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

10 In the Matter of:

11 JOHN REED,

12 Respondent.
13

FPPC Case No. 2019-01117

STIPULATION, DECISION AND ORDER

14 **INTRODUCTION**

15 John Reed (“Reed”) served as a Planning Commissioner for the County of Madera. As a Planning
16 Commissioner, Reed had a duty to report his economic interests on an Annual Statement of Economic
17 Interests (“SEI”). Despite this requirement, Reed failed to disclose economic interests SEIs in violation of
18 the Political Reform Act (the “Act.”)¹

19 **SUMMARY OF THE LAW**

20 The Act and its regulations are amended from time to time. All legal references and discussions of
21 law are intended to be citations to statutes and regulations as they existed at the time of the violations in
22 this case.
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28 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 81000 through 91014. All statutory references are to this code. 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 this source.

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

2 When enacting the Political Reform Act, the people of California found and declared that previous
3 laws regulating political practices suffered from inadequate enforcement by state and local authorities.²
4 Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”³ Another
5 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously
6 enforced.”⁴

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

8 The Act requires public officials, including members of planning commissions, to file an annual
9 statement of economic interest to disclose investments, interests in real property and income received
10 since the last statement was filed.⁵ The annual statement for members of planning commissions is due on
11 April 1 to report for the period ending December 31.⁶

12 An official is required to report income received.⁷ If the official has income from a business entity,
13 including income to a sole proprietorship, the filer must report the name of every person from whom the
14 business entity received payments if the filer’s pro rata share of gross receipts from that person was equal
15 to or greater than ten thousand dollars (\$10,000) during a calendar year.⁸

16 **SUMMARY OF THE FACTS**

17 Reed served as a Planning Commissioner for the County of Madera, resigning on August 6, 2019
18 after serving for five years. Reed filed an Annual SEI for the years of 2015, 2016, 2017, 2018, and 2019
19 but failed to disclose reportable income. Reed originally disclosed an interest in three business entities:
20 Alternative Septic Systems, Mountain Valley Properties, and John Reed General Contractor. In
21 amendments, Reed disclosed several sources of income to those businesses where Reed’s pro rata share of
22 gross receipts was at least \$10,000 during a calendar year.

23 In particular, Reed failed to report North Fork Community Development Council as a reportable
24 source of income to Reed’s business, John Reed General Contractor. According to Reed and confirmed by
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26 ² Section 81001, subdivision (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subdivision (f).

⁵ Section 87200 and 87202.

⁶ Regulation 18723, subdivision (b).

⁷ Section 87202 and 87207.

⁸ Section 87207, subdivision (b)(2).

1 financial documents published by North Fork Community Development Council, he received more than
2 \$10,000 in income from North Fork Community Development Council in 2015, 2016, and 2017. He filed
3 amendments to the appropriate SEIs to reflect this income shortly after being contacted by the Enforcement
4 Division in 2019. Upon further discussion with Reed, Reed amended several SEIs on or around March 16,
5 2021 to disclose additional income received by business entities that he had a financial interest in.

6 North Fork Community Development Council had business before the Planning Commission,
7 including an item heard on September 29, 2015. Therefore, this matter is excluded from the streamline
8 settlement program under Regulation 18360.1, subdivision (d)(2)(B)(ii). Reed recused himself from
9 hearing or voting upon that matter. Reed was hired as a general contractor by North Fork Community
10 Development Council to prepare an application to the Madera Planning Commission. Reed's name and
11 connection to the source, North Fork Community Development Council, was presented to the Planning
12 Commission as part of the item, offering some disclosure of the business interest to the public.

13 VIOLATION

14 **Count 1: Failure to Report a Disclosable Interest on a Statement of Economic Interest**

15 As a public official, Reed was required to disclose all reportable sources of income on a 2015
16 Annual SEI by the deadline of April 1, 2016. Reed failed to disclose North Fork Community Development
17 Council as a source of income on a 2015 Annual Statement of Economic Interest, in violation of
18 Government Code section 87207.

