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7
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
10

11 In the Matter of) FPPC No. 07/120
12)
13 FLOYD LEESON,) STIPULATION, DECISION and
14) ORDER
15 Respondent.)

16 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
17 Respondent Floyd Leeson, hereby agree that this Stipulation will be submitted for consideration by the
18 Fair Political Practices Commission at its next regularly scheduled meeting.

19 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
20 matter and to reach a final disposition without the necessity of holding an administrative hearing to
21 determine the liability of Respondent.

22 Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural
23 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Section 18361.1
24 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
25 the right to personally appear at any administrative hearing held in this matter, to be represented by an
26 attorney at Respondent's own expense, to confront and cross-examine all witnesses testifying at the
27

1 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
2 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

3 Respondent Floyd Leeson stipulates and agrees, only for purposes of this settlement, that he
4 violated the Political Reform Act by participating in making governmental decisions in which he had a
5 financial interest, in violation of Section 87100 (4 counts); and by failing to disclose his investment
6 interests in oil and gas companies in his 2005 annual statement of economic interests, in violation of
7 Government Code Section 87206 (1 count), as described in Exhibit 1. Exhibit 1 is attached hereto and
8 incorporated by reference as though fully set forth herein. The parties stipulate that Exhibit 1 contains a
9 true and accurate summary of the facts in this matter.

10 The parties agree to the issuance of the Decision and Order, which is attached hereto and to the
11 Commission imposing upon Respondent an administrative penalty in the amount of Twenty-Four
12 Thousand Five Hundred Dollars (\$24,500). A cashier's check from Respondent in said amount, made
13 payable to the "General Fund of the State of California," is submitted with this Stipulation as full
14 payment of the administrative penalty, to be held by the State of California until the Commission issues
15 its Decision and Order regarding this matter. The parties agree that in the event the Commission refuses
16 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
17 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondent in
18 connection with this Stipulation shall be reimbursed to Respondent. The parties further stipulate and
19 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
20 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
21 shall be disqualified because of prior consideration of this Stipulation.

22
23 Dated: _____

Gary S. Winuk, Chief of Enforcement
Fair Political Practices Commission

24
25
26 Dated: _____

Floyd Leeson

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Floyd Leeson, FPPC No. 07/120,” including all attached exhibits, is hereby accepted as the final Decision and Order of the Fair Political Practices Commission, effective upon execution below by the Chairman.

IT IS SO ORDERED.

Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Floyd Leeson was an Associate Oil and Gas Engineer for the Department of Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR) from May 1, 1985, to June 13, 2007. As a DOGGR associate engineer, Respondent was a public official as defined in Section 82048, of the Political Reform Act (the "Act"),¹ and therefore he was prohibited from making, participating in making, or attempting to use his official position to influence a governmental decision in which he knew, or had reason to know, that he had a financial interest. (Section 87100.) Additionally, Respondent was a "designated employee," as defined in Section 82019, subdivision (a), and in the Conflict of Interest Code for the Department of Conservation (DOC). Under the Act and the DOC Conflict of Interest Code, each designated employee is required to file annual statements of economic interests disclosing his or her reportable economic interests held during the preceding calendar year.

In this matter, Respondent violated the conflict of interests provisions of the Act when he processed four (4) Notices of Intent to Conduct Well Operations and prepared for his supervisor's approval four (4) related permits to conduct well operations for an oil and gas company in which he held an investment interest of more than \$25,000. Additionally, Respondent violated the financial disclosure requirements of the Act by failing to disclose his investment interests in oil and gas companies regulated by his agency in his 2005 annual statement of economic interests.

For the purposes of this Stipulation, Respondent's violations of the Act are stated as follows:

COUNT 1: Respondent Floyd Leeson, as an associate engineer for the Department of Conservation, Division of Oil, Gas and Geothermal Resources, participated in making a governmental decision on or about July 6, 2005, in which he had a financial interest by processing a Notice of Intent to Rework, and preparing a Permit to Conduct Well Operations for his supervisor's approval, for Plains Exploration & Production Co., for API #03721221, in the Las Cienegas Oil Field, in violation of Government Code Section 87100.

