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9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**  
10 **STATE OF CALIFORNIA**

11 In the Matter of:

12 Anthony W. Anderson,

13 Respondent.

FPPC Case No. 2021-00504

STIPULATION, DECISION AND ORDER

Date Submitted to Commission: April 2024

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15 **INTRODUCTION**

16 Respondent Anthony W. Anderson (“Anderson”) is a former Battalion Chief for California  
17 Department of Forestry and Fire Protection (“CAL FIRE”). Anderson worked for CAL FIRE for  
18 approximately 18 years and most recently worked for the Santa Clara Unit (“SCU”) from approximately  
19 June 2018 through January 2020. Carrie Anderson is Anderson’s wife.

20 The present case arose as a non-sworn complaint from the California State Auditor.

21 The Political Reform Act<sup>1</sup> (“Act”) prohibits officials from making, participating in making, or  
22 attempting to influence governmental decisions in which the official knows or has reason to know they  
23 have a financial interest. Anderson participated in discussions and his signature appears on governmental  
24 contracts as a battalion chief of CAL FIRE SCU. The governmental contracts at issue had a reasonably  
25 foreseeable material financial effect on Anderson’s financial interest.

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28 <sup>1</sup> The 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 Practice Commission are contained in Sections 18104  
through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. All legal references and discussions  
3 of law are intended to be citations to statutes and regulations as they existed at the time of the violations  
4 in this case.

5 **Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act**

6 When enacting the Political Reform Act, the people of California found and declared that  
7 previous laws regulating political practices suffered from inadequate enforcement by state and local  
8 authorities.<sup>2</sup> Thus, it was decreed that the Act “should be liberally construed to accomplish its  
9 purposes.”<sup>3</sup>

10 One purpose of the Act is to ensure that public officials perform their duties in an impartial  
11 manner, free from bias caused by their own financial interests or the financial interests of persons who  
12 have supported them.<sup>4</sup> Along these lines, the Act requires that the assets and income of public officials  
13 are required to be disclosed and in appropriate circumstances.<sup>5</sup> Further, the officials should be  
14 disqualified from acting in order that conflicts of interest may be avoided.<sup>6</sup>

15 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will  
16 be “vigorously enforced.”<sup>7</sup>

17 **Conflicts of Interest Under Section 87100**

18 A public official may not make, participate in making, or attempt to use their official position to  
19 influence a governmental decision in which they know, or have reason to know, they have a financial  
20 interest.<sup>8</sup> A public official has a financial interest in a decision if it is reasonably foreseeable that the  
21 decision will have a material financial effect, distinguishable from its effect on the public generally, on  
22 any source of income, amounting to a total of \$500, provided or promised to, and received by the public  
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25 <sup>2</sup> Section 81001, subdivision (h).

26 <sup>3</sup> Section 81003.

27 <sup>4</sup> Section 81001, subdivision (b).

28 <sup>5</sup> Sections 81002, subdivision (c), 87100, and 87200 et seq.

<sup>6</sup> Sections 87100, et seq.

<sup>7</sup> Section 81002, subdivision (f).

<sup>8</sup> Section 87100.

1 official within 12 months before the decision is made.<sup>9</sup>

2 “Public official” means every member, officer, employee, or consultant of a state or local  
3 government agency.<sup>10</sup>

4 To determine whether a public official has a prohibited conflict of interest under the Act, the first  
5 step is to determine whether it is reasonably foreseeable for the governmental decision to have a  
6 financial effect on the public official’s financial interests.<sup>11</sup> For a financial interest explicitly involved in  
7 a decision, a financial effect on the financial interest is presumed to be reasonably foreseeable if the  
8 financial interest is a named party in, or the subject of, a governmental decision before the official or the  
9 official’s agency. A financial interest is the subject of a proceeding if the decision involves the approval  
10 of any contract with the financial interest.<sup>12</sup>

11 The second step is to determine if the reasonably foreseeable financial effect will be material.<sup>13</sup>  
12 When the financial interest is a source of income, and the source is a contracting party, the financial  
13 effect is material.<sup>14</sup>

#### 14 **Income of Spouse**

15 “Income” means a payment received, including, but not limited to, any salary or wage, and  
16 including any community property interest in the income of a spouse.<sup>15</sup> Any source of income,  
17 amounting to a total of \$500, provided or promised to, and received by the public official within 12  
18 months before the decision is made qualifies as a “financial interest.”

#### 19 **Making a Governmental Decision**

20 A public official makes a governmental decision if the official authorizes or directs any action,  
21 votes, appoints a person, obligates, or commits the official's agency to any course of action, or enters  
22 into any contractual agreement on behalf of the official's agency.<sup>16</sup>

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25 <sup>9</sup> Regulation 18700.1.

