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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of BRENDAN OTTOBONI, Respondent.	FPPC Case No. 2023-00717 **STIPULATION, DECISION, AND ORDER** Date Submitted to Commission: November 2026

INTRODUCTION

Respondent Brendan Ottoboni ("Ottoboni") is the "Director of Public Works – Engineering" for the City of Chico ("City"). Ottoboni previously held the same position with the City in 2021, before leaving public service to work for Psomas, an independent contractor that has, for many years, provided engineering and construction management services to the City. During the period between accepting an employment offer from Psomas and his last day working for the City, Ottoboni submitted task order scope and fee proposals to the City Manager. In 2023, Ottoboni returned to work for the City, again taking on the role of Director of Public Works - Engineering. Upon returning, Ottoboni failed to disclose Psomas as a source of income on his Assuming Office Statement of Economic Interests.

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This case arose from an anonymous complaint. As detailed below, Ottoboni violated the Political Reform Act (the "Act")[1] by: making, participating in making, or using his official position to influence a governmental decision directly related to a prospective employer (Count 1) and failing to disclose a source of income on his Assuming Office Statement of Economic Interests (Count 2).

SUMMARY OF THE LAW

The Act and its regulations are amended from time to time. The violations in this case occurred in 2021 and 2023. For this reason, all legal references and discussions of law pertain to the Act's provisions as they existed at those times.

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

When enacting the Act, California voters specifically found and declared that previous laws regulating political practices had suffered from inadequate enforcement, and it was their purpose to ensure that the Act be vigorously enforced.[2] For this reason, the Act is to be construed liberally to accomplish its purposes.[3]

A central purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.[4] Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced."[5]

Governmental Decisions Relating to Prospective Employment

Public officials are prohibited from making, participating in making, or using their official position to influence any governmental decision if the decision "directly relates to a prospective employer."[6] A governmental decision "directly relates" to a prospective employer if the public official knows or has reason to know that the prospective employer is "explicitly involved" in the decision, including where the prospective employer is a named party in, or the subject of, the governmental

[1] The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18104 through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

[2] Sections 81001, subd. (h), and 81002, subd. (f).

[3] Section 81003.

[4] Section 81002, subd. (a).

[5] Section 81002, subd. (f).

[6] Regulation 18747, subd. (a).

decision.[7] A person is a "prospective employer" of a public official if the official, either personally or through an agent, is "negotiating" or has an "arrangement" concerning prospective employment with that person.[8] A public official is "negotiating" employment when the official interviews or discusses an offer of employment with an employer or the employer's agent.[9] A public official has an "arrangement" concerning prospective employment when the official accepts an employer's offer of employment.[10]

Conflicts of Interest Under Section 1090

Government Code section 1090 states, "Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members . . . ." Courts have interpreted Section 1090 broadly, as the purpose of this conflict of interest provision is to ensure no divided loyalties by those who serve the public. "An important, prophylactic statute such as Section 1090 should be construed broadly to close loopholes; it should not be constricted and enfeebled."[11]

The prohibition applies to various government officials, including independent contractors. Also, the prohibition applies to the making of contracts. It is not necessary for the prosecution to show that the official participated personally in the execution of the questioned contract. It is enough to show that the official, regardless of his job classification, had the opportunity to, and did, influence execution directly or indirectly to promote his personal interests. This may be shown by the official's involvement with respect to one or more of the following activities, which are embodied in the making of a contract: planning, discussions, reasoning, preparation of plans/specifications, solicitation of bids, negotiations, compromises, give and take, etc. Such involvement is in violation of Section 1090 if the resulting contract causes government business to go to an entity or person in which the official has an interest.[12]

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[7] Regulation 18747, subd. (b)(1); Regulation 18701, subd. (a).

[8] Regulation 18747, subd. (c).

[9] Regulation 18747, subd. (c)(1).

[10] Regulation 18747, subd. (c)(2).

[11] *Carson Redevelopment Agency v. Padilla* (2006) 140 Cal. App. 4th 1323, 1334; see also *Stigall v. City of Taft* (1962) 58 Cal. 2d 565, 569-571 (Section 1090 is "concerned with any interest, other than perhaps a remote or minimal interest, which would prevent the officials from exercising absolute loyalty and undivided allegiance to the best interests of the city.")

[12] See *People v. Sobel* (1974) 40 Cal.App.3d 1046, 1051-53; *People v. Superior Court (Sahlolbei)* (2017) 3 Cal.5th 230, 239-40; and *City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191, 194-97.

