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

11 In the Matter of:

12 KELLIE SCHNEIDER,

13 Respondents.

FPPC Case No. 19-01775

STIPULATION, DECISION AND ORDER

Date Submitted to Commission: January 2024

14  
15 **INTRODUCTION**

16 Respondent Kellie Schneider was the former Chief Operations Officer for the California  
17 Earthquake Authority (“CEA”), a public instrumentality.

18 This case arose from an anonymous and a non-sworn complaint.

19 The Political Reform Act<sup>1</sup> (“Act”) prohibits officials from making, participating in making, or  
20 attempting to influence governmental decisions in which the official knows or has reason to know they  
21 have a financial interest. In addition, Government Code section 1090 is a conflict of interest provision  
22 that prohibits officials and public employees from being interested in contracts that they participate in.  
23 Schneider had a conflict of interest under the Act and Section 1090 when she participated in and  
24 authorized a contract between the CEA and her financial interest, WeidnerCA.

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28 <sup>1</sup> 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 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to this source.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. All legal references and discussions  
3 of law are intended to be citations to statutes and regulations as they existed at the time of the violations  
4 in this case.

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

6 When enacting the Political Reform Act, the people of California found and declared that  
7 previous laws regulating political practices suffered from inadequate enforcement by state and local  
8 authorities.<sup>2</sup> Thus, it was decreed that the Act “should be liberally construed to accomplish its  
9 purposes.”<sup>3</sup>

10 One purpose of the Act is to ensure that public officials perform their duties in an impartial  
11 manner, free from bias caused by their own financial interests or the financial interests of persons who  
12 have supported them.<sup>4</sup> Along these lines, the Act requires that public officials' assets and income be  
13 disclosed.<sup>5</sup> Further, in appropriate circumstances, the officials should be disqualified from acting in order  
14 that conflicts of interest may be avoided.<sup>6</sup>

15 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will  
16 be “vigorously enforced.”<sup>7</sup>

17 **Section 87100: Conflicts of Interest**

18 A public official may not make, participate in making, or attempt to use their official position to  
19 influence a governmental decision in which they know or have reason to know they have a financial  
20 interest.<sup>8</sup> A public official has a financial interest in a governmental decision if it is reasonably  
21 foreseeable that the decision will have a material financial effect, distinguishable from its impact on the  
22 public generally, on the official, a member of the official’s immediate family, or any source of income  
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26 <sup>2</sup> Section 81001, subdivision (h).

27 <sup>3</sup> Section 81003.

28 <sup>4</sup> Section 81001, subdivision (b).

<sup>5</sup> Section 81002, subdivision (c), Section 87100, and Sections 87200 *et seq.*

<sup>6</sup> Sections 87100, *et seq.*

<sup>7</sup> Section 81002, subdivision (f).

<sup>8</sup> Section 87100.

1 aggregating five hundred dollars (\$500) or more in value provided to the public official within 12  
2 months prior to the time when the decision was made.<sup>9</sup>

3 To determine whether a public official has a prohibited conflict of interest under the Act, the first  
4 step is to determine whether it is reasonably foreseeable for the governmental decision to have a financial  
5 effect on the public official’s financial interests.<sup>10</sup> When the financial interest is the named party or  
6 subject of the decision, a financial effect is presumed to be reasonably foreseeable.

7 The second step is to determine if the reasonably foreseeable financial effect will be material.<sup>11</sup>  
8 When the financial interest is a source of income, and the source is a contracting party, the financial  
9 effect is material.<sup>12</sup>

### 10 **Prohibited Conflicts of Interest Under Section 1090**

11 Government Code section 1090 states: “Members of the Legislature, state, county, district,  
12 judicial district, and city officers or employees shall not be financially interested in any contract made by  
13 them in their official capacity, or by any body or board of which they are members. . . .” Courts have  
14 interpreted Section 1090 broadly, as the purpose of this conflict of interest provision is to ensure no  
15 divided loyalties by those who serve the public. “An important, prophylactic statute such as Section 1090  
16 should be construed broadly to close loopholes; it should not be constricted and enfeebled.” (*Carson*  
17 *Redevelopment Agency v. Padilla*, 140 Cal. App. 4<sup>th</sup> 1323, 1334 (2006); *see also Stigall v. City of Taft*,  
18 58 Cal. 2d 565, 569071 (1962) (Section 1090 is “concerned with any interest, other than perhaps a  
19 remote or minimal interest, which would prevent the officials from exercising absolute loyalty and  
20 undivided allegiance to the best interests of the city.”)