26 <sup>10</sup> Section 82048.

27 <sup>11</sup> Regulation 18700, subdivision (d)(1).

28 <sup>12</sup> Regulation 18701, subdivision (a).

<sup>13</sup> Regulation 18700, subdivision (d)(2).

<sup>14</sup> Regulation 18702.3, subdivision (a)(1).

<sup>15</sup> Section 82030.

<sup>16</sup> Regulation 18704, subd. (a).

1 **Prohibited Conflicts of Interest Under Section 1090**

2 Government Code section 1090 states, “Members of the Legislature, state, county, district,  
3 judicial district, and city officers or employees shall not be financially interested in any contract made  
4 by them in their official capacity, or by anybody or board of which they are members...” Courts have  
5 interpreted Section 1090 broadly, as the purpose of this conflict of interest provision is to ensure no  
6 divided loyalties by those who serve the public. “An important, prophylactic statute such as Section  
7 1090 should be construed broadly to close loopholes; it should not be constricted and enfeebled.”<sup>17</sup>

8 The prohibition applies to various government officials, including independent contractors. Also,  
9 the prohibition applies to the making of contracts. It is not necessary for the prosecution to show that the  
10 official participated personally in the execution of the questioned contract. It is enough to show that the  
11 official, regardless of his job classification, had the opportunity to, and did, influence execution directly  
12 or indirectly to promote his personal interests. This may be shown by the official’s involvement with  
13 respect to one or more of the following activities, which are embodied in the making of a contract:  
14 planning, discussions, reasoning, preparation of plans/specifications, solicitation of bids, negotiations,  
15 compromises, give and take, etc. Such involvement is in violation of Section 1090 if the resulting  
16 contract causes government business to go to an entity or person in which the official has an interest.<sup>18</sup>

17 The statute is more concerned with what *might* have happened than with what *actually*  
18 happened; Section 1090 prohibits even the *appearance* of impropriety.<sup>19</sup>

19 Section 1090 protects the *actual* integrity of the public treasury – as well as the *perceived*  
20 integrity. “As a result, liability – even criminal liability – can accrue without ‘actual fraud, dishonesty,  
21 unfairness or loss to the governmental entity.’”<sup>20</sup>

22 Under Section 1090, prohibited financial interests are not limited to express agreements and need  
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25 <sup>17</sup> *Carson Redevelopment Agency v. Padilla*, 140 Cal. App. 4th 1323, 1334 (2006); see also *Stigall v. City of Taft*, 58  
26 Cal. 2d 565, 569071 (1962) (Section 1090 is “concerned with any interest, other than perhaps a remote or minimal interest,  
27 which would prevent the officials from exercising absolute loyalty and undivided allegiance to the best interests of the city.”

28 <sup>18</sup> See *People v. Sobel* (1974) 40 Cal.App.3d 1046, 1051-53; *People v. Superior Court (Sahlolbei)* (2017) 3 Cal.5th  
230, 239-40; and *City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191, 194-97.

<sup>19</sup> *Thorpe v. Long Beach Cmty. College Dist.* (2000) 83 Cal.App.4th 655, 660; *City of Imperial Beach v. Bailey*,  
*supra*, 103 Cal.App.3d at p. 197.

<sup>20</sup> See *People v. Superior Court (Sahlolbei)*, *supra*, 3 Cal.5th at p. 239 – citing *People v. Honig* (1996) 48 Cal.App.4th  
289, 314.

1 not be proven by direct evidence. Rather, forbidden interests include indirect interests and future  
2 expectations of profit (or loss) by express or implied agreement, which may be inferred from the  
3 circumstances. Any financial interest not explicitly excluded by the Legislature (in Sections 1091 and  
4 1091.5) as too “remote or minimal” is sufficient to incur even criminal liability.<sup>21</sup>

### 5 SUMMARY OF THE FACTS

6 The present stipulation arises from an audit conducted by the California State Auditor into  
7 allegations of a conflict of interest concerning a construction project at CAL FIRE SCU. The project  
8 involved a \$100,000 remodel of an SCU office. For the remodel, CAL FIRE SCU contracted with Ron  
9 Paris Construction (“RPC”). CAL FIRE SCU had previously contracted with RPC for seven construction  
10 projects prior to Anderson’s arrival at SCU in the middle of 2018. Two CAL FIRE assistant chiefs, to  
11 whom Anderson reported, assigned Anderson to oversee the remodeling project.