COUNT 2: Respondent Floyd Leeson, as an associate engineer for the Department of Conservation, Division of Oil, Gas and

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. 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 Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Geothermal Resources, participated in making a governmental decision on or about July 19, 2005, in which he had a financial interest by processing a Notice of Intent to Rework, and preparing a Permit to Conduct Well Operations for his supervisor's approval, for Plains Exploration & Production Co., for API #03700300, in the Las Cienegas Oil Field, in violation of Government Code Section 87100.

COUNT 3: Respondent Floyd Leeson, as an associate engineer for the Department of Conservation, Division of Oil, Gas and Geothermal Resources, participated in making a governmental decision on or about July 19, 2005, in which he had a financial interest by processing a Notice of Intent to Rework, and preparing a Permit to Conduct Well Operations for his supervisor's approval, for Plains Exploration & Production Co., for API #03720099, in the Las Cienegas Oil Field, in violation of Government Code Section 87100.

COUNT 4: Respondent Floyd Leeson, as an associate engineer for the Department of Conservation, Division of Oil, Gas and Geothermal Resources, participated in making a governmental decision on or about August 9, 2005, in which he had a financial interest by processing a Notice of Intent to Rework, and preparing a Permit to Conduct Well Operations for his supervisor's approval, for Plains Exploration & Production Co., for API #03700298, in the Las Cienegas Oil Field, in violation of Government Code Section 87100.

COUNT 5: Respondent Floyd Leeson, as a designated employee of the Department of Conservation, Division of Oil, Gas and Geothermal Resources, on or about April 10, 2006, failed to disclose his investment interests in oil and gas companies in his 2005 annual statement of economic interests, in violation of Government Code Section 87206.

SUMMARY OF THE LAW

The primary purpose for the conflicts of interests provisions of the Act is to ensure that "public officials, whether elected or appointed, perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them." (Section 81001, subd. (b).)

Additionally, an express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided. In furtherance

of this purpose, Section 87300 requires every local agency to adopt and promulgate a conflict of interest code.

Conflicts of Interests

To prevent conflicts of interest in governmental decision making, Section 87100 prohibits state and local public officials from making, participating in making, or attempting to use their official positions to influence a governmental decision in which they know, or have reason to know, that they have a financial interest. Under Section 87103, a public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on a recognized economic interest of the official. For purposes of Sections 87100 and 87103, there are eight (8) analytical steps to consider when determining whether an individual has a conflict of interest in a governmental decision. Steps 7 and 8 of the standard step by step analysis are exceptions to the Act, and the respondent has the responsibility to provide facts and evidence that support the use of these exceptions (Regulations 18707, 18708), but, since Respondent Leeson, for purposes of this stipulation and settlement, is not asserting either of the exceptions of Steps 7 and 8, these exceptions are not discussed in the analysis below. The remaining six (6) relevant steps of the analysis follow below.

First, the individual must be a public official as defined by the Act. Section 82048 defines “public official” to include employees of a state government agency.

Second, the official must make, participate in making, or attempt to use his or her official position to influence a governmental decision. Under Regulation 18702.2, subdivision (b), a public official participates in making a governmental decision when, acting within the authority of his or her position, the official advises or makes recommendations to the decisionmaker either directly or without significant intervening substantive review, by: (1) Conducting research or making any investigation which requires the exercise of judgment on the part of the official and the purpose of which is to influence a governmental decision referenced in Regulation 18701, subdivision (a)(2)(A); or (2) Preparing or presenting any report, analysis, or opinion, orally, or in writing, which requires the exercise of judgment on the part of the official and the purpose of which is to influence a governmental decision referenced in Regulation 18701, subdivision (a)(2)(A). The decisions referenced in Regulation 18701, subdivision (a)(2)(A) include any decision to issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement. (Regulation 18701, subd. (a)(2)(A)(iii).) Further, making or participating in a governmental decision shall not include actions of public officials which are solely ministerial, secretarial, manual, or clerical. (Regulation 18702.4(a)(1).)

Third, the official must have an economic interest that may be financially affected by the governmental decision. Under Section 87103, subdivision (a), an economic interest of a public official includes any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.

Fourth, it must be determined if the economic interest of the official is directly or indirectly involved in the decision. Under Regulation 18704.1, subdivision (a), a person, including business entities, sources of income, and sources of gifts, is directly involved in a decision before an official's agency when that person, either directly or by an agent 1) initiates the proceeding in which the decision will be made by filing an application, claim, appeal, or similar request.

