

1 GARY S. WINUK
Chief of Enforcement
FAIR POLITICAL PRACTICES COMMISSION

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6
7 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

8 **STATE OF CALIFORNIA**

9
10 In the Matter of) FPPC No. 10/806
11)
12) STIPULATION, DECISION and
CLAUDIA CHANDLER,) ORDER
13)
14 Respondent.)

15 Complainant Gary S. Winuk, Chief of the Enforcement Division of the Fair Political Practices
16 Commission, and Respondent Claudia Chandler, hereby agree that this Stipulation will be submitted for
17 consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

18 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
19 matter and to reach a final disposition without the necessity of holding an administrative hearing to
20 determine the liability of Respondent.

21 Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural
22 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Section 18361.1
23 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
24 the right to personally appear at any administrative hearing held in this matter, to be represented by an
25 attorney at Respondent's own expense, to confront and cross-examine all witnesses testifying at the
26 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
27 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

1 It is further stipulated and agreed that Respondent Claudia Chandler violated the Political
2 Reform Act by participating in governmental decisions in which she had a financial interest, in violation
3 of Section 87100 (2 counts), as described in Exhibit 1, which is attached hereto and incorporated by
4 reference, as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this
5 matter.

6 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
7 Respondent also agrees to the Commission imposing upon her an administrative penalty in the amount
8 of Six Thousand Dollars (\$6,000). A cashier's check from Respondent in said amount, made payable to
9 the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
10 administrative penalty, to be held by the State of California until the Commission issues its Decision and
11 Order regarding this matter. The parties agree that in the event the Commission refuses to accept this
12 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
13 meeting at which the Stipulation is rejected, all payments tendered by Respondent in connection with
14 this Stipulation shall be reimbursed to Respondent. Respondent further stipulates and agrees that in the
15 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
16 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
17 disqualified because of prior consideration of this Stipulation.

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19 Dated: _____

Gary S. Winuk, Chief, Enforcement Division
Fair Political Practices Commission

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22 Dated: _____

Claudia Chandler

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2 **DECISION AND ORDER**

3 The foregoing Stipulation of the parties “In the Matter of Claudia Chandler, FPPC No. 10/806,”
4 including all attached exhibits, is hereby accepted as the final Decision and Order of the Fair Political
5 Practices Commission, effective upon execution below by the Chairman.

6
7 IT IS SO ORDERED.

8
9 Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Claudia Chandler (Respondent) was the Chief Deputy Director of the California Energy Commission (CEC) for the relevant periods of this Exhibit, 2009-2010. As a public official, as defined in Government Code Section 82048 Ms. Chandler was prohibited by Government Code §87100 of the Political Reform Act¹ (the “Act”) from making, participating in making, or attempting to use her official position to influence any governmental decision in which she had a material financial interest.

As required by the Act, public officials must file a SEI by April 1 of each year.² On the SEI, the public official must disclose the reportable economic interests that he or she held during the preceding calendar year. Among sources of income that must be disclosed are sources of income resulting from investments. Government Code §87203.

In this matter, Respondent impermissibly made and participated in two governmental decisions in which she had a financial interest. For the purposes of this Stipulation, Respondent’s violations of the Act are stated as follows:

- **COUNT 1:** From on or about April 2009 to on or about July 2009. Respondent participated in a government decision, the awarding of a contract from the CEC to Cambria Solutions, a company in which she had a personal financial interest through her community property interest in her husband’s business, while an employee of the California Energy Commission (CEC). During this period, Respondent’s husband received income in excess of \$1,000 from Cambria Solutions.
- **COUNT 2:** From on or about August 2010 to on or about September 2010, Respondent participated in a government decision, the awarding of a contract from the CEC to Cambria Solutions, a company in which she had a personal financial interest through her community property interest in her husband’s business, while an employee of the California Energy Commission (CEC). During this period, Respondent’s husband received income in excess of \$1,000 from Cambria Solutions.