12 RPC was Carrie Anderson’s employer and was owned by Carrie Anderson’s father, Ron Paris  
13 (“Paris”). Carrie Anderson received \$1,025 a week in income from RPC in 2018. Further, Carrie  
14 Anderson received a raise to \$1,190 a week in 2019.

15 Anderson was not required to file Statements of Economic Interests pursuant to the applicable  
16 CAL FIRE Conflict of Interest Code. Additionally, the evidence suggests that when he was assigned to  
17 oversee the remodeling project, Anderson informed his superiors that Paris, owner of RPC, was his  
18 father-in-law and that Carrie Anderson worked for RPC.

19 Anderson participated in discussions and his signature is on eight purchase orders authorizing  
20 \$36,190.48 in construction work. The dates of the invoices are as follows: two on March 28, 2019,  
21 December 14, 2019, three on January 17, 2020, and two on March 2, 2020. Anderson acted as the  
22 primary liaison between RPC and CAL FIRE SCU, overseeing payments to the company. Invoices from  
23 the construction company were directed to and handled by Anderson. Each purchase order was a  
24 contractual obligation in which CAL FIRE SCU approved of the construction work to be provided and to  
25 pay RPC the stated amount.

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<sup>21</sup> See *People v. Honig*, *supra*, 48 Cal.App.4th at p. 315; and *People v. Superior Court (Sahlolbei)*, *supra*, 3 Cal.5th at p. 239.

1 **VIOLATIONS**

2 **Count 1: Conflict of Interest – Contracts from 2019**

3 Anderson, as a battalion chief for CAL FIRE SCU, had a conflict of interest when he participated  
4 in a governmental decision regarding CAL FIRE SCU’s contracting with RPC that had a reasonably  
5 foreseeable material financial effect on his financial interest, in violation of Government Code sections  
6 87100 and 1090.

7 **Count 2: Conflict of Interest – Contracts from 2020**

8 Anderson, as a battalion chief for CAL FIRE SCU, had a conflict of interest when he participated  
9 in a governmental decision regarding CAL FIRE SCU’s contracting with RPC that had a reasonably  
10 foreseeable material financial effect on his financial interest, in violation of Government Code sections  
11 87100 and 1090.

12 **PROPOSED PENALTY**

13 The present matter consists of two proposed counts. The maximum penalty that may be imposed  
14 is \$5,000 per count.<sup>22</sup> Thus, the maximum penalty that may be imposed for the counts charged here is  
15 \$10,000.

16 The present case does not qualify for the Streamline Program because violations of conflicts of  
17 interests and Section 1090 are not included in the Streamline Program.

18 In determining the appropriate penalty for a particular violation of the Act, the Enforcement  
19 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an  
20 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division  
21 considers the facts and circumstances of the violation in the context of the following factors set forth in  
22 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused  
23 by the specific violation; (2) The level of experience of the violator with the requirements of the Political  
24 Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence  
25 or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate,  
26 negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission  
27 staff or any other governmental agency in a manner not constituting complete defense under Government  
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<sup>22</sup> See Section 83116, subdivision (c).

1 Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the  
2 violator has a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the  
3 violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

4 A conflict of interest is a serious violation of the Act with a high degree of public harm. This type  
5 of violation undermines public trust in government by creating the appearance that the decision was the  
6 product of a conflict of interest. Also, such conduct contradicts the Act's decree that public officials  
7 should serve the needs of all citizens in an impartial manner—free from bias caused by their own  
8 financial interests. In this matter, Carrie Anderson was employed by RPC and made more than the  
9 required amount to create a conflict of interest for Anderson. Anderson then signed off on purchase  
10 orders between CAL FIRE SCU and RPC from March 28, 2019 to March 2, 2020 for \$36,190 to remodel  
11 an SCU office. Anderson signed off on the payments while Carrie Anderson was employed and earning  
12 more than \$1,000 per week from RPC, thus Anderson had a financial interest in RPC. Anderson,  
13 therefore, made governmental decisions involving his financial interest, RPC, by signing \$36,190 in  
14 invoices as the processor for CAL FIRE SCU.

15 There is some mitigation here as CAL FIRE SCU had contracted with RPC for seven construction  
16 projects before Anderson's arrival at SCU in the middle of 2018. Furthermore, RPC performs work on  
17 approximately 150 construction projects per year and annually grosses over \$1.5 million, so CAL FIRE's  
18 remodeling project constituted less than 1% of RPC's gross revenues in 2019.

19 Regarding the second factor, Anderson did not have experience with the Act's requirements.  
20 Furthermore, Anderson was not required to file Statements of Economic Interests pursuant to the  
21 applicable CAL FIRE Conflict of Interest Code.