Fifth, it must be determined what materiality standard will apply to the economic interest of the public official. Under Regulation 18705.1, subdivision (b), if a business entity in which the official has an economic interest is directly involved in a governmental decision, the financial effect of a governmental decision on a business entity is presumed to be material. This presumption may be rebutted by proof that it is not reasonably foreseeable that the governmental decision will have *any* financial effect on the business entity.

Sixth, it must have been reasonably foreseeable, at the time the governmental decision was made, that the decision would have a material financial effect on the economic interest of the official. Under Regulation 18706, subdivision (a), a material financial effect on an economic interest is reasonably foreseeable if it is substantially likely, not just a mere possibility, that one or more of the materiality standards applicable to that economic interest will be met as a result of the governmental decision. (*In re Thorner* (1975) 1 FPPC Ops. 198.)²

When determining whether a governmental decision will have a reasonably foreseeable material financial effect on a respondent's economic interest there are several factors that may be considered. These factors include the scope of the governmental decision in question, and the extent to which the occurrence of the material financial effect is contingent upon intervening events, not including future governmental decisions by the official's agency, or any other agency appointed by or subject to the budgetary control of the official's agency. (Regulation 18706, subd. (b).)

Statements of Economic Interests

Section 82019, subdivision (a), defines "designated employee" to include any member of any agency whose position is "designated in a Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest." Additionally, Section 87302, subdivision (a), provides that an agency's conflict of interest code must specifically designate the positions within the agency that are required to file statements of economic interests, disclosing reportable investments, business positions, interests in real property, and sources of income. Thus, designated employees must file annual statements of economic interests under the Act.

² The *Thorner* opinion was codified in Regulation 18706 to provide that a material financial effect on an economic interest is reasonably foreseeable, within the meaning of Section 87103, if it is substantially likely that one or more of the materiality standards will be met as a result of the governmental decision.

Section 87302, subdivision (b) provides that an agency's conflict of interest code must require each designated employee of the agency to file annual statements of economic interests at a time specified in the agency's conflict of interest code,³ disclosing investments, income, business positions, and interests in real property, held or received at anytime during the previous calendar year.

Section 87300 declares that the requirements of an agency's conflict of interest code shall have the force of law, and any violation of those requirements shall be deemed a violation of the Act.

The Conflict of Interest Code for the Department of Conservation (DOC), designates associate engineers of the Division of Oil, Gas and Geothermal Resources (DOGGR) as persons who must file statements of economic interest. Additionally, the DOC's Conflict of Interest Code requires associate engineers to disclose in those statements:

... real property and investments and business positions in, and income, including gifts, loans, and travel payments, from any business entity of the type that may be affected by or subject to any provisions, guidelines, rules, or policies adopted, enforced or promulgated by the Division of Oil, Gas and Geothermal Resources. This includes, but is not limited to, business entities of the type that are regularly engaged in the extraction and/or production of oil, gas or geothermal resources; providing consulting, research or other contractual services to companies sponsoring such developments; or the manufacturing, distribution, sale, repair, or advertising of products for use in exploration, development and design criteria, and construction of facilities and projects involving siting (sic) investigations or land use.

When an investment is required to be disclosed in an annual statement of economic interests,⁴ Section 87206 provides that the statement shall contain the following information regarding the investment: 1) a statement of the nature of the investment; 2) the name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged; 3) a statement of the fair market value of the investment, in ranges from \$2,000 to exceeding \$100,000; and 4) if the investment was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal. Section 82034 defines the term "investment" to mean any financial interest in or security issued by a business entity.

³ The agency's Conflict of Interest Code may incorporate Regulation 18730 by reference. If so, then the filing deadline is April 1. (Regulation 18730(b)(5)(C)). If not incorporated, the Conflict of Interest Code must specify a filing date. The DOC's Conflict of Interest Code incorporates Regulation 18730, and thus, the filing deadline for annual statements of economic interests for the DOC is April 1.

⁴ Regulation 18730 subdivision (a) provides that any conflict of interest code that incorporates Regulation 18730 by reference requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Government Code sections 81000, et seq.

SUMMARY OF THE FACTS

Respondent Floyd Leeson was an Associate Oil and Gas Engineer for the Department of Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR) from May 1, 1985, to June 13, 2007.

