STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

December 18, 2024

Brian Hildreth
On behalf of John Peschong
Via email: bhildreth@bmhlaw.com

Re: No Action Closure Letter: FPPC Case No. 2020-00968, In the Matter of John Peschong

Dear Mr. Hildreth,

The Enforcement Division of the Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act.[1] This letter arises from three sworn complaints alleging that John Peschong had a conflict of interest when voting on a campaign finance ordinance in his capacity as a member of the San Luis Obispo Board of Supervisors. Specifically, the complaints alleged that Peschong had a conflict due to his financial interest in Meridian Pacific, Inc., a political consulting firm. After a review of the available evidence, the Enforcement Division is closing our investigation in this matter due to insufficient evidence of a violation.

No public official at any level of state or local government may make, participate in making, or in any way attempt to use her official position to influence a governmental decision in which she knows or has reason to know she has a financial interest.[2] A public official has a financial interest in a decision if it is reasonably foreseeable the decision will have a material financial effect on the official's financial interest, such as a business entity.

To determine if a public official's participation in a governmental decision is a conflict of interest, there is a determination of the reasonable foreseeability that the governmental decision will have a financial effect on the official's financial interest.[3] For interests that are not explicitly involved in the decision, the effect must be a realistic possibility and more than theoretical or hypothetical. Factors to consider are the extent to which the occurrence is contingent upon intervening events, whether the official should anticipate a financial effect when using appropriate due diligence and care, and whether the interest is the type that would typically be affected by the governmental decision.[4]

Then, there is a determination as to whether the reasonably foreseeable financial effect will be material.[5] When the effect is considered material, there is a conflict of interest. A governmental

[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] Regulation 18701.
[4] Regulation 18701, subdivision (b).
[5] Regulation 18700, subdivision (d)(2).

decision will have a material effect on a business entity if the governmental decision would result in an increase or decrease of the entity's annual gross revenues, or the value of the entity's assets or liabilities, in an amount equal to or more than: a) $1,000,000 or b) five percent of the entity's annual gross revenues and the increase or decrease is at least $10,000.[6] Additionally, a governmental decision will have a material effect on a business entity if the governmental decision would cause the entity to incur or avoid additional expense or to reduce or eliminate expenses in an amount equal to or more than: 1) $250,000 or 2) one percent of the entity's annual gross revenues and the change in expenses is at least $2,500.[7]

In 2020, the San Luis Obispo Board of Supervisors considered and passed an ordinance to set the contribution limit for county elective offices to $25,000. This limit would supersede the state's default limit for certain local elected officials. At the time, that limit was $4,700. This ordinance would apply to candidates for the Board of Supervisors, County Assessor, District Attorney, Auditor-Controller-Treasurer-Tax Collector-Public Administrator, Clerk Recorder, and Sheriff-Coroner. The Board considered the ordinance on October 20, 2020, November 10, 2020, November 17, 2020, and then passed the ordinance on November 20, 2020.

Peschong has a financial interest in the business entity, Meridian Pacific, Inc., a political consulting firm active in California elections. The first step in determining if there is a conflict of interest is to assess whether it is reasonably foreseeable that the decision will have a financial effect on the interest. Here, for purposes of this letter, the Enforcement Division assumes that there would be a reasonably foreseeable financial effect of passing the ordinance.

The next step would be to determine whether the financial effect will be material. As discussed above, to cause a conflict of interest, the decision would have to result in an increase or decrease in the entity's annual gross revenues in a specific dollar amount. The Enforcement Division has determined that there is insufficient evidence that the governmental decision would have a measurable impact on Meridian Pacific's annual gross income. A contribution limit could potentially have an impact on a committee's fundraising strategy. A smaller contribution limit may result in needing to fundraise from a larger pool of contributors. However, it is unlikely that a contribution limit would force a consulting firm to change the cost of the personal services for consulting on a campaign. Further, Meridian Pacific is a large organization that operates state-wide, that works with many different types of organizations, including ballot measure committees, federal committees, water districts, political action committees, and nonprofits. In addition, the County's ordinance only impacts county elective offices. This is a discrete group of potential committees and not a sweeping change to how most committees would do business.

In addition to the above complaint, the Enforcement Division also received a complaint alleging that Peschong failed to report income from Redistricting Partners LLC. The Enforcement Division found insufficient evidence to support this claim.

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[6] Regulation 18702.1, subdivision (a)(2).

[7] Regulation 18702.1, subdivision (a)(3).

Based on the foregoing, we have closed our investigation in this matter. If you have any questions regarding this matter, please feel free to contact me at (279) 237-5960.

Sincerely,

Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

CC: Sworn Complainants, Malcom McEwen, Environment in the Public Interest and Gordon Hensley, and Amy Malak.