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

11  
12 In the Matter of ) FPPC No. 13/106  
13 )  
14 Christopher Drop, ) STIPULATION, DECISION and  
15 Respondent. ) ORDER  
16 )  
17 )

18 Complainant, the Fair Political Practices Commission, and respondent Christopher Drop  
19 (“Respondent”) agree that this Stipulation will be submitted for consideration by the Fair Political  
20 Practices Commission at its next regularly scheduled meeting.

21 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this  
22 matter and to reach a final disposition without the necessity of holding an administrative hearing to  
23 determine the liability of Respondent, pursuant to Section 83116 of the Government Code.

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

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 It is further stipulated and agreed that Respondent violated the Political Reform Act by  
4 participating in a governmental decision in which he knew he had a financial interest, in violation of  
5 Government Code section 87100 (1 count).

6 All counts are described in Exhibit 1, which is attached hereto and incorporated by reference as  
7 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

8 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.  
9 Respondent also agrees to the Commission imposing upon him an administrative penalty in the amount  
10 of \$2,500. A cashier's check from Respondent in said amount, made payable to the "General Fund of  
11 the State of California," is submitted with this Stipulation as full payment of the administrative penalty,  
12 to be held by the State of California until the Commission issues its decision and order regarding this  
13 matter. The parties agree that in the event the Commission refuses to accept this Stipulation, it shall  
14 become null and void, and within 15 business days after the Commission meeting at which the  
15 Stipulation is rejected, all payments tendered by Respondent in connection with this Stipulation shall be  
16 reimbursed to Respondent. Respondent further stipulate and agree that in the event the Commission  
17 rejects the Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither  
18 any member of the Commission, nor the Executive Director, shall be disqualified because of prior  
19 consideration of this Stipulation.

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

\_\_\_\_\_  
Gary Winuk, Enforcement Chief,  
On behalf of the  
Fair Political Practices Commission

22  
23  
24  
25 Dated: \_\_\_\_\_

\_\_\_\_\_  
Christopher Drop, Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Christopher Drop” FPPC No. 13/106,  
3 including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political  
4 Practices Commission, effective upon execution below by the Vice-Chair.

5  
6 IT IS SO ORDERED.

7  
8 Dated: \_\_\_\_\_

\_\_\_\_\_  
Sean Eskovitz, Vice-Chair  
Fair Political Practices Commission

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## **EXHIBIT 1**

### **INTRODUCTION**

At all relevant times, Respondent Christopher Drop (“Respondent”) was the General Manager of the Manila Community Services District (the “District”) and a public official.

As a public official, Respondent is prohibited by Government Code section 87100 of the Political Reform Act (the “Act”)<sup>1</sup> from making, participating in making, or attempting to use his official position to influence any governmental decision in which he knows, or has reason to know, he has a disqualifying financial interest.

For the purposes of this Stipulation, Respondent’s violation of the Act is stated as follows:

**COUNT 1:** On March 19, 2009, May 17, 2012, and June 21, 2012, Respondent Christopher Drop, in his capacity as the General Manager of the Manila Community Services District, participated in a governmental decision in which he knew he had a financial interest, in violation of Government Code section 87100.

### **SUMMARY OF THE LAW**

All statutory references and discussions of law pertain to the Act’s provisions as they existed at the time of the violation.

#### **Liberal Construction and Vigorous Enforcement of the Political Reform Act**

When the Act was enacted, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities. (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

#### **Conflict of Interest Provisions**

Section 87100 prohibits a public official from making, participating in making, or in any way attempting to use his official position to influence a governmental decision in which the official knows, or has reason to know, he has a disqualifying 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 on an economic interest of the official. For purposes of Sections 87100 and 87103, there are several analytical steps to consider when determining whether an individual has a conflict of interest in a governmental decision.<sup>2</sup>

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<sup>1</sup> 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.

<sup>2</sup> The two additional steps of the analysis—whether the financial effect is indistinguishable from the effect on the public generally and whether the official’s participation was legally required—are not applicable to this case.