19 PROPOSED PENALTY

20 This matter consists of one count. The maximum penalty that may be imposed is \$5,000.⁹

21 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
22 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
23 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers
24 the facts and circumstances of the violation in the context of the following factors set forth in Regulation
25 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the specific
26 violation; (2) The level of experience of the violator with the requirements of the Political Reform Act;
27 (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence or absence of
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⁹ See Section 83116, subdivision (c).

1 any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate, negligent or
2 inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission staff or any
3 other governmental agency in a manner not constituting complete defense under Government Code Section
4 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the violator has a prior
5 record of violations of the Political Reform Act or similar laws; and (8) Whether the violator, upon learning
6 of a reporting violation, voluntarily filed amendments to provide full disclosure.¹⁰

7 The Act requires disclosure of economic interests in order to assist the official and the public in
8 identifying sources of potential conflicts of interest. In this matter, the evidence supports that Reed was
9 negligent in the failure to disclose reportable income, as opposed to deliberate or part of an intent to
10 conceal, deceive, or mislead. For example, when the source had business before the Planning Commission,
11 Reed's involvement with the source was disclosed on the agenda and the minutes, and Reed recused
12 himself from the hearing and the vote. Reed has no prior history of enforcement actions. He has cooperated
13 with the Enforcement Division and has amended where appropriate. He has signed a tolling agreement to
14 extend the statute of limitations to grant jurisdiction over violations from March 11, 2016 to present. Reed
15 has indicated that, at the time of reporting, he did not believe it necessary to report the income from North
16 Fork Community Development Council because he had no real property interest or investment interest in
17 the entity and the funds he was paid with was part of a federal grant.

18 The Commission considers penalties in prior cases with the same or similar violations and
19 comparable facts. *In the Matter of Leeann Walette Schierburg*, FPPC Case No. 16/586 concerned an
20 official who failed to disclose sources of income on her 2015 SEI. On August 20, 2020, the Commission
21 imposed a \$2,000 penalty. In this matter, Schierburg had a pattern of failing to disclose the source of
22 income and the source of income had a contract with Schierburg's agency.

23 Here, Reed failed to disclose reportable income from a source and that source had business before
24 Reed's agency. In mitigation, when the source had business before the Planning Commission, Reed's
25 involvement with the source was disclosed on the agenda and the minutes and Reed recused himself from
26 the hearing and the vote. In aggravation, Reed failed to report sources of income of \$10,000 or more for
27 several business interests in multiple SEI reporting periods. In mitigation, Reed was cooperative with the
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¹⁰ Regulation 18361.5, subdivision (e).

1 Enforcement Division, he is no longer in office having resigned in 2019, Reed contends that he
2 misunderstood the reporting requirements, and subsequent filings included the required information. In
3 further mitigation, all of the late-reported interests but the charged count would qualify for the streamline
4 program. Therefore, the Enforcement Division recommends charging for the 2015 Annual SEI and
5 considering the other late-reporting violations as aggravation. Therefore, a penalty of \$3,000 is warranted.

6 After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant
7 facts, a penalty of \$3,000 is recommended.

8 CONCLUSION

9 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
10 Respondent John Reed hereby agree as follows:

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

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

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

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

25 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
26 Respondent agrees to the Commission imposing against them an administrative penalty in the amount of
27 \$3,000. One or more payments totaling said amount—to be paid to the General Fund of the State of
28 California—is/are submitted with this stipulation as full payment of the administrative penalty described

1 above, and same shall be held by the State of California until the Commission issues its decision and order
2 regarding this matter.

3 6. If the Commission refuses to approve this stipulation—then this stipulation shall become
4 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
5 rejected, all payments tendered by Respondent in connection with this stipulation shall be reimbursed to
6 Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before
7 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
8 shall be disqualified because of prior consideration of this Stipulation.

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

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13 Dated: _____

Angela J. Brereton, Chief of Enforcement
Fair Political Practices Commission

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16 Dated: _____

John Reed

