



FAIR POLITICAL PRACTICES COMMISSION

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March 20, 2007

Mark Nemanic
Executive Director
Tri-County Economic Development Corp.
3120 Cohasset Road, Suite 5
Chico, California 95973

**RE: Your Request for Advice
Our File No. A-07-032**

Dear Mr. Nemanic:

This letter is in response to your request for advice on behalf of Gary Freeman, a board member of Tri-County Economic Development Corp., regarding the application of provisions of the Political Reform Act (the "Act").¹

QUESTION

Does the one-year ban of section 87406.3 apply to former county board of supervisor Freeman's appearances before that board on behalf of the Central Sacramento Valley Resource Conservation and Development Council?

CONCLUSION

The one-year ban does not apply in this situation because the former supervisor serves on the council without compensation. Accordingly, he is not prohibited from making appearances before or communicating with the county board of supervisors, or any officer or employee thereof, on behalf of the council.

FACTS

Gary Freeman, a board member of the Tri-County Economic Development Corporation ("Tri-County EDC"), also serves as president of the Central Sacramento Valley Resource Conservation and Development Council (the "Council"). He was first appointed to the Council in his capacity as a member of a county board of supervisors.

¹ Government Code sections 81000-91014. Commission regulations appear at title 2, sections 18109-18997, of the California Code of Regulations.

At the last election, he was not re-elected to the county board of supervisors, but he has expressed a wish to remain as president of the Council. Tri-County EDC wishes to sponsor Mr. Freeman's membership on the Council so that he may continue serving as its president. He receives no compensation whatsoever for his positions with the Council or Tri-County EDC.

In our telephone conversation of March 5, 2007 you advised that the Council was formed out of the concerns of local public agencies of small rural jurisdictions for the preservation of resources; that the principal purpose of the Council is to promote conservation, development and utilization of resources while creating economic growth and opportunities; and that funding comes from the federal government. Creation of the Council was authorized by the United States Secretary of Agriculture pursuant to sections 1528 – 1538 of the Agriculture and Food Act of 1981. You also advised that any appearances before or communications with the county board of supervisors by Mr. Freeman will be on behalf of the Council.

ANALYSIS

The Act prohibits specified officials, for one year after leaving office, from being paid to communicate with or appear before their former agency for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding or revocation of a permit, license, grant, contract or the sale of goods or property. Section 87406.3(a) specifically provides that a local elected official shall not, "for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, *for compensation*, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that local government agency, or any committee, subcommittee, or present member of that local government agency, or any officer or employee of the local government agency, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property." (Emphasis added.)

Section 87406.3 applies to Mr. Freeman because he was a local elected official. You state that Mr. Freeman was an appointed member of the Council when he was a county supervisor. Now he wishes to remain on the Council as an appointee of Tri-County EDC. The question you present is whether section 87406.3 applies to Mr. Freeman's appearances before the county board of supervisors now that he is no longer on the board. You indicate that Mr. Freeman will receive no compensation, not even a per diem, for his service on the Council. Accordingly, the one-year prohibition of section 87406.3 does not prohibit him from making appearances before or communicating with the county board of supervisors, or any officer or employee thereof, on behalf of the Council.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca
General Counsel

A handwritten signature in black ink, appearing to read "Valentina Joyce", written in a cursive style.

By: Valentina Joyce
Counsel, Legal Division

VJ:jgl

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