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

10
11 In the Matter of

FPPC Case No. 16/586

12
13 LEEANN WALLETTTE SCHIERBURG,

STIPULATION, DECISION AND ORDER

14
15 Respondent.

16
17 **INTRODUCTION**

18 LeeAnn Walette Schierburg was the Director of Health Information Management at Alameda
19 Health System (AHS), a local government agency located in Oakland, CA. She was employed in this
20 capacity from October 24, 2011 through September 2, 2016.

21 The Political Reform Act (the “Act”)¹ requires public officials to file annual Statements of
22 Economic Interests (“SEI”) which provide specific information about their economic interests.
23 Schierburg failed to disclose economic interests in her 2015 annual SEI.

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25 ///

26 _____
27 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
28 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.

1 **SUMMARY OF THE LAW**

2 All legal references and discussions of the law refer to the Act’s provisions as they existed at the
3 time of the stated violations.

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

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

8 There are many purposes of the Act. One purpose is to ensure that the assets and income of public
9 officials, which may be materially affected by their official actions, be disclosed, so that conflicts of
10 interest may be avoided.⁴ Another purpose is to provide adequate enforcement mechanisms so that the
11 Act will be “vigorously enforced.”⁵

12 **Duty to File Statements of Economic Interests**

13 The Act requires every state and local government agency to develop a conflict of interest code.⁶
14 These codes must designate those officials who participate in making decisions which may foreseeably
15 have a material financial effect on any financial interest belonging to that official and require those
16 designated officials to disclose all reportable interests on SEIs.⁷ The requirements of an agency’s Conflict
17 of Interest Code have the force of law, and any violation of those requirements is deemed a violation of
18 the Act.⁸

19 The conflict of interest code for AHS identified the Director of Health Information Management
20 as a designated employee who must disclose all investments, income, and assets of business entities/trusts
21 when the designated employee’s ownership interest was 10% or greater, and all income, loans, business
22 positions and gifts (including travel) from all sources located in or doing business within the jurisdiction.
23

24 ² § 81001, subd. (h).

25 ³ § 81003.

26 ⁴ § 81002, subd. (c).

27 ⁵ § 81002, subd. (f).

28 ⁶ § 87300.

⁷ § 87302, subd. (a) and (b).

⁸ § 87300.

1 The AHS conflict of interest code, by reference to Regulation 18730, also required designated employees
2 to file annual SEIs by April 1.⁹

3 **SUMMARY OF THE FACTS**

4 Schierburg began filing Annual SEIs as a designated employee of AHS in 2012. Until May 2016,
5 she did not disclose any reportable interests.

6 In May 2016, Schierburg filed amended Annual SEIs for 2011, 2012, 2013, 2014,¹⁰ and 2015. In
7 these amended SEIs, Schierburg disclosed income to her spouse from his employer, M*Modal, a cloud-
8 based clinical documentation/transcription services and technology company in the healthcare industry.
9 M*Modal was doing business in AHS' jurisdiction, including contracts for services with AHS during the
10 time of Schierburg's employment.

11 **VIOLATION**

12 **Count 1: Failure to Fully Disclose Interests on Statement of Economic Interests**

13 Schierburg failed to fully disclose interests in sources of income on her 2015 annual SEI, due on
14 April 1, 2016, for her position as the Director of Health Information Management at AHS, a designated
15 employee in the AHS conflict of interest code, violating Government Code sections 87207 and 87300.

16 **PROPOSED PENALTY**

17 This matter consists of one count of violating the Act, which carries a maximum administrative
18 penalty of \$5,000.¹¹

19 In determining the appropriate penalty for a particular violation of the Act, the Commission
20 considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis
21 on serving the purposes and intent of the Act. Additionally, the Commission considers the facts and
22 circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d):
23 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3)
24 whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated
25 good faith in consulting with Commission staff; 5) whether there was a pattern of violations and whether

26 ⁹ Reg. 18730, subd. (b)(5).

