

1 GALENA WEST
Enforcement Chief
2 DAVE BAINBRIDGE
Senior Commission Counsel
3 Fair Political Practices Commission
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5660
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant

7
8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**

10
11 In the Matter of:

12 **COLLIN WONG-MARTINUSEN**

13 Respondent.

FPPC No. 15/151

14 **STIPULATION, DECISION, AND ORDER**

15
16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission and
18 respondent Collin Wong-Martinusen (Respondent) hereby agree that this Stipulation will be submitted
19 for consideration by the Fair Political Practices Commission (Commission) at its next regularly-
20 scheduled meeting.

21 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this
22 matter and to reach a final disposition without the necessity of holding an additional administrative
23 hearing to determine the liability of Respondent.

24 Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural
25 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of
26 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to, the right to
27 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
28 Respondent's own expense, to confront and cross-examine all witnesses testifying at the hearing, to

1 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
2 the hearing as a hearing officer, and to have the matter judicially reviewed.

3 It is further stipulated and agreed that Respondent violated the Political Reform Act by
4 participating in making a governmental decision in which he knew, or had reason to know, he had a
5 financial interest in violation of Government Code section 87100, all as described in Exhibit 1. Exhibit 1
6 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and
7 accurate summary of the facts in this matter.

8 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
9 Respondent also agrees to the Commission imposing an administrative penalty in the total amount of
10 Two Thousand Five Hundred Dollars (\$2,500). Respondent submitted with this Stipulation a cashier's
11 check in said amount, made payable to the "General Fund of the State of California," as full payment of
12 the administrative penalty that shall be held by the State of California until the Commission issues its
13 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to
14 accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
15 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondent in
16 connection with this Stipulation shall be reimbursed to Respondent. Respondent further stipulates and
17 agrees that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
18 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
19 shall be disqualified because of prior consideration of this Stipulation.
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22 Dated: _____
23 Galena West, Chief, on behalf of the Enforcement
24 Division Fair Political Practices Commission

25 Dated: _____
26 Collin Wong-Martinusen
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1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Collin Wong-Martinusen,” FPPC No.
3 15/151, including all attached exhibits, is hereby accepted as the final decision and order of the Fair
4 Political Practices Commission, effective upon execution below by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

_____ Joann Remke, Chair

9 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent Collin Wong-Martinusen (“Wong-Martinusen”) is Chief of Staff for State Treasurer John Chiang. The Political Reform Act (the “Act”)¹ prohibits public officials from making, participating in making, or attempting to influence a governmental decision in which the official knows or has reason to know he has a financial interest. Wong-Martinusen violated the Act by reviewing and approving a recommendation that the Office of the State Treasurer contract with Bank of America for bond underwriting services when Wong-Martinusen owned stock in Bank of America.

SUMMARY OF THE LAW

A public official may not make, participate in making or attempt to use his official position to influence a governmental decision in which he knows, or has reason to know, he has a financial interest.² A public official includes any person designated as such by the conflict of interest code of the official’s agency.³ 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 any business entity in which the official has a direct or indirect investment worth two thousand dollars or more.⁴ The reasonably foreseeable financial effect of a governmental decision on a business entity in which an official has a financial interest is material whenever the business entity offers to make a sale of a service or a product to the official’s agency and when the business entity bids on or enters into a written contract with the agency.⁵

SUMMARY OF THE FACTS

Wong-Martinusen took office as Chief of Staff to the Treasurer on January 5, 2015. As Chief of Staff, Wong-Martinusen reviews many of the items submitted to the Treasurer for approval. On January 22 2015, Wong-Martinusen received a memorandum addressed to him from the Deputy Treasurer and the Director of the Treasurer’s Public Finance Division recommending that the Office of the Treasurer appoint Bank of America and its subsidiary, Merrill Lynch, to act as joint senior managing underwriters on the sale of a \$1.9 billion general obligation bond. Wong-Martinusen reviewed the staff recommendation and forwarded it without revision to the Treasurer, who ultimately approved of the appointment resulting in Bank of America contracting with the State to provide bond underwriting services.