Plains Exploration & Production Company (PXP) is an independent oil and gas company primarily engaged in the activities of acquiring, developing, exploring and producing oil and gas in its core areas of operation: California, Texas, Louisiana, and Gulf of Mexico. PXP is headquartered in Houston, TX, it is a publicly traded company on the New York Stock Exchange (NYSE), and PXP securities are registered with the Securities Exchange Commission (SEC). During the relevant times from May 26, 2005 through August 9, 2005, Respondent owned shares of PXP stock worth more than \$25,000.

DOGGR regulates oil and gas wells in the Las Cienegas Oil Field, located in Los Angeles County, through DOGGR's District One Office located in Cypress, CA. Respondent worked in DOGGR's District One Office, and Respondent was assigned to oversee PXP's reworking of oil wells within the Las Cienegas Oil Field.

In this matter, Respondent violated the conflict of interests provisions of the Act when he processed four (4) Notices of Intent to Conduct Well Operations (Rework) submitted to DOGGR by PXP and prepared, for his supervisor's approval, four (4) related permits to conduct well operations for PXP, and failed to disclose his investments in oil and gas companies regulated by his agency in his 2005 annual statement of economic interests. Accordingly, Respondent committed five (5) violations of the Act, as follows:

Counts 1 through 4

(Participating in Making Governmental Decisions in Which the Public Official Had a Financial Interest)

In July and August 2005, as an Associate Oil and Gas Engineer for DOGGR, Respondent processed four (4) Notices of Intent to Conduct Oil Operations (Rework), and prepared, for his supervisor's approval, four (4) related Permits to Conduct Well Operations for Plains Exploration & Production Co. (PXP), at a time when Respondent owned PXP stock worth more than \$25,000.

The relevant analytical steps to consider when determining whether an individual has a conflict of interest in a governmental decision are set forth below.

Step One: Respondent Was a Public Official as Defined By the Act

As an Associate Oil and Gas Engineer for DOGGR, Respondent was an employee of a state government agency, and therefore he was a public official as defined in Section 82048.

Step Two: Respondent Participated in Making Governmental Decisions

As an Associate Oil and Gas Engineer for DOGGR, one of Respondent’s duties was to process applications from oil and gas companies, called Notices of Intent to Conduct Oil Operations (NOI’s). Each NOI was for a specific well and was automatically deemed approved if DOGGR did not act on the NOI within ten (10) days. When Respondent received an NOI from an oil and gas company, he reviewed the information contained in the NOI and determined whether required construction, safety, and other criteria were included in the NOI. If criteria were missing, Respondent would request supplemental information until all criteria were included. Once all of the criteria were included, he then prepared a Permit to Conduct Well Operations for the company, which would go to his supervisor for review, approval and signature. Thus, by processing NOI’s and preparing Permits to Conduct Well Operations for his supervisor’s approval, Respondent participated in making governmental decisions in this regard.

Evidence obtained during the Enforcement Division’s investigation revealed that Respondent processed NOI’s and prepared, for his supervisor’s approval, Permits to Conduct Well Operations for PXP as follows:

Count	API # (Well ID)	Oil Field	NOI Type	Permit Date
1	03721221	Las Cienegas	Rework	07/06/2005
2	03700300	Las Cienegas	Rework	07/19/2005
3	03720099	Las Cienegas	Rework	07/19/2005
4	03700298	Las Cienegas	Rework	08/09/2005

Respondent processed NOI’s and prepared, for his supervisor’s approval, Permits to Conduct Well Operations for PXP on the above dates. Therefore, by processing these NOI’s and preparing, for his supervisor’s approval, the Permits to Conduct Well Operations, Respondent participated in making governmental decisions pursuant to Section 87100 and Regulation 18702.2, subdivision (b).

Step Three: Respondent Had an Economic Interest in PXP

Evidence obtained during the Enforcement Division’s investigation revealed that on the date of each of the above decisions, Respondent had a direct investment interest in PXP worth more than \$25,000. Therefore, Respondent had an economic interest in PXP pursuant to Section 87103, subdivision (a), and Regulation 18703.1, subdivision (a).

