



MEMORANDUM

To: Chair Remke, and Commissioners Audero, Casher, Wasserman and Wynne

From: Erin Peth, Executive Director
Galena West, Chief of Enforcement
Angela J. Brereton, Senior Commission Counsel

Date: January 7, 2016

RE: Assignment of Hearing to Administrative Law Judge (“ALJ”)

Case Name: In the Matter of Kendra Okonkwo (FPPC Case No. 12/334)

I. INTRODUCTION

Respondent Kendra Okonkwo was the founder of Merle Williamson Foundation dba Wisdom Academy of Young Scientists (WAYS), a public charter elementary school located in Los Angeles, CA. Okonkwo served as the Executive Director of WAYS from 2006 through May 3, 2011. The Political Reform Act (the “Act”)¹ prohibits a public official from making, participating in making, or attempting to use her official position to influence a governmental decision in which the official knows or has reason to know she has a financial interest.² The Act also requires public officials to file periodic statements of economic interests (SEIs) disclosing the economic interests held during office.³ Okonkwo violated the Act by using her official position to influence governmental decisions of the WAYS Board of Directors when she leased her real property to WAYS, and by making governmental decisions when she signed contracts for improvements to her real property as the Executive Director of WAYS. Okonkwo also violated the Act by failing to file her leaving office statement of economic interests.

Okonkwo has requested an administrative hearing on the Accusation attached hereto as Exhibit A. The Accusation alleges multiple violations of the Act.

II. COMMISSION ACTION IS ONLY REQUIRED IF THE COMMISSION DESIRES TO PARTICIPATE IN THE ADMINISTRATIVE HEARING

The Executive Director and the Chief of Enforcement are recommending that the hearing should be conducted before an ALJ pursuant to Section 11512, subdivision (a). The ALJ will then make a recommendation to the Commission on the findings of fact, law and penalty, if applicable, in the matter. The Commission will then have the opportunity to make the final determination on the case.

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 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.

² § 87100.

³ §§ 87300 and 87302, subd. (b).

This memorandum is submitted to each member of the Commission pursuant to Regulation 18361.5, subdivision (b), which provides:

If the Executive Director determines that a hearing on the merits should be conducted before an administrative law judge alone pursuant to Government Code section 11512(a), he or she shall provide a copy of the accusation as well as a memorandum describing the issues involved to each member of the Commission. If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, the matter will be scheduled for a hearing before the Commission when an administrative law judge is available.

Thus, no Commission Action is required if the Commission approves of the recommendation that the administrative hearing in this matter should be conducted before an ALJ. However, two or more Commissioners may vote to keep the matter with the Commission if so desired.

III. PROCEDURAL HISTORY

A probable cause hearing was held on October 7, 2014. On October 8, 2014, the Hearing Officer issued an Order Re: Probable Cause (“Order”). The Order included a finding that there is probable cause to believe that Okonkwo violated the Act, as set forth in the attached Accusation.

On July 9, 2015, the Accusation was personally served on Okonkwo. On or about July 17, 2015, Okonkwo served a Notice of Defense, requesting a hearing.

IV. PROCEDURAL ISSUES

Every hearing in a contested case must be presided over by an ALJ. The agency itself shall determine whether the ALJ is to hear the case alone or whether the agency itself is to hear the case with the ALJ.⁴

When the agency itself hears the case, the ALJ shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the agency on matters of law; the agency itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the ALJ. When the ALJ alone hears a case, he or she shall exercise all powers relating to the conduct of the hearing. A ruling of the ALJ admitting or excluding evidence is subject to review in the same manner and to the same extent as the ALJ’s proposed decision in the proceeding.⁵

V. SUMMARY OF THE ACCUSATION

Okonkwo founded WAYS to serve a population of underperforming or high risk students in South Los Angeles. WAYS was formed pursuant to Education Code section 47600, and in 2009

⁴ See § 11512, subd. (a).

⁵ See § 11512, subd. (b).

through 2011, Okonkwo, as the executive director, received annual salary from WAYS of over \$100,000 per year.

During this time, Okonkwo owned several parcels of real property, located in Los Angeles, CA. While Okonkwo served as the Executive Director of WAYS, Okonkwo, as the owner of the real property, negotiated with the WAYS Board of Directors to lease these parcels to WAYS for use as two of its school campuses. Between July 2009 and June 2011, Okonkwo received rent payments from WAYS for these parcels of real property totaling over \$300,000.

During the time Okonkwo was Executive Director of WAYS, Okonkwo signed several construction related contracts on behalf of WAYS to improve the real property WAYS leased from her. WAYS paid for the upgrades to the facilities in accordance with the applicable lease agreements. Okonkwo signed five contracts in 2010 and 2011 on behalf of WAYS, totaling over \$70,000.

As Executive Director of WAYS, Okonkwo filed annual SEIs for calendar years 2009 and 2010. However, Okonkwo failed to file her leaving office SEI, which was due on or before June 2, 2011.