22 The Commission has previously considered another stipulation involving a conflict of interest: *In*  
23 *the Matter of Leticia Perez*, FPPC No. 19-960 (The Commission approved a settlement in this matter on  
24 June 18, 2020). The respondent had an economic interest in her spouse's business and through that  
25 business, had an economic interest in a cannabis business. The respondent had a conflict of interest when  
26 she voted on a decision to ban the sale of cannabis and related products. The Commission imposed a  
27 penalty of \$4,000 on one count.

28 Here, a higher penalty is warranted. By signing the purchase orders, Anderson made

1 governmental decisions involving RPC, in which he had a financial interest. Like *Perez*, the financial  
2 interest is connected through the spouse of the respondent and the amounts transferred to the financial  
3 interests were roughly the same at \$32,000 and \$36,190. However, Anderson signed eight purchase  
4 orders that were conflicts of interest, whereas *Perez* only had one instance, a singular vote. In mitigation,  
5 Anderson disclosed his financial interest in RPC to his superiors prior to being assigned to oversee the  
6 remodeling project.

7 The evidence supports that Anderson did not act with an intent to conceal or deceive. Anderson  
8 disclosed his relationship with RPC to the three division chiefs when informed of his assignment to the  
9 project. Despite being aware of this relationship, the division chiefs did not raise concerns about the  
10 potential conflict of interest. His superiors also did not advise Anderson to recuse himself from the  
11 project, and, thus, Anderson did not recuse himself from the project. One of the chiefs acknowledged  
12 awareness of the relationship but considered it non-conflicting, citing prior utilization of the construction  
13 company by CAL FIRE SCU before Anderson's tenure. Finally, Anderson did not have a duty to file  
14 Statements of Economic Interests and none were filed.

15 The violation was likely negligent or inadvertent as Anderson disclosed his interest to his  
16 supervisors. The Enforcement Division has no evidence to suggest that Anderson consulted with the  
17 Commission or any other governmental agency prior to the violation. Anderson has no prior history of  
18 violations.

19 As to the seventh factor, Anderson signed off on eight payments over two years, which could be  
20 construed as a pattern. However, all of these payments related to a single construction project.

21 The eighth factor does not apply to this matter.

22 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases, a  
23 penalty of \$10,000 is recommended.

## 24 CONCLUSION

25 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
26 Respondent, Anthony Anderson, hereby agrees as follows:

27 1. Respondent violated the Act as described in the foregoing pages, which are a true and  
28 accurate summary of the facts in this matter.



1           2.       This stipulation will be submitted for consideration by the Fair Political Practices  
2 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

3           3.       This stipulation resolves all factual and legal issues raised in this matter—for the purpose  
4 of reaching a final disposition without the necessity of holding an administrative hearing to determine the  
5 liability of the Respondent pursuant to Section 83116.

6           4.       The Respondent has consulted with their attorney, Patricia Kramer of Neasham and  
7 Kramer LLP, and understands, and hereby knowingly and voluntarily waives, any and all procedural  
8 rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This  
9 includes, but is not limited to the right to appear personally at any administrative hearing held in this  
10 matter, to be represented by an attorney at the Respondent’s own expense, to confront and cross-examine  
11 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial  
12 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially  
13 reviewed.

14           5.       The Respondent agrees to the issuance of the decision and order set forth below. Also, the  
15 Respondent agrees to the Commission imposing against it an administrative penalty in the amount of  
16 \$10,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General  
17 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
18 administrative penalty described above, and same shall be held by the State of California until the  
19 Commission issues its decision and order regarding the matter.

20           6.       If the Commission declines to approve this stipulation—then this stipulation shall become  
21 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
22 rejected, all payments tendered by the Respondent in connection with this stipulation shall be reimbursed  
23 to the Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing  
24 before the Commission becomes necessary, neither any member of the Commission, nor the Executive  
25 Director, shall be disqualified because of prior consideration of this Stipulation.

26           7.       The parties to this agreement may execute their respective signature pages separately. A  
27 copy of any party’s executed signature page including a hardcopy of a signature page transmitted via fax  
28 or as a PDF email attachment is as effective and binding as the original.

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Dated: \_\_\_\_\_

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James M. Lindsay, Chief of Enforcement  
Fair Political Practices Commission

Dated: \_\_\_\_\_

\_\_\_\_\_  
Anthony Anderson

The foregoing stipulation of the parties “In the Matter of Anthony Anderson,” FPPC No. 2021-00504 is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

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Adam Silver, Chair  
Fair Political Practices Commission