The statute is more concerned with what might have happened than with what actually happened; Section 1090 prohibits even the *appearance* of impropriety.[13] Section 1090 protects the actual integrity of the public treasury, as well as the perceived integrity. "As a result, liability – even criminal liability – can accrue without 'actual fraud, dishonesty, unfairness or loss to the governmental entity."[14]

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

Under Section 1090, employees have been found to have a financial interest in a contract that involves their employer, even where the contract would not result in a change in income or directly involve the employee, because an employee has an overall interest in the financial success of the firm and continued employment.[16] When an employee of an agency, as opposed to a board member, has a financial conflict under Section 1090, the employee's agency may enter into the contract as long as the employee plays no role in the contracting process.[17]

In an administrative action concerning a Section 1090 violation, a Commission decision applies only to proceedings brought by the Commission.[18]

Disclosure of Economic Interests

The Act requires every state and local agency to develop a conflict of interest code.[19] These codes must designate those officials who participate in making decisions that may foreseeably have a material financial effect on any financial interest belonging to that official and require those designated officials to disclose all reportable interests on SEIs.[20] The requirements of an agency's Conflict of

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[13] *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.

[14] See *People v. Superior Court (Sahlolbei)*, supra, 3 Cal.5th at p. 239, citing *People v. Honig* (1996) 48 Cal.App.4th 289, 314.

[15] 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.

[16] 84 Ops.Cal.Atty.Gen. 158, 161-162 (2001).

[17] See 80 Ops.Cal.Atty.Gen. 41 (1997).

[18] Section 1097.1, subd. (d).

[19] Section 87300.

[20] Section 87302, subd. (a).

Interest Code have the force of law, and any violations of those requirements are deemed a violation of the Act.[21]

For all relevant time periods, the City's Conflict of Interest Code designated the "Director of Public Works – Engineering" position as "Disclosure Category 1" and such officials were required to report "all investments, business positions in, and income, including loans and gifts, from sources located in or doing business in the City of Chico and all interests in real property located within the City or within a two-mile radius of the City or any property owned or used by the City."[22] As a designated employee, Ottoboni was required to submit a Statement of Economic Interests within 30 days after assuming the position of Director of Public Works – Engineering.[23]

Liability for Violations

Any person who violates any provision of the Act is liable for administrative penalties up to $5,000 per violation.[24]

SUMMARY OF THE FACTS

While Employed by and Working for the City, Ottoboni Submitted Task Order Scope and Fee Proposals On Behalf of His New Employer That Would Pay For His New Work

In 2021, Brendan Ottoboni served as the "Public Works Director – Engineering" for the City of Chico. On August 4, 2021, he received an offer of employment from Psomas, a private engineering and construction management firm that frequently contracted with the City, which included an annual salary of approximately $170,000 and a signing bonus of $10,000 (with half to be paid with his first paycheck after start date, and the other half to be paid after 90 days of employment). The employment offer noted a start date of September 7, 2021. On August 9, 2021, Ottoboni signed the employment offer and, on August 12, 2021, he submitted his letter of resignation to City Manager Mark Orme, with September 10, 2021, as his last day of employment.

On August 20, 2021, although Ottoboni was not officially slated to begin work for Psomas until September, he sent a draft letter to a Psomas project manager for review. The draft letter was a cost

[21] Section 87300.
[22] Conflict of Interest Code of the Chico Municipal Code.
[23] Conflict of Interest Code of the Chico Municipal Code (incorporating Regulation 18730).
[24] Sections 83116 and 83116.5.

proposal and staffing plan, to be submitted to City Manager Orme by Ottoboni in his capacity as a Psomas project manager. On August 27, 2021, Ottoboni emailed Orme and wrote:

> As we have discussed, attached is the scope and fee proposal to contract back on the items we have talked about. Task 4 is also provided for situations where it is not yet identified, but if augmentation is needed on things, I can be available. Please review and if you approve, then can work with David/Erik/Robyn to get it setup. Let me know if you have any other questions otherwise. Thank you.

According to Ottoboni, he sent the scope and fee proposal to City Manager Orme at the City Manager's request. A subsequent City memorandum regarding the contract indicates the agreement was "meant to help the City with staffing transitions and to utilize the knowledge of Mr. Ottoboni as well as support the efforts to complete several long-range efforts of the City." Ottoboni sent the email from his City email address and used his City signature block that noted his position as "Director of Public Works – Engineering." The attached proposal, however, was on Psomas letterhead and signed by Ottoboni in his capacity as a Psomas project manager. The proposal included three specific task orders that would pay Psomas up to $212,439 for the tasks (a "Sewer Enterprise Rate Study," "CDBG-DR Infrastructure Grant Management," and "Paradise Sewer Connection Support") at a rate of $230.91 per hour for 920 hours. As noted in Ottoboni's email above, a fourth, open-ended task was also included for potential additional work. Ultimately, the City paid $32,109 for work on the three identified projects.

