161-010. In response to a complaint, Austin amended her 2019 Form 700 to disclose parcel 061-011-013 but did not disclose the other two parcels. In addition, Austin failed to disclose some pass-through sources of income on her 2020 Candidate and Annual SEI. Austin worked with the filing officer to correct the disclosures. With respect to the finding of violations, the Enforcement Division has determined that mitigating circumstances exist here. Austin was cooperative with the investigation and promptly made amendments in response to the complaints or the inquiry from the Enforcement Division. In addition, Austin has no prior history of enforcement actions. Based on the foregoing, and in accordance with the Enforcement Division Policy Directives formally adopted by the Commission on January 26, 2023, which requires the Enforcement Division to take all appropriate actions within their discretion to decrease the Division's annual carryover caseload, the Enforcement Division is closing this case with this warning letter.⁷ This resolution may not be used as a comparable case for other enforcement matters.⁸

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 Enforcement Division case resolution without administrative prosecution or fine. The Commission has adopted Regulation 18360.1 to authorize the Enforcement Division to issue warning letters to conclude cases in specified circumstances. 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 Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning,

⁴ Section 87302, subd. (b).

⁵ *Ibid.*

⁶ Section 87302.3

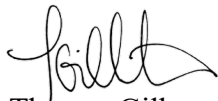
⁷ <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

⁸ See Regulation 18361.5, subdivision (e)(3).

please notify us within ten (10) days from the date of this letter. Upon this notification, the Enforcement Division 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 Commission's website ten (10) days from the date of this letter.

If you have any questions regarding this letter, please contact Theresa Gilbertson at tgilbertson@fppc.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Gilbertson', with a stylized, flowing script.

Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

CC: Julie Tacker, sworn complainant
Jeffrey Minnery, attorney for OCSD