At the time of participating in the approval of Bank of America as a managing underwriter, Wong-Martinusen owned 732 shares of Bank of America stock jointly with his

¹The 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 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Section 87100

³ Regulation 18940.1(b)

⁴ Section 87103

⁵ Regulation 18705.1(a)(2) and (3)

mother. The stock was worth approximately \$11,700. Wong-Martinusen's mother obtained the stock many years before while working for Bank of America. At the time of the decision, Wong-Martinusen knew that he stood to inherit the stock upon his mother's death, but he was unaware that she made Wong-Martinusen a joint owner of the stock.

Although Wong-Martinusen was unclear of the exact nature of his ownership interest in the Bank of America stock, he nonetheless disclosed his interest in the stock on his Assuming Office Statement of Economic Interests (Form 700) filed on February 6, 2015. At Wong-Martinusen's direction, legal staff at the Office of the Treasurer later reviewed the Form 700s of all incoming and executive staff to identify any actual or potential conflicts of interest. Following this review, legal staff alerted Wong-Martinusen that his ownership of the stock could result in a potential conflict of interest. After learning from his mother that he owned a current interest in the stock, Wong-Martinusen contacted Fair Political Practices Commission ("Commission") staff the next day to voluntarily report his violation.

VIOLATION

Count 1: Conflict of Interest

Wong-Martinusen, who owned Bank of America stock valued at over \$2,000, reviewed and signed off on a staff recommendation, in his capacity as Chief of Staff to the Treasurer, to appoint Bank of America as a joint senior managing underwriter on a general obligation bond. This decision had a reasonably foreseeable material financial effect on Bank of America because it resulted in Bank of America receiving a contract to provide bond underwriting services to the State. By participating in making a decision in which he knew, or had reason to know, he had a financial interest, Wong-Martinusen violated Section 87100.

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of five thousand dollars (\$5,000).

In determining the appropriate penalty for a particular violation of the Act, the Commission 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 Commission considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d): 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3) whether the violation was deliberate, negligent, or inadvertent; 4) whether the respondent demonstrated good faith in consulting with Commission staff; 5) whether there was a pattern of violations; and 6) whether, upon learning of the violation, the violator voluntarily filed amendments to provide full disclosure.

The Commission also considers penalties in prior cases involving similar violations. Cases similar to this one include:

- *In the Matter of John Dukes*, FPPC No. 12/660 (Commission approved a proposed stipulation on November 11, 2014). John Dukes, a Yuba City Councilmember, voted in favor of removing a deferred improvement agreement on property owned by the American Red Cross. This decision allowed the American Red Cross to sell the property. The American Red Cross's agent in the proceedings had been a source of income to Duke's handyman business, which resulted in a conflict of interest violation. Duke accepted full responsibility for his mistake and said he did not realize at the time that voting on the matter concerning the American Red Cross resulted in a violation. He paid penalty of \$3,000 for the conflict of interest violation.
- *In the Matter of Tom Hammond*, FPPC No. 14/1357 (Commission approved a proposed stipulation on May 21, 2015). Tom Hammond, a member of the Lassen County Board of Supervisors, voted to approve the sale of real property owned by the county. The property was located within 500 feet of property owned by Hammond, resulting in a conflict of interest violation. Hammond made the decision at his first meeting as a member of the board. He had not yet had ethics training, and said he was not aware of the "500 foot rule." He paid a penalty of \$2,500 for the conflict of interest violation.

A conflict of interest violation typically results in fines in the medium to high range. In this case, while Wong-Martinusen actions resulted in a conflict of interest violation, the evidence suggests it was inadvertent. He contends he did not realize that he had a conflict of interest when he participated in making the decision, and made no attempt to conceal his action or financial interest. He also self-reported the violation as soon as he became aware of the potential violation, and cooperated fully with Commission staff in investigating and resolving this matter. Wong-Martinusen also has no prior violations of the Act. Like in the comparable cases, Wong-Martinusen's actions resulted in a serious violation of the Act, but it does not appear he did so with the intent to benefit his own financial interest. That being the case, the circumstances of his violation justifies a medium range fine.

PROPOSED PENALTY

After considering the factors listed in Regulation §18361.5 and penalties in prior similar cases, a penalty of \$2,500 is recommended.