Because Psomas qualified as a prospective employer, Ottoboni was prohibited from taking part in a governmental decision that directly related to Psomas. By submitting the task order scope and fee proposals to the City Manager, on behalf of his new employer, while simultaneously identifying himself as both a City official and Psomas employee, Ottoboni participated in and used his official position to influence a governmental decision that explicitly involved Psomas as a named party in the decision. In doing so, he violated Section 87407. Further, because the underlying decision at issue was a contract between the City and Psomas, and Ottoboni failed to recuse himself from the contracting process, his conduct also violated Section 1090.

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Upon Returning to Work for the City, Ottoboni Failed to Disclose His Former Employer as a Source of Income

When Ottoboni returned to work for the City in April 2023, he was required to file, and did file, an Assuming Office Statement of Economic Interests. The Conflict of Interest Code for the City of Chico required him to disclose all sources of income located in or doing business in the City. However, Ottoboni failed to disclose Psomas as a source of income. Because Ottoboni had received more than $500 from Psomas within the preceding 12 months, he was required to disclose Psomas as a source of income on his Assuming Office Statement of Economic Interests. By failing to do so, Ottoboni violated Section 87300.

VIOLATIONS

Count 1: Conflict of Interests (Communications Regarding Scope and Fee Proposals For His Psomas Work; Section 87407; Regulation 18747; Section 1090.)

In August 2021, Ottoboni took part in a governmental decision that was directly related to a prospective employer when he communicated with the City Manager regarding task orders that would pay for his work as a Psomas employee, in violation of Section 87407, Regulation 18747, and Section 1090.

Count 2: Failure to Report on Statement of Economic Interests (Assuming Office SEI; Section 87300)

Upon assuming office with the City in 2023, Ottoboni failed to timely disclose Psomas as a source of income on his Assuming Office Statement of Economic Interests, in violation of Section 87300.

PROPOSED PENALTY

The maximum penalty that may be imposed for a violation under the Act is $5,000 per count.[25] The present matter consists of two proposed counts. Thus, the maximum penalty that may be imposed for the counts charged here is $10,000.

The present case does not qualify for the Streamline Program because violations of conflicts of interest are not included in it. Although an unreported economic interest on a Statement of Economic

[25] Section 83116, subd. (c).

Interests is generally eligible for the Streamline Program, it is ineligible in this case because Streamline Program resolution is unavailable when the respondent has another violation under review for prosecution that is not eligible for a Streamline penalty.[26]

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in the context of the following factors set forth in Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the specific violation; (2) The level of experience of the violator with the requirements of the Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission staff or any other governmental agency in a manner not constituting a complete defense under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.[27]

A conflict of interest is a serious violation of the Act with a high degree of public harm. This type of violation undermines public trust in government by creating the appearance that the decision was the product of the official's personal interest or to benefit an interest of the official. Also, such conduct contradicts the Act's decree that public officials should serve the needs of all citizens in an impartial manner—free from bias caused by their own financial interests.

One purpose of the disclosure of financial interests is to avoid conflicts of interest.[28] When an interest is not disclosed in an SEI, the official, their agency, and the public are less able to identify and avoid conflicts of interest. In this matter, Psomas qualified as either a prospective employer or a source of income interest for Ottoboni when he submitted a scope and fee proposal to the City manager, using

[26] Regulation 18360.2, subd. (d)(4)(E).
[27] Regulation 18361.5, subd. (e).
[28] Section 81002, subd. (c).

his City email address, on behalf of Psomas. That violation was further obscured by Ottoboni's subsequent failure to disclose Psomas as a source of income on his Statement of Economic Interests. As such, the extent and gravity of the public harm was significant.

Ottoboni completed local agency ethics training courses in April 2017, March 2021, and June 2023. He had also filed Form 700s in prior years before assuming office again in 2023. As such, he knew or should have known of the duty to fully disclose all reportable financial interests and to abstain from participating in governmental decisions involving financial interests.

The Commission has previously considered another stipulation involving conflicts of interest: *In the Matter of Anthony W. Anderson*, FPPC No. 21-504 (the Commission approved a settlement in this matter in April 2024). The respondent had an economic interest in his spouse's employer, a construction company, as a source of income. The respondent had a conflict of interest under both Sections 87100 and 1090 when they authorized eight invoices from the construction company for a construction project for CAL FIRE. The Commission imposed a penalty of $10,000 for two counts.

