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

12
13 In the Matter of:

14 SIMON LEE

15 Respondent.

FPPC Case No. 16/677

16 STIPULATION, DECISION, AND ORDER

17
18 INTRODUCTION

19 Respondent Simon Lee was an alternate commissioner on the City of San Marino Planning
20 Commission (“Planning Commission”) from July 2014 to January 2015. Prior to that, he was a member of
21 the City of San Marino Design Review Committee for four years. The Political Reform Act (the “Act”)¹
22 requires public officials to disclose their financial interests and prohibits public officials from making a
23 government decision that has a material financial effect on a financial interest of the official. Lee violated
24 the Act by failing to disclose certain financial interests, and making decisions as a public official on matters
25 involving those financial interests.

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28 ¹ The 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 **SUMMARY OF THE LAW**

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

3 When enacting the Political Reform Act, the people of California found and declared that previous
4 laws regulating political practices suffered from inadequate enforcement by state and local authorities.²
5 For this reason, the Act is to be construed liberally to accomplish its purposes.³

6 **Conflict of Interest**

7 A public official may not make, participate in making or attempt to use his official position to
8 influence a governmental decision in which he knows, or has reason to know, he has a financial interest.⁴
9 A public official has a financial interest in a decision if it is reasonably foreseeable the decision will have
10 a material financial effect on any source of income of \$500 or more received by the public official within
11 12 months prior to the decision.⁵ Income includes a pro rata share of any income to a business entity in
12 which the official owns a 10% interest or greater.⁶ When a source of income files an application for a
13 license, permit, or other entitlement with an official's agency, the Act deems the decision to have a
14 reasonably foreseeable material financial effect on the source of income.⁷

15 **Statement of Economic Interests**

16 An express purpose of the Act is to ensure that the assets and income of public officials that may
17 be materially affected by their official actions be disclosed, so that conflicts of interests may be avoided.⁸
18 In furtherance of this purpose, the Act requires every local agency to adopt and promulgate a conflict of
19 interest code, and any violation of such a code is deemed a violation of the Act.⁹

20 An agency's conflict of interest code must specifically designate the positions within the agency
21 required to file SEIs and identify what economic interests must be disclosed by officials in those
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² § 81001, subd. (h).

25 ³ § 81003.

26 ⁴ §87100.

27 ⁵ §87103, subd. (c).

28 ⁶ §82030, subd. (a).

⁷ Former Regs. §§ 18704.1, 18705.3, subd. (a), and 18706.

⁸ § 81002, subd. (c).

⁹ § 87300.

1 positions.¹⁰ The City of San Marino Conflict of Interest Code designates DRC Member as a position
2 required to file an assuming office, leaving office, and annual SEIs. On those SEIs, members of the DRC
3 are required to disclose interests in real property and all investments and business positions in business
4 entities and sources of income subject to the regulatory, permit, or licensing authority of the DRC, or that
5 engage in land development, construction, or the acquisition or sale of real property within San Marino.

6 Members of planning commissions are also required to file assuming office, leaving office and
7 annual SEIs.¹¹ An assuming office SEI covers the 12-month period directly preceding the official taking
8 office.¹² The leaving office SEI covers the period from the date the previous SEI was filed to the date the
9 official left office.¹³ The official must disclose real property interests within the jurisdiction, investments,
10 and sources of income of \$500 or more received during the previous 12 months, and business positions.¹⁴
11 An individual's income includes a pro rata share of any income of any business entity in which the
12 individual owns a 10% interest or greater.¹⁵

13 SUMMARY OF THE FACTS

14 Lee is an architect who owns all of Simon Lee & Associates, Inc., an architectural firm. Lee was
15 appointed to the City of San Marino Design Review Committee ("DRC") in 2009 and served on the DRC
16 through June of 2013. The DRC is a five-member committee appointed by the city council that reviews
17 applications for proposed building projects in San Marino to determine if a project is compatible with the
18 physical setting of the site and the visual character of the neighborhood based on specific design guidelines
19 adopted by the city council. The DRC must approve a project application before construction can begin.

