

November 17, 2021

Subject: Comment Agenda Item 6 – Matter of Charles Grace; FPPC No. 20/416

Dear FPPC Commissioners and Staff,

The action being taken by the commission in this stipulation order is warranted and necessary.

Section 1090 like other laws is there to protect the citizens of the state, in this case, from self-dealing.

The stipulation summarizes Section 1090. Excerpts follow:

“The statute is more concerned with what might have happened than with what actually happened; Section 1090 prohibits even the appearance of impropriety.”

“Section 1090 protects the actual integrity of the public treasury—as well as the perceived integrity. “As a result, liability—even criminal liability—can accrue without ‘actual fraud, dishonesty, unfairness or loss to the governmental entity.’” (See People v. Superior Court (Sahlolbei), supra, 3 Cal.5th at p. 239— citing People v. Honig (1996) 48 Cal.App.4th 289, 314.)”

“A contract made in violation of Section 1090 “is void, not merely voidable.” (Thomson v. Call (1985) 38 Cal.3d 633, 646, fn. 15. Emphasis in original. Also, see Carson Redevelopment Agency v. Padilla (2006) 140 Cal.App.4th 1323, 1331 [when Section 1090 is violated, the agency is entitled to recover any compensation that it paid, and the courts will not entertain any rights growing out of the contract—not even quantum meruit or quantum valebat].)”

Relative to harm the stipulation states:

“There is public harm inherent when a public official is acting on both sides of a transaction, as is the case here. Such actions erode the trust the public has in their governmental officials and contractors. Therefore, a high penalty is appropriate.”

The stipulation continues:

“The second factor is the level of experience of the violator with the requirements of the Political Reform Act. In his role as general manager for a public agency, Grace has filed Form 700s, or Statements of Economic Interest, since at least 2011. Grace is or should be familiar with the conflict-of-interest provisions of the Act and of Government Code Section 1090.”

Here we see the FPPC acknowledge that Grace was acting in his role as San Simeon CSD General Manager and that Grace filed his annual Statements of Economic Interest, Form 700's, since at least 2011.

Until most recently, Grace filed the Form 700's as General Manager of San Simeon CSD. Then as District Attorney and FPPC investigations became active, he changed his position on the form to “Consultant/Contractor”, no longer as the San Simeon CSD General Manager.

Then comes the most disturbing surprise. In a letter from the San Luis Obispo County District Attorney's Office dated September 21, 2021, Charles Grace's attorneys have gone to considerable length with supporting legal detail to make the following statement:

"Mr. Grace himself is not now, nor has he ever been, SSCSD's General Manager as defined by the Community Services District Law" [Emphasis Added]

For years, all believed Grace was the SSCSD General Manager. At every SSCSD Board meeting he represented himself as the District's General Manager. County, state, and federal agencies believed he was the official San Simeon CSD General Manager. Contracts, grants, and other documents were signed by Grace as the SSCSD General Manager. Community members and businesses may have received violations and other actionable letters and warnings etc. signed by Charles Grace the General Manager of San Simeon CSD. There is even video recorded evidence of him standing before the full California Coastal Commission introducing himself as the San Simeon CSD General Manager. Now, Grace says that he was never SSCSD's General Manager.

The Form 700's are formal and important legal documents supporting Grace's representation as the San Simeon CSD General Manager. A reasonable person seeing one of these earlier Form 700 documents, signed under the penalty of perjury, would believe that in fact he was the San Simeon CSD General Manager based on the Form 700's alone.

Now, the community has found out via the District Attorney's investigation and Charles Grace and his attorney's statements as documented above, that he was never the San Simeon CSD General Manager.

If that was not enough to erode trust, it was discovered that on August 27, 2021 Grace amended prior years Form 700's back to 2013 changing his district position from General Manager to "Consultant/Contractor." How is this even legal? These changes have not been disclosed to the community.

Under Government Code Section 61050, a Community Services District is required to appoint a General Manager as an Officer of the CSD to operate legally as a CSD.

Now we find out that Charles Grace was never really the San Simeon CSD General Manager. That means Charles Grace left the district operating outside the law for years without a legally required Officer being a General Manager. This also violates the San Simeon CSD Conflict of Interest Code that requires a Form 700 for the General Manager.

How can the community move forward with trust and respect in its governance, contractors, and the law until these irregularities are addressed and openly resolved?

What is happening here in San Simeon is wrong and if allowed to continue will set one bad precedent.

As a resident of San Simeon CSD, it is believed that an approval of the stipulation order on today's agenda will be the first step in righting the wrongs and harm done to our community.

The work of FPPC staff and the commissioners is greatly appreciated.

Respectfully,

A handwritten signature in black ink, appearing to read "Henry Krzciuk". The signature is written in a cursive, flowing style.

Henry Krzciuk
San Simeon Resident