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

10
11 In the Matter of:

12 **DANNY FRED**

13 Respondent.

FPPC No. 15/1406

14 **STIPULATION, DECISION, AND ORDER**

15
16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
18 Respondent Danny Fred (Respondent) hereby agree that this Stipulation will be submitted for
19 consideration by the Fair Political Practices Commission (Commission) at its next regularly scheduled
20 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 failing to
4 timely file two Annual Statements of Economic Interests in violation of Government Code sections
5 87300 and 87302 (one count), as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by
6 reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this
7 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 \$1,000. Respondent submitted with this Stipulation a cashier's check in said amount, made payable to
11 the "General Fund of the State of California," as full payment of the administrative penalty that shall be
12 held by the State of California until the Commission issues its Decision and Order regarding this matter.
13 The parties agree that in the event the Commission refuses to accept this Stipulation, it shall become null
14 and void, and within fifteen (15) business days after the Commission meeting at which the Stipulation is
15 rejected, all payments tendered by Respondent in connection with this Stipulation shall be reimbursed to
16 Respondent. Respondent further stipulates and agrees that in the event the Commission rejects the
17 Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any
18 member of the Commission, nor the Executive Director, shall be disqualified because of prior
19 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 Danny Fred

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Danny Fred,” FPPC No. 15/1406,
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.

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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 Danny Fred (“Fred”) has been a Consultant for the Housing Authority of the County of San Bernardino (“HACSB”) since 2011. The Political Reform Act (“Act”) requires public officials to periodically file a statement of economic interests (“SEI”).¹ As a Consultant, Fred was required to file an Annual SEI by April 1 of the following year, disclosing his economic interests. Fred violated the Act by failing to timely file a 2013 Annual SEI and a 2014 Annual SEI.

SUMMARY OF THE LAW

An express purpose of the Act is to ensure that the assets and income of public officials and designated employees that may be materially affected by their official actions be disclosed, so that conflicts of interests may be avoided.² In furtherance of this purpose, the Act requires every state agency to adopt and promulgate a conflict of interest code, and any violation of such a code is deemed a violation of the Act.³

An agency’s conflict of interest code must specifically designate the positions within the agency that are required to file SEIs that disclose reportable investments, business positions, interests in real property, and sources of income.⁴ 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.⁵

SUMMARY OF THE FACTS AND VIOLATIONS

Fred is a Consultant for the HACSB, which is a designated position under the Conflict of Interest Code for the HACSB. Fred assumed office on May 20, 2011.

Fred failed to timely file a 2013 and 2014 Annual SEI. Fred filed a 2013 Annual on July 10, 2014. Fred filed a 2014 Annual on January 21, 2016 in conjunction with this settlement.

Fred was previously referred to the Fair Political Practices Commission (the “Commission”) for failure to timely file a 2012 Annual SEI. Fred filed a 2012 Annual SEI on November 5, 2013. He and the Enforcement Division reached a one-count streamline stipulated agreement for a fine of \$200, which the Commission approved on December 2, 2013.

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.

² Section 81002, subdivision (c).

³ Section 87300.

⁴ Section 87302, subdivision (a).

⁵ Sections 82019, subdivision (a) and 87302.

Count 1: Failure to Timely File Statements of Economic Interests

Fred failed to timely file Annual SEIs for 2013 and 2014 in violation of Sections 87300 and 87302.

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of \$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)-(6): the seriousness of the violations; the presence or lack of intent to conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the respondents demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether the violator, upon learning of the violations, voluntarily filed amendments.

The Commission also considers penalties in prior cases involving similar violations. Similar cases include the following:

- *In the Matter of Madeleine Zayas-Mart*, FPPC No. 12/935. (Commission approved a stipulated decision in December 2014.) Zayas-Mart failed to timely file a 2011 Annual SEI and leaving office SEI but the violations were combined into one count. The Commission imposed a penalty of \$1,000.
- *In the Matter of Ruben Sierra*, FPPC No. 09/0470. (Commission approved a stipulated decision in April 2010.) Sierra failed to timely file an assuming office SEI and leaving office SEI but the violations were combined into a single count. The Commission imposed a penalty of \$800.

The failure to timely file statements of economic interest violates one of the Act's central purposes: that the assets and income of public officials that may materially affect their official decisions should be disclosed in order to avoid conflicts of interest.

Fred's violations deprived the public of important and timely information regarding his economic interests. However, there is no evidence of intent to conceal, Fred contends he was unaware he was required to file because he did not perform consulting services for the HACSB in 2013 or 2014, and Fred cooperated with the Enforcement Division to reach this stipulated settlement. *In the Matter of Madeleine Zayas-Mart* and *In the Matter of Ruben Sierra* are analogous to the current case, in which Fred failed to timely file two SEIs because in those cases each respondent failed to timely file two SEIs but the violations were consolidated into one count.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, the penalties imposed in prior cases, and other relevant information, we propose a penalty of \$1,000 per count for a total penalty of \$1,000.