20 Liu House

21 On June 20, 2012, the DRC considered an application by Chaohui Liu for the construction of a
22 custom house at 1048 Oak Grove Place. The application included a contract between Liu and Longilat
23 Design Group International, Inc. ("Longilat") for the design and working drawings for the construction
24 of the house. The contract identified Richard Abe of Media Portfolio, Inc. in Pasadena as the architect for

26 ¹⁰ § 87302, subd. (a).

27 ¹¹ §87200.

28 ¹² §87202, subd. (a).

¹³ §87204.

¹⁴ §§87202, 87203, and 87204.

¹⁵ §82030, subd. (a).

1 the initial design of the project. Abe was hired by Liu to create a conceptual design of the house, prepare
 2 the exterior color rendering, and present the project before the DRC. Abe was paid by Liu directly. Abe
 3 appeared before the DRC and presented the project. Abe’s participation in the project
 4 ended after he presented the project to the DRC.

5 Longilat is a subsidiary of Shanghai Longilat Design Institute, a China-based architecture,
 6 engineering and consulting company with close ties to Lee. Longilat has a Los Angeles branch located the
 7 office of Simon Lee & Associates in San Marino and Lee has a satellite office in Longilat’s Shanghai
 8 office. Lee is identified on Longilat’s California corporate filings as a manager and agent for service of
 9 process dating back to 2011. Lee said he was paid a monthly salary by Longilat and was its only
 10 employee in California. Lee also was an authorized signatory for a Longilat bank account beginning in
 11 June of 2012.

12 While the contract purported to be between Longilat and Liu, Simon Lee & Associates performed
 13 all of the services required of Longilat under the contract. Liu paid Longilat who subsequently transferred
 14 the funds to Simon Lee & Associates. Between March 8, 2012 and August 16, 2012, Liu made five
 15 payments of \$10,000 each to Longilat for a total of \$50,000, the contract amount. Longilat transferred the
 16 money to Simon Lee & Associates via multiple checks in increments of \$7,000 to \$8,000 spread out over
 17 more than two years. Lee signed the checks to Simon Lee & Associates on behalf of Longilat. The
 18 following table details the transfer of funds from Liu to Longilat and then to Simon Lee & Associates:

Date of payment	Payor	Payee	Amount	Total to payee to date
March 8, 2012	Liu	Longilat	\$10,000	\$10,000
March 29, 2012	Liu	Longilat	\$10,000	\$20,000
March 29, 2012	Longilat	Simon Lee & Associates	\$7,000	\$7,000
April 6, 2012	Longilat	Simon Lee & Associates	\$7,000	\$14,000
May 8, 2012	Liu	Longilat	\$10,000	\$30,000
June 18, 2012	Liu	Longilat	\$10,000	\$40,000
August 16, 2012	Liu	Longilat	\$10,000	\$50,000
October 19, 2012	Longilat	Simon Lee & Associates	\$7,000	\$21,000

November 4, 2012	Longilat	Simon Lee & Associates	\$7,000	\$28,000
December 24, 2012	Longilat	Simon Lee & Associates	\$8,000	\$36,000
January 4, 2013	Longilat	Simon Lee & Associates	\$8,000	\$44,000
June 30, 2014	Longilat	Simon Lee & Associates	\$6,000	\$50,000

At a DRC meeting on June 20, 2012, Lee, the chairman of the DRC at the time, voted in favor of approving the Liu application to construct the house on Liu's property. Lee did not disclose his position with Longilat at the meeting. Further, Lee, who had prepared some of the drawings submitted as part of the application, did not disclose that Simon Lee & Associates had been paid by Liu via Longilat for that work. Also, Lee did not disclose that Simon Lee & Associates would be preparing the working drawings for the project under the contract between Liu and Longilat once the project received approval. Liu's application passed without opposition.

