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

11 In the Matter of) FPPC No. 12/334
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14)
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16)
KENDRA OKONKWO,) **STIPULATION, DECISION and ORDER**
Respondent.)

17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondent Kendra Okonkwo, hereby agree that this Stipulation will be submitted for consideration by
20 the Fair Political Practices Commission at its next regularly scheduled meeting.

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

24 Okonkwo 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 Okonkwo'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 Okonkwo violated the Political Reform Act by using or
4 attempting to use her official position to influence governmental decisions in which she had a financial
5 interest by negotiating and signing lease agreements between Okonkwo and WAYS Charter School for
6 real property in which she had an economic interest of \$2,000 or more, in violation of Government
7 Code section 87100 (2 counts); and by signing contracts on behalf of WAYS Charter School for site
8 improvements to real property in which Okonkwo held an economic interest of \$2,000 or more, in
9 violation of Government Code section 87100 (2 counts), as described in Exhibit 1. Exhibit 1 is attached
10 hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate
11 summary of the facts in this matter.

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

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Dated: _____

Galena West, on Behalf of the Enforcement Division
Fair Political Practices Commission

Dated: _____

Kendra Okonkwo, Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Kendra Okonkwo” FPPC No. 12/334, including all attached exhibits, 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: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Kendra Okonkwo was the founder of Merle Williamson Foundation dba Wisdom Academy of Young Scientists (WAYS), a public charter elementary school located in Los Angeles, CA. Okonkwo served as the Executive Director of WAYS from 2006 through May 3, 2011. The Political Reform Act (the “Act”)¹ prohibits a public official from making, participating in making, or attempting to use her official position to influence a governmental decision in which the official knows or has reason to know she has a financial interest. Okonkwo violated the Act by using her official position to influence governmental decisions of the WAYS Board of Directors when she leased her real property to WAYS, and by making governmental decisions when she signed contracts for improvements to her real property as the Executive Director of WAYS, in violation of Section 87100.

SUMMARY OF THE LAW

All legal references and discussions of law pertain to the Act’s provisions as they existed in 2010 and 2011.

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

When enacting the Political Reform Act, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities.² To that end, the Act must be liberally construed to achieve its purposes.³

There are many purposes of the Act. One purpose is to ensure that public officials are disqualified from certain matters in order that conflicts of interest may be avoided.⁴ Another is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁵

Conflicts of Interest

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.⁶ 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 real property in which the public official has a direct or indirect interest worth \$2,000 or more.⁷

¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² § 81001, subd. (h).

³ § 81003.

⁴ § 81002, subd. (c).

⁵ § 81002, subd. (f).

⁶ § 87100.

⁷ § 87103, subd. (b).

In 2010 and 2011, there were six steps to determine whether an individual had a conflict of interest in a governmental decision (steps seven and eight are irrelevant to these facts).⁸

First, the individual must have been a public official.⁹ An officer or employee of a local government agency was a public official.¹⁰ Any department, division, bureau, office, board, commission or other agency of a county, city or district is a local government agency.¹¹ All charter schools organized pursuant to Education Code section 47600 et seq. are considered “local government agencies” under the Act.¹²

Second, the official must have made, participated in making, or attempted to use his or her official position to influence a governmental decision.¹³ A public official made a governmental decision when the official, acting within the authority of his office or position, entered into any contractual agreement on behalf of his or her agency.¹⁴ Regarding a governmental decision which is within or before an official's agency, the official is using or attempting to use her official position to influence the decision if, for the purpose of influencing the decision, the official contacts, or appears before, or otherwise attempts to influence, any member, officer, employee or consultant of the agency.¹⁵

Third, the official must have had an economic interest.¹⁶ Such interests included any real property in which the official had a direct or indirect interest worth \$2,000 or more.¹⁷

Fourth, it must be determined whether the economic interest of the official was directly or indirectly involved in the governmental decision.¹⁸ Real property was directly involved in a governmental decision when the real property was located within 500 feet of the boundaries (or the proposed boundaries) of the property which was the subject of the governmental decision.¹⁹

Fifth, the applicable materiality standard must be determined.²⁰ When the real property was directly involved in the governmental decision, the financial effect was presumed to be material.²¹

Sixth, at the time of the governmental decision, it must have been reasonably foreseeable that the decision would have a material financial effect.²² A material financial effect on an

⁸ Reg. 18700, subd. (b).

⁹ Reg. 18700, subd. (b)(1).

¹⁰ § 82048, subd. (a).

¹¹ Section 82041.

¹² *Fadely* Advice Letter, No. A-02-223; *Walsh* Advice Letter, No. A-98-234; See also *In re Siegel*, (1977) 3 FPPC Ops. 62.