Here, the maximum penalty of $5,000 for Ottoboni's conflict of interest violation is similarly warranted. Unlike *Anderson*, which pertained to governmental decisions involving the respondent's *spouse's* employer, Ottoboni took part in a governmental decision involving *his* future employer. Even more egregious, after accepting Psomas's employment offer, but before leaving City office, Ottoboni submitted a scope and fee proposal for task orders that would pay Psomas for his work on several City projects.

The Commission has also considered a stipulation involving the failure to disclose an economic interest where a conflict of interest violation was also involved: *In the Matter of Jeneé Littrell*, FPPC No. 23-386. There, the respondent failed to disclose a business entity interest based on her purported belief that only interests that were profitable were reportable. The respondent took part in an agency decision involving her business and her agency, in which the business would provide its services free of charge. The Commission imposed a $2,500 penalty for one count, where if the Statement of Economic Interests had been appropriately completed, the respondent or her agency might have caught the conflict of interest before it occurred. The Commission imposed a $1,500 penalty for another Statement of Economic Interests violation where such circumstances were not present.

Here, a similar penalty is proposed. By failing to disclose Psomas as a source of income, Ottoboni's negligence unnecessarily obscured his conflict of interest violation, as few members of the public could reasonably have been aware of that economic interest without Ottoboni's formal disclosure. As in *Littrell*, Ottoboni's failure to disclose was seemingly based on an incorrect understanding of the Act's disclosure requirements, as he purportedly believed that the Statements of Economic Interest required him to disclose economic interests related to his current City work, and he did not appreciate that the Statements looked back at interests held prior to rejoining the City. Here, however, Ottoboni had previously taken local agency ethics training courses and filed Statements of Economic Interests on several occasions. Consequently, although Ottoboni's filing violation occurred *after* his conflict violation (unlike in *Litrell*), the degree of public harm and the lack of any mitigating reason for the violations justify a $2,500 penalty for Ottoboni's failure to disclose his interest in Psomas on his Statement of Economic Interests.

The Enforcement Division did not discover any intention to conceal, deceive, mislead, or otherwise violate the Act. As noted above, Ottoboni directly emailed the City Manager after submitting his notice of resignation and submitted a document on behalf of his new employer. Ottoboni's apparent lack of appreciation for the gravity of his conduct appears to have been somewhat systemic at the City, given the fact that the City Manager also failed to take notice of the conflict of interest. Further evidencing the lack of any intention to conceal, deceive, or mislead is the fact that Ottoboni was interviewed for a local newspaper article regarding his planned departure from the City for work in the private engineering sector. Ottoboni was fully cooperative and communicative with the Enforcement Division throughout the investigation process, promptly provided requested documents, and has agreed to file an amended Statement of Economic Interests disclosing Psomas as a source of income during the period covered by the Statement.

Based on the Enforcement Division's investigation, Ottoboni's violations appear to be negligent. As noted, Ottoboni had taken a local agency ethics training course in 2021 and had previously filed numerous Statements of Economic Interests when he committed his first violation. Ottoboni's violations appear to have been part of a pattern of negligence based on an incomplete or inaccurate understanding of the Act, but he has no prior record of violations of the Act.

After considering the factors listed in Regulation 18361.5, a penalty of $5,000 is recommended for Count 1 (the conflict of interest involving a prospective employer violation) and a penalty of $2,500 is recommended for Count 2 (the Assuming Office Statement of Economic Interests violation). The Enforcement Division recommends a total penalty of $7,500.

CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondent, Brendan Ottoboni, hereby agree as follows:

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

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

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

4. Respondent has consulted with his attorney, Brian Hildreth of Bell, McAndrews, & Hiltachk, LLP, and understands, and hereby knowingly and voluntarily waives any and all procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to, the right to appear personally at any administrative hearing held in this matter, to be represented by an attorney at Respondent's own expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

5. Respondent agrees to the issuance of the decision and order set forth below. Also, Respondent agrees to the Commission imposing against him an administrative penalty in the amount of $7,500. One or more cashier's checks or money orders totaling said amount – to be paid to the General Fund of the State of California – is/are submitted with this stipulation as full payment of the administrative penalty described above, and same shall be held by the State of California until the Commission issues its decision and order regarding this matter.

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

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

8. Pursuant to Section 1097.1, subdivision (d), this decision applies only to proceedings brought by the Commission.

Dated: _____

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Kendall L.D. Bonebrake, Chief of Enforcement
Fair Political Practices Commission

Dated: _____

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Brendan Ottoboni, Respondent

The foregoing stipulation of the parties "In the Matter of Brendan Ottoboni," FPPC Case No. 2023-00717, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution by the Chair.

IT IS SO ORDERED.

Dated: _____

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Adam E. Silver, Chair
Fair Political Practices Commission