21 This prohibition applies to various government officials, including independent contractors and  
22 those individuals who perform a public function. This prohibition specifically applies to the making of  
23 contracts. It is not necessary for the prosecution to show that the official participated personally in the  
24 execution of the questioned contract. It is enough to show that the official, regardless of their job  
25 classification, had the opportunity to, and did, influence execution directly or indirectly to promote their  
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27 <sup>9</sup> Section 87103 and Regulation 18700.

28 <sup>10</sup> Regulation 18700, subdivision (d)(1).

<sup>11</sup> Regulation 18700, subdivision (d)(2).

<sup>12</sup> Regulation 18702.3, subdivision (a)(1).

1 personal interests. This may be shown by the official’s involvement concerning one or more of the  
2 following activities, which are embodied in the making of a contract: planning, discussions, reasoning,  
3 preparation of plans/specifications, solicitation of bids, negotiations, compromises, give and take, etc.  
4 Such involvement violates Section 1090 if the resulting contract causes government business and money  
5 to go to an entity or person in which the official has an interest.<sup>13</sup>

6 The statute is more concerned with what *might* have happened than what *actually* happened;  
7 Section 1090 prohibits even the *appearance* of impropriety.<sup>14</sup>

8 Under Section 1090, prohibited financial interests are not limited to express agreements and need  
9 not be proven by direct evidence. Rather, forbidden interests include indirect interests and future  
10 expectations of profit (or loss) by express or implied agreement, which may be inferred from the  
11 circumstances. Any financial interest not explicitly excluded by the Legislature (in Sections 1091 and  
12 1091.5) as too “remote or minimal” is sufficient to incur even criminal liability.<sup>15</sup>

### 13 **Applicability of Conflict of Interest provisions to the California Earthquake Authority**

14 The CEA is a not-for-profit, publicly managed, privately funded entity created by the California  
15 Legislature in 1996. The CEA is not a traditional state agency but is considered a public instrumentality,  
16 where the exercise of its powers is an essential state governmental function.<sup>16</sup> The CEA was created by  
17 the state and operated for public purposes. The authorizing statute makes it clear that the conflict of  
18 interest provisions apply. Under Insurance Code Section 10089.17, the CEA is subject to the provisions  
19 of the Act. In addition, the position of chief operating officer is required to file periodic statements of  
20 economic interest (known as Form 700s) with the Fair Political Practices Commission.<sup>17</sup> Therefore,  
21 Schneider is subject to the conflict of interest provisions found in the Act. Concerning Section 1090,  
22 courts have broadly construed this conflict of interest provision and have held that even temporary  
23 employees and independent contractors are beholden to the provisions. As an organization performing a  
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25 <sup>13</sup> See *People v. Sobel* (1974) 40 Cal.App.3d 1046, 1051-53; *People v. Superior Court (Sahlolbei)* (2017) 3 Cal.5th  
26 230, 239-40; and *City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191, 194-97.

27 <sup>14</sup> *Thorpe v. Long Beach Cmty. College Dist.* (2000) 83 Cal.App.4th 655, 660; *City of Imperial Beach v. Bailey*,  
*supra*, 103 Cal.App.3d at p. 197.

28 <sup>15</sup> See *People v. Honig, supra*, 48 Cal.App.4th at p. 315; and *People v. Superior Court (Sahlolbei), supra*, 3 Cal.5th at  
p. 239.

<sup>16</sup> Insurance Code Section 10089.21.

<sup>17</sup> Insurance Code Section 10089.7, subdivision (i).

1 public function, the CEA is subject to Section 1090. The agency requires employees such as the Chief  
2 Operating Officer to complete the same ethics training required of state officials and employees.

