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

11 In the Matter of ) FPPC No. 12/930  
12 )  
13 ) STIPULATION, DECISION and  
14 ) ORDER  
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Complainant the Enforcement Division of the Fair Political Practices Commission, and Respondent Manuel Paul agree that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this matter and to reach a final disposition without the necessity of holding an administrative hearing to determine the liability of Respondent, pursuant to Section 83116 of the Government Code.

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

1 preside over the hearing as a hearing officer, and to have the matter judicially reviewed. It is further  
2 stipulated and agreed that Respondent Manuel Paul violated the Political Reform Act by accepting a gift,  
3 which exceeded the gift limit, in violation of Section 89503, subdivision (c) of the Government Code (1  
4 count). The count is described in Exhibit 1, which is attached hereto and incorporated by reference as  
5 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this 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 him an administrative penalty in the amount  
8 of Five Thousand Dollars (\$5,000). A cashier's check from Respondent in said amount, made payable  
9 to 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.

18  
19 Dated: \_\_\_\_\_

\_\_\_\_\_  
20 Gary Winuk, Enforcement Chief,  
21 on behalf of the  
22 Fair Political Practices Commission

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

\_\_\_\_\_  
24 Manuel Paul,  
25 Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Manuel Paul,” FPPC No. 12/930,  
3 including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political  
4 Practices Commission, effective upon execution below by the Chair.

5  
6 IT IS SO ORDERED.

7  
8 Dated: \_\_\_\_\_

\_\_\_\_\_   
Joann Remke, Chair  
Fair Political Practices Commission

1 **EXHIBIT 1**

2 **INTRODUCTION**

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4 This case was done in partnership with the Southern District United States Attorney’s office in  
5 San Diego. In addition to agreeing to this stipulation, Respondent Manuel Paul (“Respondent”) entered  
6 into a plea for a violation of 18 USC 601, deprivation of a benefit for a political contribution, on August  
7 20, 2014. At all times relevant to this matter, Respondent was employed as the Superintendent of the  
8 San Ysidro School District. As a designated employee, Respondent is required to file an annual  
9 Statement of Economic Interests (“SEI”) disclosing all income received as required by the Political  
10 Reform Act (the “Act”)<sup>1</sup> and is subject to the annual gift limit, which was \$420 in 2010. In this matter,  
11 Respondent received a gift of \$2,500 from Loreto Romero, a contractor seeking work with the San  
12 Ysidro School District exceeding the applicable gift limit from one source in 2010.

13 For the purposes of this Stipulation, Respondent’s violation of the Act is stated as follows:

14 **COUNT 1:** Respondent Manuel Paul, a designated employee of the San Ysidro School District,  
15 accepted a gift of \$2,500, which exceeded the \$420 gift limit, from Loreto Romero,  
16 LLC, in violation of Section 89503, subdivision (c) of the Government Code.

17 **SUMMARY OF THE LAW**

18 **Duty to File Annual Statement of Economic Interests**

19 An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that the  
20 assets and income of public officials, that may be materially affected by their official actions, be  
21 disclosed, so that conflicts of interests may be avoided. In furtherance of this purpose, Section 87300  
22 requires every agency to adopt and promulgate a Conflict of Interest Code. A Conflict of Interest Code  
23 shall have the force of law and any violation of a Conflict of Interest Code by a designated employee  
24 shall be deemed a violation of this chapter. (Section 87300.)

25 **Disclosure Provisions**

26 Section 82019, subdivision (a), defines “designated employee” to include any member of any  
27 agency whose position is “designated in a Conflict of Interest Code because the position entails the  
28 making or participation in the making of decisions which may foreseeably have a material effect on any  
financial interest.” Each Conflict of Interest Code shall require that each designated employee file  
annual statements, disclosing reportable investments, business positions, interests in real property and

<sup>1</sup> 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.

1 sources of income. (Section 87302.) “Income” is defined, in part, as a payment received, including but  
2 not limited to any salary, wage, or gift. (Section 82030, subd. (a).)

3 Section 87300 requires that every agency adopt and promulgate a Conflict of Interest Code and  
4 that Code shall have the force of law. In addition, any violation of that Code by a designated employee  
5 shall be a violation of the Act. Section 87302, subdivision (b), provides that an agency’s Conflict of  
6 Interest Code must require each designated employee of the agency to file annual statements of  
7 economic interests at a time specified in the agency’s conflict of interest code, disclosing investments,  
8 income, business positions, and interests in real property, held or received at anytime during the  
9 previous calendar year and that the information required to be disclosed describing these interests is the  
10 same as that required by Sections 87206 and 87207. An agency’s Conflict of Interest Code may  
11 incorporate Regulation 18730, which contains a model conflict of interest code, by reference.

12 The San Ysidro School District’s Conflict of Interest Code lists the position of “Superintendent”  
13 as a designated position required to disclose all gifts and comply with Government Code Section 89503  
14 with regard to the acceptance of gifts.

### 15 Gift Limit

16 Section 89503, subdivision (c), of the Act states that “No member of a state board or commission  
17 or designated employee of a state or local government agency shall accept gifts from any single source  
18 in any calendar year with a total value of more than two hundred fifty (\$250) if the member or employee  
19 would be required to report the receipt of income or gifts from that source on his or his statement of  
20 economic interests.” The \$250 gift limit amount is adjusted biennially to reflect changes in the  
21 Consumer Price Index pursuant to Section 89503, subdivision (f). For 2010, the applicable gift limit  
22 from a single source was \$420.