First, the individual must be a public official. (Regulation 18700, subd. (b)(1).) Section 82048 defines “public official” to include “every member, officer, employee or consultant” of a local government agency. Section 82041 defines “local government agency” to include a district.

Second, the official must make, participate in making, or attempt to use his official position to influence a governmental decision. (Regulation 18700, subd. (b)(2).) A public official participates in a governmental decision when he advises or makes recommendations to the decision maker either directly or indirectly without significant intervening substantive review, by 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. (Regulation 18702, subd. (b)(2).)

Third, the official must have an economic interest that may be financially affected by the governmental decision. (Regulation 18700, subd. (b)(3).) A public official has a financial interest in any real property in which the official has a direct or indirect interest worth \$2,000 or more. (Regulation 18703.2, subd. (a).)

Fourth, it must be determined if the economic interest of the official is directly or indirectly involved in the decision. (Regulation 18700, subd. (b)(4).) Real property in which a public official has an economic interest is directly involved in a governmental decision if any part of it is located within 500 feet of the boundaries (or the proposed boundaries) of the property which is the subject of the governmental decision. (Regulation 18704.2, subd. (a)(1).)

Fifth, it must be determined what materiality standard will apply to the economic interest of the public official. (Regulation 18700, subd. (b)(5).) In the case of an economic interest that is a directly involved parcel of real property, the financial effect is presumed to be material. (Regulation 18705.2, subd. (a)(1).)

Sixth, at the time of the governmental decision, it must have been reasonably foreseeable that the decision would have a material financial effect on the public official’s economic interest. (Regulation 18700, subd. (b)(6).) A material financial effect on an economic interest is reasonably foreseeable if it is substantially likely that one or more of the materiality standards applicable to the economic interest will be met as a result of the governmental decision. (Regulation 18706, subd. (a).) Whether the financial consequences of a decision are “reasonably foreseeable” at the time of a governmental decision depends upon the facts of each particular case.

## **SUMMARY OF THE FACTS**

The District is a special district within Humboldt County that provides water, sewer, and parks and recreation services to the area it covers. At the District’s March 19, 2009, public meeting, Respondent, in his capacity as the District’s General Manager, presented to the District’s Board (the “Board”) the General Manager’s Report (the “Report”). The Report included all of the District’s planned projects for the coming months, including the following description of the “Shell Drive Project”:

Extend water main approximately 250 feet and move 3 meters on Shell Drive. This is to correct an undersized ¾” main that traverses private property (no easement on record) to the

Lawson residence. Extending this main also allows the relocating of 3 meters to the end of the extended main and the replacement/addition of a blow-off valve (one property is improperly connected to the upstream valve).

The Shell Drive Project consisted of three significant changes to Respondent's real property on Shell Drive and the immediate area around it. First, it planned to replace a blow-off valve located within 30 feet of Respondent's real property. Second, it planned to extend a water main 250 feet around Respondent's real property. Lastly, it planned to move three water meters that are within 500 feet of Respondent's real property.

In addition to presenting Shell Drive Project to the Board, Respondent also answered questions from the Board regarding the Shell Drive Project, and requested that the Board approve funding for the Shell Drive Project. At the March 19, 2009, meeting, the Board approved Respondent's request for funding, not to exceed \$5,000, to pay for the Shell Drive Project. During discussions of the Shell Drive Project, Respondent explained to the Board that he lives in Manila and that he "felt uncomfortable that the work is being done on his street." He also stated that completion of the Shell Drive Project would not directly affect his property.

At the District's May 17, 2012, public meeting, Respondent, in his capacity as General Manager of the District, presented the proposed 2013 budget for the District (the "Budget"), which he authored, to the Board for discussion and adoption. The Budget included \$7,000 of funding for the Shell Drive Project. The Board asked Respondent to make some changes to the Budget and to bring it back at the next meeting for reconsideration.