### 3 **Statements of Economic Interest**

4 The California Earthquake Authority's Conflict of Interest Code designates that the Chief  
5 Operating Officer is required to timely file Statements of Economic Interest ("SEI") and disclose all  
6 interests in real property and all investments, business positions in business entities, and income from  
7 entities that supply materials, supplies, books, machinery, equipment, or services of the type used by the  
8 CEA.<sup>18</sup> Failure to timely report or timely disclose an interest is considered a violation of Section  
9 87300.<sup>19</sup>

### 10 **SUMMARY OF THE FACTS**

11 At all relevant times, Schneider was CEA's Chief Operating Officer ("COO"). Schneider's  
12 spouse, Edward Schneider, was employed by and received income from WeidnerCA for at least 20 years.  
13 WeidnerCA was a reportable source of income to Schneider, as the income received by her spouse is  
14 considered community property, and her share of that community property exceeded \$500 and  
15 WeidnerCA was an entity that supplied materials, equipment, or provided services of the type used by  
16 the CEA.

17 In November 2018, Schneider and other procurement staff requested bids on a project to  
18 manufacture and install signage. Three companies put in bids, including WeidnerCA. Two procurement  
19 staff and Schneider considered the proposals. Staff made recommendations, but the ultimate decision was  
20 Schneider's. The bid selected was not required to be the lowest, most responsible bid. On or around  
21 December 14, 2018, Schneider approved WeidnerCA's proposal in response to the bid for services and  
22 signed off on the contract on behalf of the CEA. The contract was for WeidnerCA to provide signage at  
23 the CEA's downtown location. The amount of the contract was for just over \$20,000. In justifying the  
24 choice, the internal documentation noted that WeidnerCA was selected because the quote was within the  
25 project's budget, the bid met all the requested scope of work, the bidder had previously produced and  
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28 <sup>18</sup> See California Earthquake Authority Conflict-of-Interest Code, Title 2 California Code of Regulations Section  
56800; on file with the FPPC. This citation refers and is inclusive of the code in effect in 2014 and following amendments  
made in 2018.

<sup>19</sup> See 87300.

1 installed other signage in the building in which CEA was located, and the bidder came highly  
2 recommended.

3 Schneider is a public official for purposes of Section 87100 and 1090. Under the authorizing  
4 provision of the CEA, the CEA is subject to the Act. Moreover, Schneider, in her capacity as COO, was  
5 required to file Statements of Economic Interest, and she did complete an ethics training designed for  
6 State Officials. As COO, Schneider had the authority to sign contracts on behalf of the CEA, a public  
7 instrumentality performing a public function. By participating in the bid process and by signing off on  
8 WeidnerCA as the selected bid for the sign project, Schneider participated in and made a governmental  
9 decision to enter into a contract on behalf of the CEA. As WeidnerCA was the contracting party and  
10 because WeidnerCA was a financial interest to Schneider, Schneider had a conflict of interest when she  
11 approved the contract between CEA and WeidnerCA.

12 The Sacramento County District Attorney's office provided written authorization on September  
13 12, 2023 for the Commission to investigate and pursue a charge under Section 1090, as required under  
14 Section 1097.1.

15 Schneider was initially presented with and signed a stipulation that contained only one count for  
16 her conflict of interest violation. The Commission rejected the stipulation and directed the Enforcement  
17 Division to include a charge for the failure to disclose a source of income on a pertinent Statement of  
18 Economic Interest still within the statute of limitations and to include any additional facts that support the  
19 Enforcement Division's conclusion that the violations in question were a result of negligence and not  
20 intention.

21 Schneider has cooperated with Enforcement at all times including her agreement to toll the statute  
22 of limitations for purposes of securing this stipulated agreement.

## 23 VIOLATIONS

### 24 Count 1: Conflict of Interest

25 Schneider had a conflict of interest when she participated in and made the governmental decision  
26 to approve a contract with a financial interest in violation of Government Code Section 87100 and  
27 Section 1090.  
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1 **Count 2: Failure to Report on a Statement of Economic Interest**

2 Schneider failed to timely disclose a financial interest on a Statement of Economic Interest for the  
3 reporting period of 2018, in violation of Government Code Section 87300.