¹³ Reg. 18700, subd. (b)(2).

¹⁴ Reg. 18702.1, subd. (a).

¹⁵ Regulation 18702.3, subd. (a).

¹⁶ Reg. 18700, subd. (b)(3).

¹⁷ § 87103, subd. (b), and Reg. 18703.2(a).

¹⁸ Reg. 18700, subd. (b)(4).

¹⁹ Reg. 18704.2, subd. (a)(1).

²⁰ Reg. 18700, subd. (b)(5).

²¹ Reg. 18705.2, subd. (a)(1).

²² Reg. 18700, subd. (b)(6).

economic interest was reasonably foreseeable if it was substantially likely that one or more of the materiality standards applicable to the economic interest would have been met as a result of the governmental decision.²³ Whether the financial consequences of a decision are “reasonably foreseeable” at the time of a governmental decision depends upon the facts of each particular case.²⁴

SUMMARY OF THE FACTS

Okonkwo founded WAYS to serve a population of underperforming or high risk students in South Los Angeles. WAYS was formed pursuant to Education Code section 47600, and the original charter was approved in 2006 by the Los Angeles Unified School District (LAUSD) Board of Education for five years to serve 200-300 students in Kindergarten through 5th Grade. In 2010 and 2011, Okonkwo received annual salary from WAYS as follows:

Calendar Year	Salary
2010	\$110,655
2011	\$112,960
TOTAL	\$223,615

During this time, Okonkwo owned several parcels of real property, located in Los Angeles, CA, including: 1) 702 – 706 East Manchester Avenue; and 2) 8778 South Central Avenue. In Okonkwo’s annual statement of economic interests for calendar year 2010, Okonkwo stated that 702 – 706 East Manchester Avenue had a fair market value of \$100,001 – \$1,000,000, and that 8778 South Central Avenue had a fair market value of \$10,001 – \$100,000.

While she served as the Executive Director of WAYS, Okonkwo, as the owner of the real property identified above, negotiated with the WAYS Board of Directors to lease these parcels to WAYS for use as two of its school campuses. Each of the lease agreements was signed by Okonkwo on behalf of herself as the owner of the real property, and by the President of the WAYS Board of Directors on behalf of WAYS. Between July 2009 and January 2011, Okonkwo received annual rent payments from WAYS for both parcels of real property as follows:

Fiscal Year	Payee	Annual Total
July 2009 – June 2010	Okonkwo	\$179,560
July 2009 – June 2010	Okonkwo - “Advanced Rent”	\$30,000
June 2010 – January 2011	Okonkwo	\$93,245
TOTAL		\$302,805

In an attempt to eliminate the conflicts of interests, Okonkwo transferred the real property at issue to OCI Development Corporation, a California corporation established in or about December 2010. New leases between WAYS and OCI were signed on January 31, 2011. Okonkwo’s mother signed the leases as the landlord, identifying herself as CEO of OCI. The grant deed filed for the property transfer dated February 3, 2011 identified the transfer as a revocable living trust, and specifically stated that no consideration was given for the transfer.

²³ Reg. 18706, subd. (a).

²⁴ Reg. 18706, subd. (b).

Because the trust was revocable, there was no transfer of property ownership pursuant to California law.²⁵ A new grant deed was later filed on July 14, 2011, identifying the transfer of the real property as a gift from Okonkwo and her husband to OCI.

Before the new grant deed was filed, LAUSD denied WAYS’ petition to renew the charter amid continuing concerns by LAUSD auditors that Okonkwo had conflicts of interests and self-dealing transactions. Because LAUSD denied WAYS’ petition to renew the charter, Okonkwo and the WAYS Board of Directors turned to the Los Angeles County Office of Education (LACOE) for a charter. LACOE agreed to issue conditional charter approval, but in order to receive the conditional approval, the WAYS Board of Directors was obligated to release Okonkwo from her duties as Executive Director. Okonkwo was relieved of her duties on May 3, 2011. In June 2011, WAYS received conditional charter approval from LACOE.

During the time Okonkwo was Executive Director of WAYS, Okonkwo signed construction related contracts on behalf of WAYS to improve the real property WAYS leased from her. The applicable lease agreements obligated WAYS to pay for any improvements made to the facilities.