Step Four: Respondent’s Economic Interest Was Directly Involved in the Decisions

PXP initiated each of the proceedings in which Respondent participated in making a governmental decision by filing four (4) Notices of Intent to Conduct Oil Operations (Rework) with DOGGR in July and August 2005. Thus, PXP was directly involved in the governmental decisions. (Regulation 18704.1, subd. (a)(1).)

Step Five: Applicable Materiality Standard

Since PXP was directly involved in the governmental decisions, the financial effect of the governmental decisions is presumed to be material. (Regulation 18705.1, subd. (b)(1).) This presumption may be rebutted by proof that it is not reasonably foreseeable that the governmental decision will have any financial effect on the business entity. For purposes of this stipulation and settlement only, Respondent does not rebut this presumption.

Step Six: It Was Reasonably Foreseeable That the Applicable Materiality Standard Would Be Met

A material financial effect on an economic interest is reasonably foreseeable if it is substantially likely, and not just a mere possibility, that the applicable materiality standard will be met as a result of the governmental decision at issue. (Regulation 18706, subd. (a).) Factors that may be considered in making this determination include the scope of the governmental decision in question and the extent to which the occurrence of the material financial effect is contingent upon intervening events. (Regulation 18706, subd. (b).)

Respondent's participation in making governmental decisions in July and August 2005, involved processing four (4) Notices of Intent (NOI's) from PXP and preparing, for his supervisor's approval, four (4) related Permits to Conduct Well Operations for PXP. The decisions to issue Permits to Conduct Well Operations would affect PXP because PXP is engaged in the activities of acquiring, developing, exploring and producing oil and gas in California, and therefore it needs to drill and maintain wells to obtain oil to sell to other companies. Additionally, the more active wells it maintained, the more PXP's earning potential increased. Therefore, it was reasonably foreseeable that the processing of NOI's and the preparation of Permits to Conduct Well Operations would have a material financial effect on PXP. (Regulation 18706, subd. (a).)

In summary, by participating in making the above referenced governmental decisions in which he had a financial interest, Respondent violated Government Code Section 87100.

Count 5

(Failure to Disclose Investment Interests in a Statement of Economic Interests)

Because Respondent was an Associate Oil and Gas Engineer of DOGGR, he was required to file an annual statement of economic interests for each year that he remained an associate engineer, disclosing his reportable economic interests held during the preceding calendar year. Thus, Respondent was required to file an annual statement of economic interests for calendar year 2005, for which the filing deadline was April 3, 2006.

Respondent filed his 2005 annual statement of economic interests on April 10, 2006. On this statement, Respondent stated that he had no reportable interests on any schedule, and he signed each statement under penalty of perjury.

However, despite his assertion to the contrary, Respondent held multiple qualifying investments in business entities of the type that may be affected by or subject to any provisions, guidelines, rules, or policies adopted, enforced or promulgated by DOGGR which should have been reported on his 2005 annual statement of economic interests. Evidence obtained during the Enforcement Division's investigation of this matter revealed that Respondent owned stock which held a value during calendar year 2005 of at least \$2,000, but less than \$30,000, in PXP and other oil and gas companies, which he had a duty to disclose pursuant to the DOC's Conflict of Interest Code. Respondent failed to disclose any of these investments in his 2005 annual statement of economic interests.

By failing to disclose qualifying investments in his 2005 annual statement of economic interests, filed on or about April 10, 2006, Respondent violated Government Code Section 87206.

CONCLUSION

This matter consists of five (5) counts of violating the Act, carrying a maximum administrative penalty of \$5,000 per count, for a total maximum administrative penalty of \$25,000.

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 context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6):

1. The seriousness of the violations;
2. The presence or lack of intent to deceive the voting public;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the Respondent demonstrated good faith in consulting with Commission staff;
5. Whether there was a pattern of violations; and
6. Whether, upon learning of the violation, the violator voluntarily provided amendments to provide full disclosure.

Respondent engaged in a pattern of violations in which he repeatedly participated in making governmental decisions involving a company in which he had a significant financial interest. In July and August 2005, a time during which he owned more than \$25,000 worth of stock in PXP, he directly processed four (4) NOI's and prepared, for his supervisor's approval, four (4) Permits to Conduct Well Operations for PXP, which led to the issuance of four (4) Permits to Conduct Well Operations for PXP. In calendar year 2005, the value of Respondent's PXP stock holdings was greater than \$25,000 for a total of 73 days.