4 **PROPOSED PENALTY**

5 This matter consists of two proposed counts. The maximum penalty that may be imposed is  
6 \$5,000 per count.<sup>20</sup> Thus, the maximum penalty that may be imposed is \$10,000.

7 This matter does not qualify for the Streamline Program because it involves a conflict of interest.

8 In determining the appropriate penalty for a particular violation of the Act, the Enforcement  
9 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an  
10 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division  
11 considers the facts and circumstances of the violation in the context of the following factors set forth in  
12 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused  
13 by the specific violation; (2) The level of experience of the violator with the requirements of the Political  
14 Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence  
15 or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate,  
16 negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission  
17 staff or any other governmental agency in a manner not constituting complete defense under Government  
18 Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the  
19 violator has a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the  
20 violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

21 A conflict of interest is a serious violation of the Act with a high degree of public harm. This type  
22 of violation undermines public trust in government by creating the appearance that the decision was the  
23 product of a conflict of interest. Such conduct contradicts the Act’s decree that public officials should  
24 serve the needs of all citizens in an impartial manner—free from bias caused by their own financial  
25 interests. This matter was referred to the Sacramento County District Attorney’s office. After an  
26 investigation, the Sacramento County District Attorney’s Office declined to prosecute.

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<sup>20</sup> See Section 83116, subdivision (c).

1 Ordinarily, a failure to disclose income on a Statement of Economic Interest is eligible for the  
2 streamline program. When the public official also had a conflict of interest violation involving the  
3 undisclosed economic interest, the violation is not eligible for inclusion in the streamline program. One  
4 purpose of the disclosure of financial interests is to avoid conflicts of interest.<sup>21</sup> When an interest is not  
5 including in an SEI, the official, their agency, and the public are less able to identify and avoid conflicts  
6 of interest.

7 Schneider had been an employee of the CEA since at least 2016, hired originally as the Chief  
8 Administrative Officer (a position that is not designated in the agency's Conflict of Interest Code) and  
9 was subsequently promoted to the position of COO in 2017. Schneider left the position on or about  
10 January 31, 2020.

11 The Commission has previously considered another stipulation involving a conflict of interest: *In*  
12 *the Matter of Leticia Perez*, FPPC No. 19/960 (The Commission approved a settlement in this matter on  
13 June 18, 2020.) The respondent had an economic interest in her spouse's business and through that  
14 business, had an economic interest in a cannabis business. While Perez reported the spouse's business,  
15 Perez failed to report a disclosable source of income to the business. The respondent had a conflict of  
16 interest when she voted on a decision to ban the sale of cannabis and related products. The Commission  
17 imposed a penalty of \$4,000 for the conflict of interest violation.

18 The Commission has also previously considered other stipulations involving the failure to  
19 disclose an income interest within the context of a conflict of interest violation. Here, although Schneider  
20 failed to disclose a source of income on multiple filings, including for the 12 months prior to the decision  
21 that caused a conflict of interest, the only SEI within the statute of limitations is for the reporting period  
22 of 2018. This statement was filed after the conflict at issue. In reviewing past comparable cases, the  
23 Enforcement Decision has considered the following to assist in determining the penalty amount: *In the*  
24 *Matter of Karson Klauer*, FPPC No. 17/1313, the official failed to disclose his personal income on an  
25 SEI for both 2015 and 2016 and then in 2017 engaged in a decision involving that source of income. The  
26 Commission approved a stipulation containing one count for the SEI violations imposing a \$2,000  
27 penalty and containing one count for the conflict of interest violation imposing a \$3,500 penalty for an  
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<sup>21</sup> Section 81002, subdivision (c).



1 aggregate penalty of \$5,500. Additionally, [\*In the Matter of Steve Dallas\*](#), FPPC No. 18/804, the official  
2 failed to report gifts that exceeded the applicable limit on an SEI for 2017 and later had a prohibited  
3 conflict of interest when voting on and participating in a vote in February 2018. The Commission  
4 imposed a penalty of \$2,000 for the disclosure violation. These cases assist in establishing the penalty  
5 parameters in matters of failure to disclose income interests in conflict of interest violation scenarios, but  
6 Enforcement recommends a specific and aggregate penalty that is commensurate with the *Klauer* matter.