On November 29, 2010, the Los Angeles Department of Building and Safety (LADBS) issued an Order to Comply to WAYS to immediately make extensive ADA improvements to the real property owned by Okonkwo. In response to the Order to Comply, Okonkwo signed the following relevant contracts on behalf of WAYS:

Contract Date	Parties to Contract	Purpose for Contract	Scope of Work	Contract Amount
03/28/2011	WAYS; Specialized Expert Services, Inc.	To manage the ADA Upgrade	Construction Management Services for site improvements at 706 East Manchester Avenue	\$4,080.00
04/14/2011	WAYS; RPM Construction Management, Inc.	To bring the WAYS facility up to ADA requirements	ADA Upgrade at 706 East Manchester Avenue	\$57,900.00
TOTAL				\$61,980.00

VIOLATIONS

Accordingly, Okonkwo committed four violations of the Act, as follows:

Count 1: Conflict of Interest: Used or Attempted to Use Official Position to Influence a Governmental Decision in Which the Official Had a Financial Interest

On or about July 1, 2010, as the Executive Director of WAYS Charter School, Okonkwo used or attempted to use her official position to influence a governmental decision in which she had a financial interest by negotiating and signing a commercial lease agreement between herself

²⁵ Rev. and Tax. Code § 62.

and WAYS Charter School for real property located at 702 – 706 East Manchester Avenue in which Okonkwo held an interest of \$2,000 or more for the lease term of July 1, 2010 through June 30, 2011, for rent of \$10,200 per month.

As the Executive Director of WAYS, Okonkwo was a public official. By negotiating and signing a commercial lease agreement with WAYS, Okonkwo used or attempted to use her official position to influence a governmental decision. On the date of the above decision, Okonkwo had an economic interest worth \$2,000 or more in 702 – 706 East Manchester Avenue. 702 – 706 East Manchester Avenue was directly involved in the governmental decision because it was the property which was the subject of the lease. Since 702 – 706 East Manchester Avenue was directly involved in the governmental decision, the financial effect of the governmental decision was presumed to be material. For purposes of this stipulation and settlement, Okonkwo does not rebut this presumption. And it was reasonably foreseeable that the governmental decision would have a material financial effect on her real property because WAYS was obligated to pay \$10,200 per month in rent, which totaled \$122,400 for the term of the lease. Additionally, WAYS was obligated under the lease to pay for improvements to the real property, which would likely increase the fair market value of the rental property.

Therefore, Okonkwo used or attempted to use her official position to influence a governmental decision in which she had a financial interest, in violation of Section 87100.

Count 2: Conflict of Interest: Used or Attempted to Use Official Position to Influence a Governmental Decision in Which the Official Had a Financial Interest

On or about July 1, 2010, as the Executive Director of WAYS Charter School, Okonkwo used or attempted to use her official position to influence a governmental decision in which she had a financial interest by negotiating and signing a commercial lease agreement between herself and WAYS Charter School for real property located at 8778 South Central Avenue in which Okonkwo held an interest of \$2,000 or more for the lease term of July 1, 2010 through June 30, 2011, for rent of \$4,000 per month.

As the Executive Director of WAYS, Okonkwo was a public official. By negotiating and signing a commercial lease agreement with WAYS, Okonkwo used or attempted to use her official position to influence a governmental decision. On the date of the above decision, Okonkwo had an economic interest worth \$2,000 or more in 8778 South Central Avenue. 8778 South Central Avenue was directly involved in the governmental decision because it was the property which was the subject of the lease. Since 8778 South Central Avenue was directly involved in the governmental decision, the financial effect of the governmental decision was presumed to be material. For purposes of this stipulation and settlement, Okonkwo does not rebut this presumption. And it was reasonably foreseeable that the governmental decision would have a material financial effect on her real property because WAYS was obligated to pay \$4,000 per month in rent, which totaled \$48,000 for the term of the lease. Additionally, WAYS was obligated under the lease to pay for improvements to the real property, which would likely increase the fair market value of the rental property.

Therefore, Okonkwo used or attempted to use her official position to influence a governmental decision in which she had a financial interest, in violation of Section 87100.

Count 3: Conflict of Interest: Made a Governmental Decision in Which the Official Had a Financial Interest

On or about March 28, 2011, as the Executive Director of WAYS Charter School, Okonkwo made a governmental decision in which she had a financial interest by signing a contract on behalf of WAYS with Specialized Expert Services, Inc., for an amount not to exceed \$4,080 to perform consultant/coordination services for ADA Upgrade improvements to 706 East Manchester Avenue, real property in which Okonkwo held an economic interest of \$2,000 or more.

As the Executive Director of WAYS, Okonkwo was a public official. By signing a contract on behalf of WAYS, Okonkwo made a governmental decision. On the date of the above decision, Okonkwo had an economic interest worth \$2,000 or more in 706 East Manchester Avenue. 706 East Manchester Avenue was directly involved in the governmental decision because it was the property which was the subject of the contract. Since 706 East Manchester Avenue was directly involved in the governmental decision, the financial effect of the governmental decision was presumed to be material. For purposes of this stipulation and settlement, Okonkwo does not rebut this presumption. And it was reasonably foreseeable that the governmental decision would have a material financial effect on her real property – WAYS needed the services of Specialized Expert Services, Inc., to consult on and coordinate the construction, minimizing disruptions to the school’s operations and bringing Okonkwo’s property into compliance with the ADA, which would likely increase the fair market value of the rental property.

