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8
9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

10 STATE OF CALIFORNIA

11
12 In the Matter of:

13 ERIC REED,

14 Respondent.

FPPC Case No. 15/1174

15 STIPULATION, DECISION, AND ORDER

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17
18 INTRODUCTION

19 Respondent Eric Reed is a member of the Belmont City Council. The Political Reform Act (the
20 “Act”) requires elected officials, including city council members, to file Annual Statements of Economic
21 Interest (“SEI”) disclosing their economic interests. Eric Reed violated the Act by failing to timely disclose
22 his economic interest of between \$10,001 - \$100,000 in AT&T stock.

23 SUMMARY OF THE LAW

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25 All statutory references and discussions of law pertain to the Act’s provisions as they existed in
26 2015.

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

28 When enacting the Political Reform Act, the people of the State of California found and declared

1 the previous laws regulating political practices suffered from inadequate enforcement by state and local
2 authorities.¹ To that end, the Act must be liberally construed to achieve its purpose.²

3
4 **Duty to Timely Disclose Economic Interests**

5 One of the purposes of the Act is to ensure that public officials report assets and income
6 that could materially affect their official actions in order to avoid conflicts of interest.³ In furtherance of
7 this purpose, the Act requires every public official to annually file a statement of economic interests, on
8 which the official must disclose his or her reportable investments, interests in real property, and income.⁴

9
10 **SUMMARY OF THE FACTS**

11 This case arose from an anonymous telephone complaint that then-Mayor of Belmont Eric Reed
12 failed to disclose a stock investment in AT&T on his 2014 Annual SEI. The Enforcement Division made
13 initial contact with Reed in July of 2015, after which Reed admitted his failure to report his AT&T stock
14 on his SEI and filed an amended statement disclosing his ownership of the stock.

15 Enforcement later determined that Reed violated the Act's conflict of interest provisions by
16 participating in a governmental decision related to AT&T at the February 10, 2015 Belmont City Council
17 meeting, which Reed did not dispute. However, based on specific instructions from a majority of the
18 Commission at its April 20, 2017 meeting, Enforcement is not charging the conflict of interest violation.

19
20 **VIOLATION**

21 **Count 1: Failure to Timely Disclose Economic Interests**

22 Reed failed to timely disclose his stock investments of more than \$2,000 in AT&T on his
23 2014 Annual Statement of Economic Interest, in violation of Government Code Section 87203.

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¹ § 81001, subd. (h).

28 ² § 81003.

³ § 81002, subd. (c).

⁴ § 87203

1 **PROPOSED PENALTY**

2 This matter consists of one count of violating the Act, which carries a maximum administrative
3 penalty of five thousand dollars (\$5,000).

4 In determining the appropriate penalty for a particular violation of the Act, the Commission
5 considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis
6 on serving the purposes and intent of the Act. Additionally, the Commission considers the facts and
7 circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d):
8 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3)
9 whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated
10 good faith in consulting with Commission staff; 5) whether there was a pattern of violations; and 6)
11 whether, upon learning of the violation, the violator voluntarily provided amendments to provide full
12 disclosure.

13 The penalty for failing to timely disclose economic interests has typically been in the middle
14 penalty range, depending on the circumstances.

15 The Commission also considers penalties in prior cases involving similar violations. Recent cases for
16 similar violations include:

17 *In the Matter of Sonny Dhaliwal, Sonny Dhaliwal for City Council 2010, and Sarbjit Dhaliwal ,*
18 *FPPC No. 12/806*, in June of 2014, the Commission imposed a penalty of \$2,000 per count for the
19 respondent’s failure to disclose receipt of personal loans totaling \$17,500 on his Annual SEI.

20 *In the Matter of John Wuo, FPPC Case No. 15/154*, in November of 2016, the Commission imposed
21 a penalty of \$1,000 against the respondent for his failure to report a source of income a business position
22 on his 2014 Annual SEI and his Leaving Office SEI. Wuo eventually amended his SEI to disclose both
23 interests.

24 In this case, like in the *Wuo* matter, Reed failed to report his economic interests arising from a
25 business interest on his Annual SEI. Reed also cooperated with the Enforcement Division’s investigation
26 and ultimately amended his return to disclose his interest in his AT&T stock. The public harm in this case
27 is higher than in the *Wuo* matter, however, because Reed is still in office and his economic interest was
28 regulated by and had business before his agency during the period covered by the SEI. Therefore, a \$2,000

1 penalty is recommended.

2 **CONCLUSION**

3 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
4 Respondent Eric Reed (Respondent) hereby agrees as follows:

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

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

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

12 4. Respondent understands, and hereby knowingly and voluntarily waive, any and all
13 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
14 This includes, but is not limited to the right to appear personally at any administrative hearing held in this
15 matter, to be represented by an attorney at Respondent’s own expense, to confront and cross-examine all
16 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
17 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
18 reviewed.

19 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
20 Respondent agrees to the Commission imposing against it an administrative penalty in the amount of
21 \$2,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General
22 Fund of the State of California—is/are submitted with this stipulation as full payment of the administrative
23 penalty described above, and same shall be held by the State of California until the Commission issues its
24 decision and order regarding this matter.

25 6. If the Commission refuses to approve this stipulation—then this stipulation shall become
26 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
27 rejected, all payments tendered by Respondent in connection with this stipulation shall be reimbursed to
28 Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before

1 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
2 shall be disqualified because of prior consideration of this Stipulation.

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

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7 Dated: _____
8 Galena West, Chief of Enforcement
9 Fair Political Practices Commission

10 Dated: _____
11 Eric Reed

1 The foregoing stipulation of the parties “In the Matter of Eric Reed,” FPPC No. 16/0348, is hereby accepted
2 as the final decision and order of the Fair Political Practices Commission, effective upon execution below
3 by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: _____

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9 Joann Remke, Chair
10 Fair Political Practices Commission
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