7         With respect to the fourth factor, there is insufficient evidence that Schneider acted with intent to  
8 conceal or deceive. According to a statement Schneider made to the FPPC, she was not aware of the  
9 requirement to disclose spousal income and was only made aware of her error through the CEA's internal  
10 investigation into the matter. She admits that she had been completing her SEI in a similar manner since  
11 2006 and admits that she did not give the document her due diligence in completing it. As soon as she  
12 was made aware, Schneider amended her disclosure to include this information. This disclosure was  
13 made prior to the matter being referred to the Enforcement Division but after Schneider became aware of  
14 the potential reporting violation.

15         Schneider acknowledged receiving conflicts of interest training while at CEA. In a statement  
16 made to the investigators hired by the CEA, Schneider stated that she did not believe there to be a  
17 conflict in her participation in the contract approval process because neither she nor her spouse received  
18 any specific financial benefit from the contract. Schneider maintains that she had not tried to steer  
19 business to her husband's company, noting that neither she nor her husband would receive a financial  
20 gain or benefit from CEA's business with WeidnerCA. In support of Schneider's statements, WeidnerCA  
21 is one of the largest signage companies in California and had previously installed most of the signage in  
22 the CEA building prior to Schneider's employment there. Schneider's husband is a welder for the  
23 company and is not connected to or responsible for government contracting. When presented with slides  
24 from the ethics training that specifically discussed spousal income, Schneider apparently realized her  
25 error and asked the investigator, an attorney, if she should amend her SEIs. In an email to the SEI unit,  
26 Schneider stated that she recently became aware of her disclosure category and was amending her forms  
27 accordingly. This was when the matter was only being investigated as an internal CEA matter. In  
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1 addition, although there was a failure to disclose her income interest on SEIs, the investigation  
2 established that it was not a secret within CEA that Schneider’s husband was employed at WeidnerCA.

3 The Enforcement Division has considered the evidence in the matter, including conversations  
4 with Schneider and the reports of the internal investigator hired by the CEA, and determined that there is  
5 insufficient evidence to conclude that the violations were deliberate. Instead, it appears that Schneider  
6 misunderstood the rules regarding conflicts of interest involving her financial interests, including those  
7 interests she had through community property.

8 Schneider has no prior history of violations.

9 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases a  
10 penalty of \$4,000 is recommended for Count 1 and a penalty of \$1,500 is recommended for Count 2.

### 11 CONCLUSION

12 Complainant, the Enforcement Division of the Fair Political Practices Commission, and Kellie  
13 Schneider hereby agree as follows:

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

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

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

21 4. Respondent understands, and hereby knowingly and voluntarily waives, any and all  
22 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.  
23 This includes, but is not limited to the right to appear personally at any administrative hearing held in this  
24 matter, to be represented by an attorney at Respondent’s own expense, to confront and cross-examine all  
25 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial  
26 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially  
27 reviewed.  
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1           5.       Respondent agrees to the issuance of the decision and order set forth below. Also,  
2 Respondent agrees to the Commission imposing against them an administrative penalty in the amount of  
3 \$5,500 One or more payments totaling said amount—to be paid to the General Fund of the State of  
4 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
5 above, and same shall be held by the State of California until the Commission issues its decision and  
6 order regarding this matter.

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

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

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17 Dated: \_\_\_\_\_

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James M. Lindsay, Chief of Enforcement  
Fair Political Practices Commission

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20 Dated: \_\_\_\_\_

\_\_\_\_\_   
Kellie Schneider

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23           The foregoing stipulation of the parties “Kellie Schneider,” FPPC Case No. 2019-01775 is hereby  
24 accepted as the final decision and order of the Fair Political Practices Commission, effective upon  
25 execution below by the Chair.

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27 IT IS SO ORDERED.

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Dated: \_\_\_\_\_

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Richard C. Miadich, Chair  
Fair Political Practices Commission