The Accusation consists of nine counts:

Count 1: Conflict of Interest: Used or Attempted to Use Official Position to Influence a Governmental Decision in Which the Official Had a Financial Interest

On or about July 1, 2009, as the Executive Director of WAYS, Okonkwo used or attempted to use her official position to influence a governmental decision in which she had a financial interest by negotiating and signing a lease agreement extension between herself and WAYS for real property in which Okonkwo held an interest of \$2,000 or more which was located at 8778 South Central Avenue for the lease term of July 1, 2009 through June 30, 2010, in violation of Section 87100.

Count 2: Conflict of Interest: Used or Attempted to Use Official Position to Influence a Governmental Decision in Which the Official Had a Financial Interest

On or about July 1, 2010, as the Executive Director of WAYS, Okonkwo used or attempted to use her official position to influence a governmental decision in which she had a financial interest by negotiating and signing a commercial lease agreement between herself and WAYS for real property located at 702 – 706 East Manchester Avenue in which Okonkwo held an interest of \$2,000 or more for the lease term of July 1, 2010 through June 30, 2011, for rent of \$10,200 per month, in violation of Section 87100.

Count 3: Conflict of Interest: Used or Attempted to Use Official Position to Influence a Governmental Decision in Which the Official Had a Financial Interest

On or about July 1, 2010, as the Executive Director of WAYS, Okonkwo used or attempted to use her official position to influence a governmental decision in which she had a financial interest by negotiating and signing a commercial lease agreement between herself and WAYS for

real property located at 8778 South Central Avenue in which Okonkwo held an interest of \$2,000 or more for the lease term of July 1, 2010 through June 30, 2011, for rent of \$4,000 per month, in violation of Section 87100.

Count 4: Conflict of Interest: Made a Governmental Decision in Which the Official Had a Financial Interest

On or about September 10, 2010, as the Executive Director of WAYS, Okonkwo made a governmental decision in which she had a financial interest by signing a contract on behalf of WAYS between WAYS and Joe Thompson Drafting & Planning for \$2,550 to create preliminary drawings for site improvements to 8778 South Central Avenue, real property in which Okonkwo held an economic interest of \$2,000 or more, in violation of Section 87100.

Count 5: Conflict of Interest: Made a Governmental Decision in Which the Official Had a Financial Interest

On or about September 14, 2010, as the Executive Director of WAYS, Okonkwo made a governmental decision in which she had a financial interest by signing a contract on behalf of WAYS with Azrocs Construction for \$4,999 in clean-up and improvements to the alley adjacent to 706 East Manchester Avenue, real property in which Okonkwo held an economic interest of \$2,000 or more, in violation of Section 87100.

Count 6: Conflict of Interest: Made a Governmental Decision in Which the Official Had a Financial Interest

On or about October 1, 2010, as the Executive Director of WAYS, Okonkwo made a governmental decision in which she had a financial interest by signing a contract on behalf of WAYS between WAYS and Joe Thompson Drafting & Planning for \$2,920 to create preliminary drawings for site improvements to 706 East Manchester Avenue, real property in which Okonkwo held an economic interest of \$2,000 or more, in violation of Section 87100.

Count 7: Conflict of Interest: Made a Governmental Decision in Which the Official Had a Financial Interest

On or about March 31, 2011, as the Executive Director of WAYS, Okonkwo made a governmental decision in which she had a financial interest by signing a contract on behalf of WAYS with Specialized Expert Services, Inc., for an amount not to exceed \$4,080 to perform consultant/coordination services for ADA Upgrade improvements to 706 East Manchester Avenue, real property in which Okonkwo held an economic interest of \$2,000 or more, in violation of Section 87100.

Count 8: Conflict of Interest: Made a Governmental Decision in Which the Official Had a Financial Interest

On or about April 14, 2011, as the Executive Director of WAYS, Okonkwo made a governmental decision in which she had a financial interest by signing a contract on behalf of WAYS with RPM Construction Management, Inc., for \$57,900 to perform construction services for

ADA upgrade improvements to 706 East Manchester Avenue, real property in which Okonkwo held an economic interest of \$2,000 or more, in violation of Section 87100.

Count 9: Failure to File Leaving Office Statement of Economic Interests

122. Okonkwo was relieved of her duties as Executive Director of WAYS on May 3, 2011. Okonkwo, as the Executive Director of WAYS, had a duty under the Act and the LAUSD Conflict of Interest Code to file a leaving office SEI for the period of January 1, 2011, through May 3, 2011, by the due date of June 2, 2011. Okonkwo failed to file a leaving office SEI for the period of January 1, 2011, through May 3, 2011, by the due date of June 2, 2011, in violation of Government Code sections 87300 and 87302, subdivision (b).

The Accusation requests a monetary penalty pursuant to Section 83116, subdivision (c), of up to \$5,000.00 per count, for a total monetary penalty in an amount not to exceed \$45,000.

VI. CONCLUSION

If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, the matter will be scheduled for a hearing before the Commission when an ALJ is available. (Regulation 18361.5, subd. (b).) Otherwise, hearing of this matter will be conducted before an ALJ alone pursuant to Section 11512, subdivision (a).