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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
10
11

12 In the Matter of) FPPC No. 12/295
13 CORTEZ QUINN,)
14) DEFAULT DECISION and ORDER
15 Respondent.)
16) (Gov. Code, §§ 11506 and 11520)
17)

18 Complainant, the Fair Political Practices Commission, hereby submits this Default Decision and
19 Order for consideration at its next regularly scheduled meeting.

20 Respondent Cortez Quinn, has been provided advice by an attorney of his choosing as to his
21 rights to a probable cause hearing and an administrative hearing under the Political Reform Act,
22 Administrative Procedure Act, and all other relevant laws, and he has chosen to waive all such rights to
23 a probable cause hearing and administrative hearing and to allow this matter to proceed to a default
24 decision.

25 In this case, Respondent Cortez Quinn violated the Political Reform Act as described in Exhibit
26 1, which is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a
27 true and accurate summary of the law and evidence in this matter.
28

1 This Default Decision and Order is submitted to the Commission to obtain a final disposition of this
2 case.

3
4 Dated: _____
5 Gary S. Winuk, Chief of Enforcement
6 Fair Political Practices Commission

7 **DECISION AND ORDER**

8 The Commission issues this Default Decision and Order and imposes an administrative penalty of
9 \$14,000 against Respondent Cortez Quinn. This penalty is payable to “The General Fund of the Sate of
10 California.”

11 IT IS SO ORDERED, effective upon execution below by the Chairman of the Fair Political Practices
12 Commission at Sacramento, California.

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14
15 Dated: _____
16 Ann Ravel, Chair
17 Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Cortez Quinn (“Respondent”) is an elected member of the Board of Directors for the Twin Rivers School District (“School District”) and has held this position since the School District was created as the result of the approval of Measure B in November 2007. Additionally, Respondent served as a California Assembly District Director at all times relevant to the complaint. Between December of 2010 and April of 2011, while Respondent was a member of the Board of Directors for the School District and a District Director with the Assembly, he accepted personal loans totaling approximately \$55,000 from Sherilene Chycoski, an employee of the School District. On or about December 29, 2010, Respondent Cortez Quinn also accepted a gift from Sherilene Chycoski in the amount of \$4,000. Because the Political Reform Act (“Act”) prohibits elected officers of local government agencies from receiving personal loans in excess of \$250.00 from employees of the local government agency, Respondent violated the Act when he received the loans from Dr. Chycoski.¹

As a District Director with the California State Assembly, Respondent Quinn was a “designated employee” as defined in section 82019, subdivision (a)(3), of the Act and in the Conflict of Interest Code for the California State Assembly. On each statement of economic interests, a designated employee must disclose his or her reportable investments, business positions, interests in real property, and sources of income (including gifts and loans). Respondent failed to disclose loans from Dr. Chycoski, in violation of the Act.

In this case, Respondent violated the Act as follows:

FAILURE TO DISCLOSE ECONOMIC INTERESTS

COUNT 1: As a District Director with the California State Assembly, Respondent Cortez Quinn failed to disclose a gift of \$4,000 and loans totaling approximately \$2,064 from Sherilene Chycoski on his 2010 annual statements of economic interests, in violation of Sections 87300, 87302, and 87207, subdivision (a) of the Government Code.

COUNT 2: As a District Director with the California State Assembly, Respondent Cortez Quinn failed to disclose loans totaling approximately \$48,943.49 from Sherilene Chycoski on his 2011 annual statements of economic interests, in violation of Sections 87300 and 87207, subdivision (a) of the Government Code.

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 18110 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.

GIFT IN EXCESS OF LIMIT

COUNT 3: As a District Director with the California State Assembly, Respondent Cortez Quinn accepted a gift from Sherilene Chycoski in the amount of \$4,000, which exceeded the \$420 gift limit, in violation of Sections 89503, subdivision (c) of the Government Code.

PROHIBITED LOANS FROM EMPLOYEE

COUNT 4: Between December of 2010 and April of 2011, Respondent Cortez Quinn received personal loans totaling \$16,007.49 from an employee of the Twin Rivers School District, of which he was an elected member of the Board of Directors, in violation of Section 87460, subdivision (a), of the Government Code.

