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CITY ATTORNEY

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September 22, 2009

The Honorable Jack M. Jacobson, Presiding Judge  
Stanislaus County Superior Court  
Post Office Box 3488  
Modesto, California 95353

Re: Stanislaus County Civil Grand Jury Case No. 09-16-C

Your Honor:

The Turlock City Council and I submit to you the following responses to the findings and recommendations received from the Stanislaus County Civil Grand Jury on June 29, 2009, regarding the above-reference case number:

### FINDINGS

The Respondent has reviewed the findings which are based upon the grand jury's investigation. The grand jury report identifies the method of investigation to include the following:

- Interviews, review of printed State doctrines, "*Fair Political Practices Commission*"
- Review of printed materials, confidential memos
- Council Member's completed California Form 410, "*Statement of Organization Recipient Committee*" for elected officials
- The California "*Common Law Conflict of Interest Doctrine*"
- The California "*Financial Conflict of Interest Doctrine*"

The Respondent has not had access to the investigative material upon which the following findings are based. Therefore, Respondent is unable to agree or disagree with those findings.

- The attorney of record for the business in question was found not to be the Turlock Council Member's campaign manager.
- Often the perception of wrongdoing is greater than the offense itself. This appears to be the case here; wherein no actual wrongdoing was found to exist, the perception of wrongdoing does exist.
- No evidence exists to support the Common Law Conflict of Interest complaint regarding the actions concerning the Turlock Council Member
- The Council Member's actions at no time compromised the good standing of the Turlock City or the City Council as a whole.

The respondent agrees with the following findings:

- The Turlock City Attorney advised the Council Member that she may have a potential common law conflict.
- The financial conflict of interest is easy to understand; however, this was never an issue. The Common Law Conflict of Interest doctrine is somewhat broader in scope and subject to varied interpretations.
- The decision to recuse one's self is of great importance to every elected or appointed official. An elected officer holder must act with unquestioned integrity at all time, ensuring the public trust.
- The Turlock City Council Member should have recused herself to avoid any perception of wrongdoing.

### **RECOMMENDATIONS AND RESPONSES**

1. The Turlock City Attorney's responsibilities should include the maintaining of revisions and updates of material addressing *Common Law and Financial Conflict of Interest* doctrines.

#### **RESPONSE**

This recommendation has been implemented. The City Attorney has and will continue to maintain revisions and updates of material addressing *Common Law and Financial Conflict of Interest* doctrines. The City Attorney maintains the following Library of material regarding the *Common Law and Financial Conflict of Interest* doctrines:

1. Deciding When Not to Participate in an Agency Decision: Abstentions and Disqualifications
2. Everyday Ethics for Local Officials: How Your Agency Counsel Should Advise You When Agency Contracts Represent a Conflict of Interest
3. Institute for Local Government (ILG) – (1) Key Ethics Law Principles, (2) Doing the Right Thing, Putting Ethics Principles into Practice in Public Service, (3) The Gift that Keeps on Giving: Changes to the Gift Rules, Part 1 and 2
4. ABCs of Open Government Laws
5. Conflicts of Interest (Office of the Attorney General)
6. Open & Public IV: A Guide to the Ralph M. Brown Act
7. Turlock City Council Code of Conduct (February 2007)
8. Of Cookie Jars and Fishbowls: A Public Official's Guide to Use of Public Resources

2. The Turlock City Attorney should be responsible for distributing this information to all elected and appointed officials bi-annually.

**RESPONSE**

This recommendation has been implemented in part as follows: The City Attorney has distributed the above-referenced material to each elected official but will expand this practice to include appointed officials.

3. The Turlock City Attorney should create and maintain a log which verifies that all elected and appointed officials received materials detailing *Common Law and Financial Conflict of Interest* doctrines. Verification of receipt shall be confirmed by each elected or appointed official's signature.

**RESPONSE**

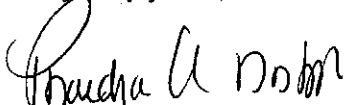
This recommendation has been implemented. The attached receipt and acknowledgement form has been developed and each elected and/or appointed official will be required to execute the attached document upon receipt of the materials identified therein.

4. The Turlock City Council should provide oversight to the Turlock City Attorney regarding the above recommendations.

**RESPONSE**

The recommendation has been implemented. The City Council provides direct oversight to the City Attorney because the City Attorney directly reports to the City Council. Based upon the foregoing, no additional oversight is required.

Very truly yours,

  
PHAEDRA A. NORTON  
Turlock City Attorney

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**ACKNOWLEDGEMENT OF RECEIPT  
OF MATERIALS REGARDING  
COMMON LAW AND FINANCIAL  
CONFLICT OF INTEREST DOCTRINES**

I, \_\_\_\_\_, a \_\_\_\_\_ of the City of Turlock, have been provided the following documents by the City Attorney for my information and use with regard to understanding and applying Common Law and Financial Conflict of Interest Doctrines.

I verify am in receipt of:

1. Deciding When Not to Participate in an Agency Decision: Abstentions and Disqualifications
2. Everyday Ethics for Local Officials: How Your Agency Counsel Should Advise You When Agency Contracts Represent a Conflict of Interest
3. Institute for Local Government (ILG) – (1) Key Ethics Law Principles, (2) Doing the Right Thing, Putting Ethics Principles into Practice in Public Service, (3) The Gift that Keeps on Giving: Changes to the Gift Rules, Part 1 and 2
4. ABCs of Open Government Laws
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7. Turlock City Council Code of Conduct (February 2007)
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Dated: \_\_\_\_\_, 2009

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