SUMMARY OF THE LAW

Conflicts of Interest

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Unless April 1 falls on a Saturday, Sunday, or official holiday, in which case the filing deadline is extended to the next regular business day. (Regulation 18116.)

The primary purpose for the conflict-of-interest provisions of the Act is to ensure that, “public officials, whether elected or appointed, perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.” (Section 81001, subdivision (b).)

In furtherance of this goal, Section 87100 prohibits a public official from making, participating in making, or in any way attempting to use his or her official position to influence a governmental decision in which the official knows, or has reason to know, that he or she has a financial interest. Under Section 87103, 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 an economic interest of the official. For purposes of Sections 87100 and 87103, there are six analytical steps to consider when determining whether an individual has a conflict-of-interest in a governmental decision.³

First, the individual must be a public official as defined by the Act. Section 82048 defines “public official” to include a member of a local governmental agency.

Second, the official must make, participate in making, or attempt to use his or her official position to influence a governmental decision. Under Regulation 18702.1, a public official “makes a governmental decision,” except as provided in 2 Cal. Code Regs. section 18702.4, when the official, acting within the authority of his or her office or position: (1) Votes on a matter; (2) Appoints a person; (3) Obligates or commits his or her agency to any course of action; or (4) Enters into any contractual agreement on behalf of his or her agency.

Under Regulation 18702.2, a public official “participates in making a governmental decision” when the official negotiates with a governmental entity or private person regarding specified types of governmental decisions, including the issuance, denial, suspension or revocation of any permit, license, application, certificate, approval order, or similar authorization and entitlement. Further, Regulation 18702.2 provides that a public official “participates in making a governmental decision” when the official advises or makes recommendations to the decisionmaker either directly or without significant substantive review by 1. Conducting research or making any investigation which requires the exercise of judgment on the part of the official and the purpose of which is to influence a government decision, including the issuance, denial, suspension or revocation of any permit, license, application, certificate, approval order, or similar authorization and entitlement, or 2. Preparing or presenting any report, analysis, or opinion, orally, or in writing, which requires the exercise of judgment on the part of the official and the purpose of which is to influence a governmental decision, including the issuance, denial, suspension or revocation of any permit, license, application, certificate, approval order, or similar authorization and entitlement.

Third, the official must have an economic interest that may be financially affected by the governmental decision. Under Section 87103, A public official has a financial interest in a

³ Neither the Public Generally Exception (Section 87103, Regulation 18707) nor the Legally Required Participation Exception (Section 87101, Regulation 18708) apply to this case.

decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family

Under Government Codes Section 82030, the term “income” includes a community property interest in any income of a spouse. Under Regulation 18703.3. a public official has an economic interest in any person from whom he or she has received income aggregating five hundred dollars (\$500) or more within 12 months prior to the time when the relevant governmental decision is made.

Fourth, it must be determined if the economic interest of the official is directly or indirectly involved in the decision. Under Regulation 18704.1. a person, including business entities, sources of income, and sources of gifts, is directly involved in a decision before an official's agency when that person, either directly or by an agent initiates the proceeding in which the decision will be made by filing an application, claim, appeal, or similar request

Fifth, under Regulation 18705.3 any reasonably foreseeable financial effect on a person who is a source of income to a public official and who is directly involved in a decision before the official’s agency is deemed material.

Sixth, it must have been reasonably foreseeable, at the time the governmental decision was made, that the decision would have a material financial effect on the economic interest of the official. Under Regulation 18706, subdivision (a), a material financial effect on an economic interest is reasonably foreseeable if it is substantially likely that one or more of the materiality standards applicable to the economic interest will be met as a result of the governmental decision. Whether the financial consequences of a decision are “reasonably foreseeable” at the time of a governmental decision depends on the facts of each particular case.

SUMMARY OF THE FACTS

Respondent Claudia Chandler (Respondent) was the Chief Deputy Director of the California Energy Commission during the period in question in this Exhibit, from 2009-2010. Respondent’s husband, Ralph Chandler, owned Ralph Chandler and Associates, a consulting company. As disclosed on Respondent’s Statements for Economic Interests for calendar years 2009 and 2010, Cambria solutions was a source of income in excess of \$1,000 but under \$10,000 to Ralph Chandler and Associates.