23 Section 82028, subdivision (a), provides that a “gift” means any payment that confers a personal  
24 benefit on the recipient, to the extent that consideration of equal or greater value is not received.  
25 Regulation 18941 states that “...a gift is ‘received’ or ‘accepted’ when the recipient knows that he or she  
26 has either actual possession of the gift or takes any action exercising direction or control over the gift.”  
27 Regulation 18944 states that a gift confers a personal benefit on the official when the official enjoys a  
28 direct benefit from the gift, the official uses the gift, or the official exercises discretion and control over  
29 who will use the gift or how to dispose of the gift.<sup>2</sup> In addition, Regulation 18945, subdivision (a),  
30 states that a person is the source of a gift if the person either gives the gift directly to the official or the  
31 “person makes a payment to a third party and in fact directs and controls the use of the payment to make  
32 a gift to one or more clearly identified officials.” Regulation 18945, subdivision (b), states that official  
33 may presume that the person delivering or offering the gift is the source of the gift. Regulation 18946  
34 states that the value of the gift is the fair market value as of the date of receipt or promise of the gift.

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35 <sup>2</sup> Section 82048 defines “public official” to include “every member, officer, employee or consultant of a state or local  
36 government agency.”

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3 **SUMMARY OF THE FACTS**  
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5 At all times relevant to this matter, Respondent was employed as the Superintendent of the San  
6 Ysidro School District Superintendent of the San Ysidro School District from 2007 until his resignation  
7 in 2013. Prior to September 2010, Respondent requested money from Loreto Romero, an individual  
8 purporting to be a licensed contractor. Respondent requested the money in order to make campaign  
9 contributions to three candidates: Yolanda Hernandez, Jean Romero, and Jason Wells, for the 2010 San  
10 Ysidro School District Board of Education election.

11 At the time of the request, Respondent explained to Loreto Romero that the payment was  
12 necessary in order for Loreto Romero to be included on the list of contractors considered for future San  
13 Ysidro School District building contracts. As Superintendent, Respondent participated on a committee  
14 that recommended finalists for construction contracts, and was ultimately responsible for recommending  
15 contractors to the Board.

16 On or about September 2010, Loreto Romero gave Respondent \$2,500 in cash in the parking lot  
17 of a Chula Vista restaurant. From the \$2,500, Defendant then made contributions to the political  
18 campaigns of Yolanda Hernandez, Jean Romero, and Jason Wells.

19 **COUNT 1**  
20

21 **Acceptance of Gifts in Excess of the Annual Gift Limit**  
22

23 Respondent Paul was the Superintendent of the San Ysidro School District at all times relevant  
24 to this matter. As a designated employee, Respondent was prohibited from accepting gifts from a single  
25 source in excess of the \$420 annual gift limit for 2010. Respondent received a gift totaling \$2,500 in  
26 2010 from Loreto Romero, in excess of the gift limit.

27 By accepting gifts over the annual gift limit in 2010, Respondent violated Section 89503,  
28 subdivision (c), of the Government Code.

**CONCLUSION**

This matter consists of one count, which carries a maximum possible administrative penalty of  
Five Thousand Dollars (\$5,000).

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): 1) the seriousness of the violations; 2) the presence or lack of intent to

1 deceive the voting public; 3) whether the violation was deliberate, negligent, or inadvertent; 4) whether  
2 the Respondent demonstrated good faith in consulting with Commission staff; 5) whether there was a  
3 pattern of violations; and 6) whether the Respondent, upon learning of a reporting violation, voluntarily  
4 filed amendments to provide full disclosure.

5 **Over-the-limits Gift:** Penalties for gifts received over the applicable limits violations in the last  
6 couple of years range between \$1,500 for gifts of low amounts with little possibility of causing a conflict  
7 of interest to \$2,500 depending on the circumstances of each case. Recent prior penalties concerning  
8 gifts received over the applicable limits violations include:

- 9 • *In re James Cameron, FPPC No. 12/027* (Approved April 25, 2013). James Cameron, as the  
10 Chief Financial Officer of Oxnard, failed to disclose gifts received from a developer who does  
11 business in the city on annual SEIs and failed to disclose gifts received from a municipal bond  
12 underwriter who does business with the city. The gifts received were \$496.81 over the applicable  
13 gift limit. The Commission approved a \$2,000 penalty for exceeding the applicable gift limit.
- 14 • *In re Louie Martinez, FPPC No. 09/261* (Approved June 9, 2011). Louie Martinez, a senior  
15 project manager for the City of Irvine, received discounted landscaping service with a company  
16 who contracted with the City. The Commission approved a stipulated settlement for \$2,000 per  
17 count for the violations of receiving gifts over the limit and \$4,000 for the violation of the  
18 conflict of interest provisions of the Act when he approved an invoice for payment of  
19 approximately \$86,000 to the company that provided him the services.

20 In this matter, Respondent received a gift well in excess of the \$420 limit from an individual on  
21 terms related to his official duties. The Respondent is also, however, entering into a criminal plea with  
22 the United States Attorney's office in San Diego and this proposed settlement is part of a global  
23 resolution of the matter. Respondent does not have a prior history of violating the Act.

24 Given the circumstances surrounding the gift, a \$5,000 fine for the one count is recommended.

### 25 PROPOSED PENALTY

26 After consideration of the factors of Regulation 18361.5, including whether the behavior in  
27 question was inadvertent, negligent or deliberate and the Respondent's pattern of behavior, as well as  
28 consideration of penalties in prior enforcement actions, the imposition of a penalty of Five Thousand  
Dollars (\$5,000) is recommended.