COUNT 5: On or about February 24, 2011, Respondent Cortez Quinn received a personal loan totaling \$35,000 from an employee of the Twin Rivers School District, of which he was an elected member of the Board of Directors, in violation of Section 87460, subdivision (a), of the Government Code.

PROCEDURAL HISTORY

Respondent has been informed of the charges set forth herein. Also, he has consulted with an attorney of his choosing about his rights to a probable cause hearing and an administrative hearing under the Political Reform Act, the Administrative Procedure Act, and all other relevant laws. However, Respondent has agreed to waive these rights, and he is aware that by doing so, the Enforcement Division will proceed with this default recommendation to the Commission, which, if approved by the Commission, will result in Respondent being held liable for the penalty amount of \$14,000.

A certified copy of Respondent's written waiver in this regard is submitted herewith as Exhibit A and incorporated herein by reference as if in full.

NATURE OF DEFAULT PROCEEDINGS

In this situation, where Respondent has waived his rights to a probable cause conference and an administrative hearing, the Commission may take action based upon the Respondent's express admissions or upon other evidence, and affidavits may be used as evidence without any notice to the Respondent. (Section 11520, subdivision (a).)

SUMMARY OF THE LAW

Duty to File Annual Statements of Economic Interests

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials that may be materially affected by their official actions be disclosed, so that conflicts of interests may be avoided. In furtherance of this purpose,

section 87300 requires every state and local agency to adopt and promulgate a conflict of interest code. Under section 87300, the requirements of an agency's conflict of interest code have the force of law, and any violation of those requirements is deemed a violation of the Act.

Disclosure Provisions

Section 87302, subdivision (a), provides that an agency's conflict of interest code must specifically designate the positions within the agency that are required to file statements of economic interests, disclosing reportable investments, business positions, interests in real property, and sources of income. Under section 82019, subdivision (a), and section 87302, the persons who are to be designated in an agency's conflict of interest code are the officers, employees, members, and consultants of the agency whose position with the agency entails making, or participating in making, governmental decisions that may foreseeably have a material effect on one or more of the person's economic interests.

Under Section 87302, subdivision (b), an agency's conflict of interest code must require, among other things, every designated employee of the agency to file an annual statement of economic interests ("SEI"), at a time specified in the agency's conflict of interest code, for each year that the employee remains in office, disclosing his or her reportable economic interests during the preceding calendar year.

The Act specifies disclosure concerning the income of public officials. Section 87207, subdivision (a)(5), requires a filer to declare the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source.

Section 87207, subdivision (a)(5), states that when income is required to be reported, the statement of economic interests shall contain, in the case of a loan, the annual interest rate, the security, if any, given for the loan, and the term of the loan.

The applicable Conflict of Interest Code for the California State Assembly ("Conflict of Interest Code") requires that each designated employee file annual SEIs disclosing the person's reportable economic interests including investments, interests in real property, and sources of income. Pursuant to the applicable Conflict of Interest Code, a District Coordinator was a designated position, and requires disclosure pursuant to the broadest category in the code.

Loans to Public Officials

The Legislature declared in Government Code section 81001, subdivision (b), that public officials, whether elected or appointed, should 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. In this regard, Government Code section 87460, subdivision (a), prohibits an elected officer of a local government agency from receiving a personal loan from any employee of the local government agency in which the elected officer holds office.

SUMMARY OF THE FACTS

Respondent Cortez Quinn is an elected member of the Board of Directors for the Twin Rivers School District. Between December of 2010 and April of 2011, Respondent Quinn received loans from Sherilene Chycoski, an employee of the School District with whom Respondent was romantically involved, totaling approximately \$55,000. Respondent also received a gift from Dr. Chycoski, in the amount of \$4,000, on or about December 29, 2010.

On his 2010 and 2011 annual statements of economic interests, filed in connection with his position as a District Director with the California State Assembly, Respondent failed to declare loans totaling approximately \$55,000 that he received from Sherilene Chycoski.