At the District's June 21, 2012, public meeting, Respondent, in his capacity as General Manager of the District, presented a revised Budget, which he authored, to the Board for discussion and adoption. The revised Budget included the same amount of funding, \$7,000, for the Shell Drive Project, and was adopted by the Board at the meeting.

The District abandoned the Shell Drive Project before any parts or construction was ordered.

#### COUNT 1

#### **Conflict of Interest**

Respondent was an official of the District at the time of the March 19, 2009, May 17, 2012, and June 21, 2012, board meetings, and therefore was a public official at all relevant times.

Respondent owned real property, worth \$2,000 or more, on Shell Drive in the District at the time of the March 19, 2009, May 17, 2012, and June 21, 2012, board meetings, and therefore had a financial interest in that real property at all relevant times.

Respondent participated in the Board's decision to fund the Shell Drive Project at the March 19, 2009, May 17, 2012, and June 21, 2012, board meetings by presenting the Shell Drive Project to the Board and by recommending that they approve funding for it.

Respondent's real property on Shell Drive was directly involved in the Board's decision to fund the Shell Drive Project because projected boundaries of the Shell Drive Project were within 500 feet of Respondent's real property. Because Respondent's real

property was directly involved in the Board's decision to fund the Shell Drive Project, the Board's decision is presumed to have a material financial effect on Respondent's real property.

During each of the three board meetings, Respondent was well aware that he was proposing and recommending that the Board fund a project that was within 500 feet of his real property on Shell Drive, and, therefore, at each of the board meetings it was substantially likely that the Board was going to make a decision that was presumed to have a material financial impact on his real property. Accordingly, it was reasonably foreseeable that the Board's decisions on March 19, 2009, May 17, 2012, and June 21, 2012, regarding the funding of the Shell Drive Project would have a material financial effect on Respondent's economic interest.

Thus, by presenting the Shell Drive Project to the Board, and recommending that the Board approve funding for the Shell Drive Project, Respondent violated Section 87100.

### CONCLUSION

This matter consists of a one count of violating the Act, which carries a maximum administrative penalty of \$5,000.

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): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the respondent(s) demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether upon learning of the violation the respondent voluntarily filed amendments to provide full disclosure. The facts are required to be considered by the Commission under Regulation 18361.5.

Attempting to influence a governmental decision in which an official has a financial interest may create the appearance that the governmental decision was a product of that conflict of interest, and is a serious violation of the Act.

Recent fines approved by the Commission for violations of the Conflict of Interest Provisions of the Act include:

*In the Matter of Chris Canning*, FPPC No. 12/696: On September 19, 2013, the Commission fined a councilmember \$3,000 for a single count of violating the Conflict of Interest Provisions of the Act. The councilmember made eight decisions that had a material financial impact on his employer, and the employer had paid him approximately \$80,000 in the twelve months immediate prior to the decisions. The councilmember had no history of enforcement actions, cooperated with the investigation, and agreed to an early settlement of the matter.

*In the Matter of Joni Gray*, FPPC No. 12/286: On June 20, 2013, the Commission fined a county supervisor \$3,000 for a single count of violating the Conflict of Interest Provisions of the Act. The supervisor made a decision to give a \$50,000 forgivable loan a client of her law firm. The supervisor had no history of enforcement actions, cooperated with the investigation, and agreed to an early settlement of the matter.



In this matter, Respondent has no history of enforcement actions, has been cooperative with the investigation, and has agreed to an early settlement of this matter. Additionally, the District abandoned the Shell Drive Project before any parts or construction was ordered. Therefore the financial effect of Respondent's actions in this matter on the public has been mitigated. Additionally, Respondent has not received any benefit as a result of the decision, and the total amount involved in the decision was \$7,000.

**PROPOSED PENALTY**

After consideration of the factors of Regulation 18361.5, and consideration of penalties in prior enforcement actions, the imposition of a \$2,500 penalty on Respondent is recommended.

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