Wangs House

Similar to the Liu house, Lee provided architectural services for a custom house project next door to the Liu house at 1049 Oak Grove Place. The property owners, the Wangs, contracted with Longilat for design services in November 2012. But like the Liu project, Simon Lee & Associates performed the services required of Longilat under the contract. The total amount of the contract was \$50,000. The Wangs made five payments of \$10,000 each between November 2012 and August 2013 to Longilat. Longilat transferred the \$50,000 to Simon Lee & Associates in a series of checks in increments of \$5,000 to \$8,000 drawn from Longilat's account and signed by Lee. The following table details the transfer of funds from the Wangs to Longilat to Simon Lee & Associates:

Date of payment	Payor	Payee	Amount	Cumulative to payee
November 12, 2012	Wangs	Longilat	\$10,000	\$10,000
November 28, 2012	Wangs	Longilat	\$10,000	\$20,000
December 13, 2012	Wangs	Longilat	\$10,000	\$30,000
January 15, 2013	Longilat	Simon Lee & Associates	\$7,500	\$7,500
February 14, 2013	Longilat	Simon Lee & Associates	\$7,500	\$15,000

1	March 21, 2013	Wangs	Longilat	\$10,000	\$40,000
2	August 8, 2013	Wangs	Longilat	\$10,000	\$50,000
3	January 8, 2014	Longilat	Simon Lee & Associates	\$7,000	\$22,000
4	January 13, 2014	Longilat	Simon Lee & Associates	\$8,000	\$30,000
5	July 2, 2014	Longilat	Simon Lee & Associates	\$8,000	\$38,000
6	July 3, 2014	Longilat	Simon Lee & Associates	\$7,000	\$45,000
7	July 10, 2014	Longilat	Simon Lee & Associates	\$8,000	\$50,000

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9 The Wangs' design application initially came before the DRC at a meeting on March 6, 2013. The
10 application included a contract between the Wangs and Longilat for the design of the house. Again, the
11 contract listed Abe as the architect for the initial design of the house and Abe presented the project to the
12 DRC. Abe was hired by the Wangs to create a conceptual design of the house, prepare the exterior color
13 rendering, and present the project before the DRC. Abe was paid by the Wangs directly. Abe was used on
14 both projects because both projects shared a common developer who recommended Abe. At the meeting,
15 one DRC member made a motion to continue the project consideration to the next meeting to allow for
16 modifications requested by the DRC. Lee voted in favor of the motion to continue the project to the next
17 meeting. The motion passed unanimously.

18 At the next DRC meeting on March 20, 2013, the Wangs' application again came before the DRC
19 with design modifications. At the meeting, Lee began the discussion on the Wangs' application by stating
20 the architect had answered all of the DRC's questions and that he supported the revised design. The other
21 members agreed. Lee and the other members unanimously voted in favor of approving the application.

22 Like with the Liu project, Lee prepared some of the drawings for the Wangs' application prior to
23 the March DRC meetings, and performed all of the services called for in the contract between Longilat and
24 the Wangs. The Wangs paid Simon Lee & Associates via Longilat for those services as discussed above.

25 At the DRC meetings on March 6 and 20, 2013, Lee did not disclose his position with Longilat, the
26 payments Simon Lee & Associates received for work performed on the Wangs project, or that he prepared
27 architectural plans for the project under the contract between the Wangs and Longilat.
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1 Planning Commission

2 Lee served as an alternate commissioner on the Planning Commission beginning in July 2014. On
3 July 23, 2014, the Planning Commission considered a variance and conditional use permit application
4 made for Liu’s property and a conditional use permit application for the Wangs’ property. The applications
5 were made in conjunction with one another. Liu and the Wangs sought approval to build adjacent tennis
6 courts on their properties. Lee, an alternate on the commission, had the opportunity to vote on the two
7 applications because one of the other commissioners recused himself due to a conflict of interest. A motion
8 was made to deny the project and each commissioner, including Lee, voted to deny the project.

9 Lee did not do any work on the tennis courts projects for the Liu and Wangs properties and did not
10 receive any compensation from Liu or the Wangs related to this matter. But Lee had received payment for
11 his prior work for Liu and the Wangs within a year prior to the Planning Commission meeting so his vote
12 on the matter resulted in a conflict of interest violation. Consistent with prior Commission instruction, this
13 conflict of interest violation is not being charged as part of this settlement because Lee voted against the
14 interest of Liu and the Wangs.

15 Subsequent to voting on the Liu and Wangs permit application, Lee told city staff that he had done
16 work for Liu and the Wangs previously. After this voluntary disclosure, city staff advised Lee he should
17 not participate in matters concerning the Liu and Wang properties since he had done work for them. When
18 the tennis courts project came before the Planning Commission again on August 27, 2014, Lee recused
19 himself from participating due to the conflicts of interest.