Additionally, Respondent, in emails to a PXP executive, made several statements which created the appearance of impropriety. Such statements included, “[G]o PXP stock!” and “Remember, I’m on YOUR side...[G]o PXP!” Such statements were inappropriate for a DOGGR Associate Engineer to make to an executive for one of the companies over which he had direct oversight, and created the appearance that Respondent was promoting the welfare of PXP.

In conjunction with processing NOI’s and preparing Permits to Conduct Well Operations for PXP for his supervisor’s approval, Respondent failed to disclose any of his investments in oil and gas companies in his 2005 annual statement of economic interests, including those held in PXP. Respondent was a long-time Form 700 filer, and he knew, or should have known of his obligation to disclose investments in oil and gas companies pursuant to the DOC’s Conflict of Interest Code. Thus, Respondent’s actions, taken as a whole, show a pattern of violations that were, at least, negligent.

In mitigation, Respondent has no prior violations of the Act.

Respondent has stipulated, admitted and agreed to the facts, violations and penalties herein only for purposes of this settlement, none of which shall be deemed as an admission for any other purpose or in any other proceedings. Respondent contends that he believed the decisions he participated in making by processing of the NOI’s and the preparation of Permits to Conduct Well Operations were ministerial in nature, and therefore did not trigger the conflict of interest rules in the Act. Additionally, he contends that in 2007, DOGGR employees were provided training in the disclosure requirements and allowed to amend their past statements of economic interests. However, he was not given the opportunity to amend his statements of economic interests to include his interests in oil and gas companies.

For Counts 1 – 4, the conduct of participating in making a governmental decision in which an official has a financial interest is a serious violation of the Act as it may create the appearance that a governmental decision was made on the basis of an official’s financial interest. For Count 5, failure to disclose investments in business entities in statements of economic interests is also a serious violation of the Act as disclosure omissions may create an appearance of impropriety. Recent prior enforcement actions approved by the Commission involving violations of the same Government Code sections as in this Stipulation are as follows:

Conflicts of Interests:

- **In the Matter of David Cole; FPPC No. 06/1148 (Default)** – Respondent, as a member of the Pinole City Council and also as a board member of the Pinole Redevelopment Agency in Pinole, CA, made governmental decisions in which he had a material financial interest, by voting on sixteen (16) matters involving The Kivelstadt Group (TKG), which was a source of income to Respondent. The evidence obtained showed that Respondent owned and operated Pinole Valley Landscape (PVL), and that PVL provided services to and received substantial income from TKG, a real estate developer and property management company

active in the City of Pinole. Penalty per relevant count: \$5,000. Approved by Commission December 2011.

- **In the Matter of Lawrence Franzella, FPPC No. 04/004.** – Respondent, as mayor of the City of San Bruno, made a governmental decision, which had a material financial effect on his real property, by voting to approve a plan to relocate the train station that was within 500 feet of rental real property owned by Respondent. Penalty per relevant count: \$5,000. Approved by Commission December 2008.

Statements of Economic Interests – Non-Disclosure:

- **In the Matter of David Cole; FPPC No. 06/1148 (Default)** – Respondent, as a member of the Pinole City Council and also as a board member of the Pinole Redevelopment Agency in Pinole, CA, failed to disclose The Kivelstadt Group (TKG) as a source of income to him in his annual statements of economic interests for 2003 – 2005. The evidence obtained showed that Respondent owned and operated Pinole Valley Landscape (PVL), and that PVL provided services to and received substantial income from TKG, a real estate developer and property management company active in the City of Pinole. Penalty per relevant count: \$4,500. Approved by Commission December 2011.
- **In the Matter of Tatsuya Suda, FPPC No. 10/1007** – Respondent, Professor of Computer Science and a principal investigator with the University of California, Irvine, failed to disclose on the Statement of Economic Interests he filed in conjunction with an application for a research project, his interests in a non-governmental funding source that provided grants for his projects. Penalty per relevant count: \$3,500. Approved by Commission February 2011.

PENALTY

The facts of this case, including aggravating and mitigating factors, justify imposition of the agreed upon penalty of Twenty – Four Thousand Five Hundred Dollars (\$24,500). Five Thousand Dollars (\$5,000) each for Counts 1 – 4; Four Thousand Five Hundred Dollars (\$4,500) for Count 5.

* * * * *