In April through June 2009 Respondent participated in a CEC IT Purchase Order (IT Purchase order 08.409.00-015) by sitting on the CEC contract evaluation team for the Purchase Order. The team recommended the awarding of the Purchase Order to Cambria Solutions. This contract was in the amount of \$333,813 and was ultimately approved by a vote of the five member Energy Commission.

In August through September 2010, Respondent participated in a solicitation for bid for a CEC contract (Solicitation #150-10-101). Respondent was involved in the contract by participating in development of the scope of work and in development of the procurement authorizations and

Disabled Veteran Business Enterprise (DVBE) exemption that was a part of the contract. Ultimately, the contract was subject to a protest by a competing bidder to Cambria Solutions, and a protest over Respondent's involvement in the contracting process and was not executed. This contract was in the amount of \$249,999.

COUNT 1

MAKING A GOVERNMENTAL DECISION IN WHICH THE OFFICIAL HAS A FINANCIAL INTEREST

1. Respondent Was a Public Official as Defined by the Act

As the Chief Deputy Director of the California Energy Commission for the period in question, 2009 through 2010, Respondent was a public official as defined in Section 82048, and was therefore subject to the prohibition against participating in a decision in which she has a financial interest under Section 87100.

2. Respondent Participated in a Governmental Decision

In April through June 2009 Respondent participated in a CEC IT Purchase Order (IT Purchase order 08.409.00-015) by sitting on the CEC contract evaluation team for the Purchase Order. As the only bidder, the team recommended the awarding of the Purchase Order to Cambria Solutions. Consequently, Respondent participated in a governmental decision for purposes of Regulation 18702.2.

3. Respondent Had an Economic Interest in Cambria Solutions

During this period, Respondent's spouse's business received income from Cambria Solutions in an amount over \$1,000 but less than \$10,000. Because Respondent has a community property interest in the income of her spouse, Respondent had an economic interest in Cambria Solutions.

4. Respondent's Economic Interest Was Directly Involved in the Decision

Cambria Solutions was directly involved in the decision as a bidder for the contract in question.

5. Applicable Materiality Standard

Respondent's spouse received income in excess of \$500 from Cambria Solutions. Because Cambria Solutions was directly involved in the decision as a bidder for the contract, the effect of the decision made by Respondent regarding IT Purchase Order (IT Purchase order 08.409.00-015) resulted in a material economic interest.

6. It Was Reasonably Foreseeable That the Applicable Materiality Standard Would Be Met

The governmental decision in question involved the awarding of a contract valued at \$333,813 to Cambria Solutions by CEC. Thus it was reasonably foreseeable that there would be a material financial effect on an economic interest.

By participating in a governmental decision in which she had a financial interest, Respondent violated section 87100 of the Act.

COUNT 2

MAKING A GOVERNMENTAL DECISION IN WHICH THE OFFICIAL HAS A FINANCIAL INTEREST

1. Respondent Was a Public Official as Defined by the Act

As the Chief Deputy Director of the California Energy Commission for the period in question, 2009 through 2010, Respondent was a public official as defined in Section 82048, and was therefore subject to the prohibition against participating in a decision in which she has a financial interest under Section 87100.

2. Respondent Participated in a Governmental Decision

In April through June 2009 Respondent participated in CEC contract (Solicitation #150-10-101) by influencing the scope of work and by making decisions involving the procurement authorizations and Disabled Veteran Business Enterprise (DVBE) exemption that was a part of the contract. The contract selection team recommended the awarding of the Purchase Order to Cambria Solutions. Consequently, Respondent participated in a governmental decision for purposes of Regulation 18702.2.

3. Respondent Had an Economic Interest in Cambria Solutions

During this period, Respondent's spouse's business received income from Cambria Solutions in an amount over \$1,000 but less than \$10,000. Because Respondent has a community property interest in the income of her spouse, Respondent had an economic interest in Cambria Solutions.