20 Statements of Economic Interests

21 As a member of the DRC, Lee filed an assuming office SEI, annual SEIs for 2009 through 2012,
22 and a leaving office SEI on July 25, 2013. On the 2012 annual SEI, Lee reported income from Simon
23 Lee & Associates but did not report receiving income from Longilat or Liu. On the leaving office SEI,
24 Lee reported income from Simon Lee & Associates but did not report receiving income from Longilat,
25 Liu, or the Wangs.

26 As an alternate member of the Planning Commission, Lee filed an assuming office SEI on July 28,
27 2014 and a leaving office SEI on February 23, 2015. He disclosed income from Simon Lee & Associates
28 on both SEIs but failed to disclose income from Longilat or the Wangs.

1 **VIOLATIONS**

2 Count 1: Conflict of Interest

3 By voting in favor of the Liu’s application to the DRC at the June 20, 2012 DRC meeting, Lee
4 made a government decision he should have known would have a material financial effect on Liu who Lee
5 had a financial interest in because Lee received income of \$500 or more within the prior 12 months from
6 Liu, in violation of section 87100.

7 Count 2: Conflict of Interest

8 By voting in favor of the Wangs’ application to the DRC at the March 20, 2013 DRC meeting, Lee
9 made a government decision he should have known would have a material financial effect on the Wangs
10 who Lee had a financial interest in because Lee received income of \$500 or more within the prior 12
11 months from the Wangs, in violation of section 87100.

12 Count 3: SEI Non-disclosure

13 For his position on the DRC, Lee failed to disclose income from Liu on a 2012 SEI and from Liu
14 and the Wangs on a Leaving Office SEI, in violation of section 87300.

15 Count 4: SEI Non-disclosure

16 For his position on the Planning Commission, Lee failed to disclose income from the Wangs on an
17 Assuming Office SEI and Leaving Office SEI, in violation of sections 87202 and 87204.

18 **PROPOSED PENALTY**

19 This matter consists of four counts. The maximum penalty that may be imposed is \$5,000 per count.
20 Thus, the maximum penalty that may be imposed is \$20,000.¹⁶

21 In determining the appropriate penalty for a particular violation of the Act, the Commission
22 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission
23 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention
24 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)
25 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were
26 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.¹⁷

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¹⁶ §83116, subd. (c).

¹⁷ Reg. 18361.5, subd. (d).

1 A central purpose of the Act is to ensure public officials disclose sources of income that may be
2 materially affected by the official's action, and that officials be disqualified from acting on matters
3 affecting the sources of income in order to avoid conflicts of interest. In this case, Lee failed to disclose
4 his involvement in the Liu's and Wangs' projects by using Longilat as the contracting party rather than
5 Simon Lee & Associates. Lee fully cooperated with the FPPC investigation and voluntarily informed
6 Commission Enforcement Division staff of his involvement in the Liu's and Wangs' projects. He stated
7 that at the time he believed he could vote on the applications. Lee filed amendments to his SEIs to disclose
8 Liu and the Wangs as sources of income in conjunction with this settlement. Lee does not have a prior
9 history of violating the Act.

10 The Commission also considers penalties in prior cases with similar violations in determining the
11 appropriate penalty. Recent cases with similar violations include the following:

12 Counts 1 and 2

- 13 • *In the Matter of Kendra Okonkowa*, FPPC No. 12/334 – Okonkowa, the executive director of a
14 charter school, influenced members of the school's board, to enter into a lease on behalf of the
15 school for two properties Okonkowa owned. In total, the school paid her rent of \$302,805 to lease
16 the two properties. She also signed contracts for improvements to those properties on behalf of the
17 school. The contracts were for \$4,080 and \$57,900. At its April, 2016 meeting, the Commission
18 approved a settlement where Okonkowa admitted to four conflict of interest counts and paid a
19 penalty of \$4,000 per count.
- 20 • *In the Matter of Miguel Pulido*, FPPC No 14/131 – Pulido, the Mayor of Santa Ana, voted in favor
21 of a contract with an individual who had swapped real property with Pulido a few months before.
22 This resulted in a conflict of interest violation because the individual was a source of income to
23 Pulido. At its May, 2015 meeting, the Commission approved a settlement where Pulido admitted
24 to one conflict of interest count and paid a penalty of \$3,000.