Therefore, Okonkwo made a governmental decision in which she had a financial interest, in violation of Section 87100.

Count 4: Conflict of Interest: Made a Governmental Decision in Which the Official Had a Financial Interest

On or about April 14, 2011, as the Executive Director of WAYS Charter School, Okonkwo made a governmental decision in which she had a financial interest by signing a contract on behalf of WAYS with RPM Construction Management, Inc., for \$57,900 to perform construction services for ADA upgrade improvements to 706 East Manchester Avenue, real property in which Okonkwo held an economic interest of \$2,000 or more.

As the Executive Director of WAYS, Okonkwo was a public official. By signing a contract on behalf of WAYS, Okonkwo made a governmental decision. On the date of the above decision, Okonkwo had an economic interest worth \$2,000 or more in 706 East Manchester Avenue. 706 East Manchester Avenue was directly involved in the governmental decision because it was the property which was the subject of the contract. Since 706 East Manchester Avenue was directly involved in the governmental decision, the financial effect of the governmental decision was presumed to be material. For purposes of this stipulation and settlement, Okonkwo does not rebut this presumption. And it was reasonably foreseeable that the governmental decision would have a material financial effect on her real property because bringing Okonkwo’s property into compliance with the ADA would likely increase the fair

market value of the rental property.

Therefore, Okonkwo made a governmental decision in which she had a financial interest, in violation of Section 87100.

CONCLUSION

This matter consists of four counts of violating the Act, carrying an administrative penalty of \$5,000 per count, for a maximum administrative penalty of \$20,000.

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 Margaret Salazar*; FPPC No. 13/235 (Default Decision). Salazar was the Regional Director of a migrant education program that was administered by the San Joaquin County Office of Education and overseen by the California Department of Education. On numerous occasions, she used her official position to direct substantial program funds for catering and janitorial services to two different vendors, in which she had an economic interest – her restaurant and her husband’s janitorial company – in violation of Government Code Section 87100 (10 counts). In August 2015, the Commission imposed a penalty of \$4,000 per count.

Making a governmental decision in which an official has a financial interest undermines public trust in government by creating the appearance that the decision was the product of a conflict of interest. Also, such conduct contradicts the Act’s decree that government should serve the needs of all citizens equally and in an impartial manner without regard to wealth or financial interests.²⁶ Conflict of interest violations typically result in fines in the medium to maximum range.

In this matter, Okonkwo engaged in a pattern of violations in which she made, used or attempted to use her official position to influence governmental decisions involving real property in which she had a significant financial interest. Okonkwo owned two parcels of commercial real property, and she leased these parcels to WAYS, the charter school for which she served as Executive Director. Okonkwo simultaneously received from WAYS a six-figure salary for her

²⁶ § 81001, subd. (a) and (b).

duties as Executive Director and monthly rent payments of over \$11,000 for the leasing of her real property. Okonkwo engaged in a pattern of influencing the WAYS Board of Directors by leasing her real property to WAYS, and by signing contracts on behalf of WAYS to make and pay for improvements to that same real property. WAYS paid for contracts related to improvements to her real property of at least \$61,980. Each of these decisions directly and immediately benefited Okonkwo and her real property.

In mitigation, Okonkwo understands the seriousness of the violations and accepts responsibility for her actions. She cooperated with the Enforcement Division during the investigation, and she has no prior enforcement history with the Commission. Okonkwo disclosed her real property in each of her applicable SEIs and disclosed her ownership in the real property to the WAYS Board of Directors before entering into the leases. And evidence shows that even though she was not a member of the WAYS Board of Directors, she recused herself from the discussion and vote by the WAYS Board of Directors when the leases were brought forward for their consideration. Okonkwo incorrectly believed that such steps would avoid conflicts of interests issues. Regarding the ADA contracts, evidence shows that WAYS would have had to close or move immediately if WAYS did not make the ADA improvements cited by LADBS. Okonkwo contends that in her haste to comply with the City's order, and to avoid interruptions in the school's operations, she failed to recognize her conflict of interests. And evidence shows that after Okonkwo left office, the contract was "voided," by the WAYS Board of Directors before any work was performed, and the new Executive Director entered into a new contract with RPM.

PROPOSED PENALTY

After considering the factors listed in Regulation §18361.5 and penalties in prior similar cases, a penalty of \$4,000 per count, totaling \$16,000, is recommended.

* * * * *