4. Respondent's Economic Interest Was Directly Involved in the Decision

Cambria Solutions was directly involved in the decision as a bidder for the contract in question.

5. Applicable Materiality Standard

Respondent's spouse received income in excess of \$500 from Cambria Solutions. Because Cambria Solutions was directly involved in the decision as a bidder for the contract, the decision made by Respondent regarding CEC contract (Solicitation #150-10-101) resulted in a material economic interest.

6. It Was Reasonably Foreseeable That the Applicable Materiality Standard Would Be Met

The governmental decision in question involved the awarding of a contract valued at \$333,813 to Cambria Solutions by CEC. Thus it was reasonably foreseeable that there would be a material financial effect on an economic interest.

By participating in a governmental decision in which she had a financial interest, Respondent violated section 87100 of the Act.

CONCLUSION

This matter consists of two counts of violating the Act carrying a maximum administrative penalty of \$10,000.

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

For Counts 1 and 2, participating in a governmental decision in which an official has a financial interest, is one of the more serious violations of the Act as it may create the appearance that a governmental decision was made on the basis of public official's financial interest. The typical administrative penalty for a conflict-of-interest violation, depending on the facts of the case, has been in the mid-to-high range of available penalties.

The significance of the public harm in public officials participating in government decisions that have a material financial effect on them is high. In this case, Respondent was aware that she had a financial interest in Cambria Solutions through her husband's business as it was disclosed on her Statement of Economic Interests. However, the amount of income her husband's firm received from Cambria was fairly low, under \$10,000, and he did not receive any identifiable monetary benefit from the contract awarded and would not have received any identifiable monetary benefit from the contract that was not awarded.

Moreover, Respondent contends she was under the mistaken impression that because her husband was not involved in assisting Cambria with either contract she could participate in the awarding of the contracts. Respondent did seek legal advice from the Energy Commission General Counsel's office in connection with the second contract and did not receive complete legal guidance.

Regarding Counts 1 and 2, recent penalties approved by the Commission concerning violations of Section 84200.5, subdivision (c), include:

In the Matter of Dan K. Waters, FPPC No. 10/485. Respondent Dan Waters, Customer Services Supervisor for the Community Development Department for the City of Sacramento, participated in a governmental decision, the granting of an application for Amended Entertainment Permit Conditions, in which he had a material financial interest, in

violation of Government Code Section 87100 (1 count). In April 2011, the Commission imposed a penalty of \$2,500.

In the Matter of Jan Horton, FPPC No. 09/671. As a member of the Yorba Linda City Council, Respondent Jan Horton impermissibly made a governmental decision in which she had a material financial interest, by voting to send the 2008-2014 Draft Housing Element back to staff for refinement on the housing densities of specific parcels, including the reduction of the housing densities proposed at the Lakeview/Strawberry Field parcel and the Lakeview/Altrudy parcel, located within 500 feet of her real property, in violation of Government Code Section 87100 (1 count). In September of 2011, the Commission imposed a penalty of \$3,000.

In the Matter of Louie Martinez; FPPC No. 09/261. Respondent Louie Martinez was a Senior Project Manager for the City of Irvine. In or about October 2007 and July 2008, he accepted over-the-limit gifts (substantially discounted home landscaping services) from Artistic Maintenance, Inc., in violation of Government Code Section 89503, subdivision (c) (2 counts). Also, in or about April 2008, Respondent used his official position to influence a governmental decision in which he had reason to know that he had a financial interest, in violation of Government Code Section 87100 (1 count). Specifically, he inspected civic center landscaping work performed by Artistic Maintenance, Inc., and based upon this inspection, he approved an invoice for payment of approximately \$86,000 to Artistic Maintenance, Inc. In June 2011, the Commission imposed a penalty of \$8,000. The penalty for the 87100 violation was \$4,000.

PROPOSED PENALTY

The facts of this case, including the factors discussed above, justify imposition of the agreed upon penalty of Six Thousand Dollars (\$6,000), Three Thousand (\$3,000) each for Counts 1 and 2.