25 Counts 3 and 4

- 26 • *In the Matter of Miguel Pulido*, FPPC No 14/131 – In addition to the violation discussed above,
27 Pulido failed to disclose the income he received from the real property swap on an annual SEI for
28 2010, in addition to other economic interests. The Commission assessed a penalty of \$2,000 for

1 this count.

2 In the current case, Lee received income of \$50,000 from each client whose projects he approved
3 while on the DRC. While the dollar amount is not as high as the *Okonkowa* case, it's still a substantial sum.
4 Lee's economic interest in Liu and the Wangs was not public because Longilat was listed as the contracting
5 party, not Simon Lee & Associates, and because Lee failed to disclose income from Liu, the Wangs, or
6 Longilat on his SEIs. As such, the conflict of interest violations were serious violations that justify the
7 proposed penalty.

8 Like *Pulido*, Lee's undisclosed sources of income appeared before Lee's agency and Lee made
9 decisions benefitting those interests while a member of the DRC, resulting in conflict of interest violations.
10 The SEI disclosure requirements, by making an official's relevant economic interests known, exist to
11 prevent conflicts of interest like those in this case. Since the conflict of interest violations charged in this
12 case occurred while Lee was a member of the DRC, the non-disclosure of income on his SEIs for the DRC
13 (Count 3) is a more serious violation than Count 4, which covers the period during which he served on the
14 Planning Commission, for which he is not being charged with a conflict of interest violation.

15 Lee contends that the violations were unintentional. He contends that as a volunteer on the DRC
16 who was asked to serve due to his architectural experience and expertise, he was not fully informed of
17 the conflict of interest and disclosure rules as an unpaid, part-time committee member. Additionally, he
18 notes that both votes on the DRC that resulted in the violations charged herein were unanimous so he did
19 not cast a deciding vote in either case. Further, he later voted against the interests of both the Liu and the
20 Wangs when serving as an alternate on the Planning Commission. Lee also contends that he was not
21 trying to conceal the payments from the Liu or the Wang family, or from Longilat, but used the financial
22 arrangement for business reasons. However, Lee failed to disclose his economic interests in Liu, the
23 Wangs, and Longilat on his SEIs. Had he disclosed those interests, the conflicts of interest violations may
24 have been avoided.

25 For the foregoing reasons, penalties of \$3,500 per count for Counts 1 and 2, \$2,000 for Count 3,
26 and \$1,000 for Count 4, are recommended, for a total administrative penalty in the amount of \$10,000.

27 **CONCLUSION**

28 Complainant, the Enforcement Division of the Fair Political Practices Commission, and respondent

1 Simon Lee (Respondent) hereby agree as follows:

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

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

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

9 4. Respondent has consulted with his attorney, Gary Winuk of Kaufman Legal Group, and
10 understands, and hereby knowingly and voluntarily waives, all procedural rights set forth in Sections
11 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to the
12 right to appear personally at any administrative hearing held in this matter, to be represented by an attorney
13 at Respondent’s own expense, to confront and cross-examine all witnesses testifying at the hearing, to
14 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over the
15 hearing as a hearing officer, and to have the matter judicially reviewed.

16 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
17 Respondent agrees to the Commission imposing against it an administrative penalty in the amount of
18 \$10,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General
19 Fund of the State of California—is/are submitted with this stipulation as full payment of the administrative
20 penalty described above, and same shall be held by the State of California until the Commission issues its
21 decision and order regarding this matter.

22 6. If the Commission refuses to approve this stipulation—then this stipulation shall become
23 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
24 rejected, all payments tendered by Respondent in connection with this stipulation shall be reimbursed to
25 Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before
26 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
27 shall be disqualified because of prior consideration of this Stipulation
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1 7. The parties to this agreement may execute their respective signature pages separately. A
2 copy of any party’s executed signature page including a hardcopy of a signature page transmitted via fax
3 or as a PDF email attachment is as effective and binding as the original.

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5 Dated: _____
6 Galena West, Chief of Enforcement
7 Fair Political Practices Commission

8 Dated: _____
9 Simon Lee

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The foregoing stipulation of the parties “In the Matter of Simon Lee,” FPPC No. 16/677, 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