COUNTS 1 and 2

Failure to Disclose a Source of Income on a Statement of Economic Interests

As a District Director with the California State Assembly, Respondent had a duty to disclose sources of income on his annual statements of economic interests. By failing to disclose a source of income on his 2010 and 2011 annual statements of economic interests, Respondent violated Government Code Sections 87300 and 87207, subdivision (a).

COUNT 3

Accepting a Gift in Excess of Annual Gift Limit

On or about December 29, 2010, Respondent Cortez Quinn accepted a gift from Sherilene Chycoski in the amount of \$4,000. At the time, the annual gift limit for gifts from a single source was \$420, and Respondent was required to report the receipt of income or gifts on his statement of economic interests.

By accepting an over-the-limit gift as described above, Respondent committed a violation of Government Code Section 89503, subdivision (c).

COUNTS 4 and 5

Prohibited Loans from Employee

Between December of 2010 and April of 2011, Respondent Cortez Quinn received personal loans totaling \$16,007.49 from an employee of the Twin Rivers School District, of which he was an elected member of the Board of Directors. On or about February 24, 2011, Respondent Cortez Quinn received a personal loan totaling \$35,000. In 2010 and 2011, Respondent accepted personal loans totaling approximately \$55,000 from Sherilene Chycoski, an employee of the School District.

The Act provides no exceptions to the prohibition against the receipt of loans by an elected officer from an employee of his local government agency. Therefore, by accepting

personal loans from an employee of the local government agency in which the Respondent held elected office, he violated Government Code Section 87460, subdivision (a).

CONCLUSION

This matter consists of five counts, which carries a maximum possible administrative penalty of \$25,000.00.

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.

Although there are no recent default cases concerning SEI non-disclosure , penalties approved by the Commission concerning, SEI non-filing, violations of Sections 87300 and 87302, subdivision (b), include:

In the Matter of Armida Torres, FPPC No. 09/816 (Default Decision). A penalty of \$2,000 per count was approved by the Commission on September 17, 2010, for Respondent's failure to file an Assuming Office SEI and an Annual SEI.

A recent stipulation for over the limit gifts settled for \$2,000 per count:

In the Matter of Patrick Maloney, FPPC No. 09/826, had a similar fact pattern; a the Executive Director of the Pilot Commission for the Bays of San Francisco, San Pablo and Suisun, received gifts in the form of free monthly parking, valued at approximately \$4,900, from an association representing the pilots the board regulates. The commission approved settlement of this case, with a \$2,000 penalty for each gift violation, on June 10, 2010.

As described above, the Legislature declared that public officials, whether elected or appointed, should 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. The public harm inherent in the violation of Section 87460 is the potential for serious ethical abuses and blatant conflicts of interest. By accepting a loan from an employee of Respondent's local government agency, Respondent created an appearance that his actions may be guided by his own financial interests.

Notwithstanding the seriousness of the violation, the facts of this case warrant a penalty at less than the maximum amount. Specifically, in this case, no evidence was obtained to establish that Respondent actually influenced or participated in making any governmental decisions affecting Dr. Chycoski apart from all other employees of the School District.

There is only one other instance of the Commission approving a penalty for a violation of Section 87460, subdivision (a).

In the Matter of Karl Wyne, FPPC No. 06/86, involved an elected member of the Joshua Basin Water District Board of Directors, who received two personal loans totaling \$3,000 from an employee of the Joshua Basin Water District. The Commission approved a penalty of \$2,000 for this single count on September 10, 2009.

In this matter, Respondent's actions were more serious as the amounts of money involved were significantly larger than in the *Wyne* case. Therefore, imposition of an administrative penalty in the amount of Four Thousand Dollars (\$4,000) is recommended for each count.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the presence or absence of good faith, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of Two Thousand Dollars (\$2,000) each for Counts One and Two, Thousand Dollars (\$2,000) for Count Three, and Four Thousand Dollars (\$4,000) each for Counts Four and Five, for a total of Fourteen Thousand Dollars (\$14,000), is recommended.