27 ¹⁰ All disclosure violations for the Annual SEIs for 2011, 2012, 2013 and 2014 are past the statute of limitations.

28 ¹¹ § 83116, subd. (c).

1 the violator has a prior record of violations of the Act or similar laws; and 6) whether, upon learning of
2 the violation, the violator voluntarily provided amendments to provide full disclosure.¹²

3 Applying the factors to this case, the failure to timely report all required information on an SEI
4 deprives the public of important information about a public official's economic interests and it has the
5 potential to conceal conflicts of interest. Schierburg failed to disclose her interest in her husband's
6 employer, but the Enforcement Division did not obtain any evidence of intentional concealment.
7 Schierburg previously filed SEIs, demonstrating that she was aware of her filing obligations. Schierburg
8 does not have a prior enforcement history. But the economic interest not disclosed was her husband's
9 employer, who contracted with Schierburg's agency during her employment, causing a perception of a
10 conflict of interest. Further, Schierburg engaged in a pattern of failing to disclose her husband's employer
11 going back to 2011. Overall, Schierburg's violations deprived the public of important information
12 regarding her economic interests.

13 The Commission also considers penalties in prior cases involving similar violations. Recent cases
14 with similar violations include:

15 Count 1: Failure to Fully Disclose Interests on Statement of Economic Interests

16 *In the Matter of Abdallah Farrukh, M.D.*; FPPC No. 16/071. Respondent, a member of the
17 Antelope Valley Healthcare District Board of Directors, failed to timely disclose numerous investments
18 and sources of income interests on his 2013, 2014, 2015 and 2016 Annual SEIs, in violation of
19 Government Code sections 87206, 87207, and 87300 (4 counts). The respondent had no prior
20 enforcement history. In July 2019, the Commission imposed a penalty of \$1,000 per violation.

21 In this case, a higher penalty to that imposed in the comparable case is recommended. Like
22 *Farrukh*, Schierburg was an experienced public official who should have been aware of her duties under
23 the Act to timely file her SEIs and fully disclose all of her reportable economic interests. Schierburg has
24 no prior enforcement action. But the economic interest not disclosed was her husband's employer, who
25 contracted with Schierburg's agency during her employment, causing a perception of a conflict of
26 interest. Further, Schierburg engaged in a pattern of failing to disclose her husband's employer going

27 ¹² Reg. 18361.5, subd. (d).

1 back to 2011. Overall, Schierburg’s violations deprived the public of important information regarding
2 her economic interests. A penalty of \$2,000 is recommended.

3 **CONCLUSION**

4 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
5 Respondent, LeeAnn Walette Schierburg, hereby agree as follows:

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

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

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

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

20 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
21 Respondent agrees to the Commission imposing against her an administrative penalty in the amount of
22 \$2,000. One or more payments totaling this amount, to be paid to the General Fund of the State of
23 California, is/are submitted with this Stipulation as full payment of the administrative penalty described
24 above, and they will be held by the State of California until the Commission issues its decision and order
25 regarding this matter.

26 6. If the Commission refuses to approve this Stipulation then this Stipulation shall become
27 null and void, and within fifteen business days after the Commission meeting at which the Stipulation is

1 rejected, all payments tendered by Respondent in connection with this Stipulation shall be reimbursed to
2 Respondent. If this Stipulation is not approved by the Commission, and if a full evidentiary hearing
3 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
4 Director, shall be disqualified because of prior consideration of this Stipulation.

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

8
9 Dated: _____
10 Galena West, Chief, on behalf of the Enforcement Division
11 Fair Political Practices Commission

12 Dated: _____
13 LeeAnn Walette Schierburg, Respondent

14 The foregoing Stipulation of the parties "In the Matter of LeeAnn Walette Schierburg," FPPC
15 Case No. 16/586 is hereby accepted as the final decision and order of the Fair Political Practices
16 Commission, effective upon execution below by the Chair.

17 IT IS SO ORDERED.

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19 Dated: _____
20 Richard C. Miadich, Chair
21 Fair Political Practices Commission
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