

1 GALENA WEST  
Chief of Enforcement  
2 BRIDGETTE CASTILLO  
Senior Commission Counsel  
3 Fair Political Practices Commission  
428 J Street, Suite 620  
4 Sacramento, CA 95814  
Telephone: (916) 323-6424  
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant

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

10  
11 In the Matter of:

12 **KATHRIN SEARS,**

13 Respondent.

FPPC Case No. 17/453

14 **STIPULATION, DECISION AND ORDER**

15 **INTRODUCTION**

16 Kathrin Sears is currently a Marin County Supervisor and has been since 2011. Additionally,  
17 Sears is the Chair of the MCE Clean Energy Board. Sears was appointed to the MCE Clean Energy  
18 Board (“Board”) by Marin County.

19 This case involves a violation of the conflict of interest provisions of the Political Reform Act.<sup>1</sup>

20 **SUMMARY OF THE LAW**

21 The Act and its regulations are amended from time to time. For this reason, all legal references  
22 and discussions of law pertain to the Act’s provisions as they existed at that time—unless otherwise  
23 noted.

24  
25  
26  
27 <sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections  
28 81000 through 91014. All statutory references are to this code. 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 this source.



1 **SUMMARY OF THE FACTS**

2 Sears has been a member of the Marin County Board of Supervisors since 2011. Marin County  
3 appointed Sears to the Board. Sears is the Chair of the Board, a designated position in the agency’s  
4 conflict of interest code. As Chair of the Board, Sears was authorized to execute short term power  
5 purchase agreements for energy. In this capacity, on November 14, 2014, Sears signed a contract with  
6 Shell Energy North America for a term of 3 years, from January 1, 2015, though December 31, 2017,  
7 with a maximum annual amount of approximately \$5 million for hydroelectric power.

8 At the time of signing this contract with Shell Energy North America, she owned stock in Royal  
9 Dutch Shell, the parent company to Shell Energy North America, of approximately \$27,750. Sears  
10 disclosed her interest in the Royal Dutch Shell stock on her 2014 Annual Statements of Economic  
11 Interests. Sears inherited the stock from her parents after her mother’s death. She contends that she did  
12 not actively trade the stock and did not recall that she owned the stock at the time she participated in the  
13 decision.

14 This case was opened as the result of a formal complaint alleging a conflict of interest under the  
15 Act and a Government Code Section 1090 violation. After review of the evidence, the Enforcement  
16 Division did not charge the Government Code Section 1090 based on the non-interest exemption in  
17 Section 1091.5, subdivision (a)(1), which states that an official has a non-interest in a business  
18 corporation, in which they own less than 3% of its shares, as long as the official’s total annual income  
19 from dividends and stock dividends from the corporation amounts to less than 5% of his or her total  
20 annual income and any other income received from the corporation also amounts to less than 5% of his  
21 or her total annual income.

22 **VIOLATIONS**

23 **Count 1**

24 *Conflict of Interest*

25 Sears, who owned Royal Dutch Shell stock, the parent company to Shell Energy North America,  
26 valued at over \$2,000, reviewed and signed the contract with Shell Energy North America as the Chair of  
27 the Board. This decision had a reasonably foreseeable material financial effect on Shell Energy North  
28 America because it resulted in Shell Energy North America receiving a contract to provide energy with a

1 maximum annual amount of approximately \$5 million.

2 In this way, Sears violated Section 87100.

3 **PROPOSED PENALTY**

4 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per  
5 count.<sup>12</sup>

6 In determining the appropriate penalty for a particular violation of the Act, the Commission  
7 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the  
8 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
9 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
10 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
11 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
12 record of violations.<sup>13</sup> Additionally, the Commission considers penalties in prior cases with comparable  
13 violations.

14 Applying the factors to this case, a conflict of interest violation is a serious violation under the  
15 Act. However, the evidence suggests that there was no intent to conceal, deceive or mislead, as the stock  
16 was timely disclosed on her SEIs. She contends she did not realize she had a conflict of interest when she  
17 participated in making the decision, and made no attempt to conceal her action or financial interest.  
18 Furthermore, after learning of her mistake, Sears contends she divested the stock on May 15, 2017, in  
19 order to eliminate the potential for future conflicts related to Shell Energy North America and this  
20 incident was isolated and not part of a pattern.

21 The Commission approved a settlement in a similar type of case. *In the Matter of Gregory Cox,*  
22 *FPPC No. 16/292*, in April 2016, the Commission approved a settlement involving the Coastal  
23 Commissioner Gregory Cox, who voted on a matter involving SeaWorld while he and his wife owned  
24 approximately \$8,679 in SeaWorld stock. In mitigation, Cox contended that he did not realize his wife  
25 purchased the SeaWorld stock and he self-reported this conflict of interest. A penalty of \$3,000 was  
26

27 \_\_\_\_\_  
<sup>12</sup> See Section 83116, subdivision (c).

28 <sup>13</sup> Regulation 18361.5, subdivision (d).

1 imposed for this violation.

2 In this matter, Sears fully cooperated with the Enforcement Division and agreed to settle early in  
3 this case. Further, she does not have a history of prior violations of the Act.

4 For the foregoing reasons, the total penalty that is being recommended in this case is \$3,000.

5 **CONCLUSION**

6 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
7 Respondent Kathrin Sears hereby agrees as follows:

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

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

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

15 4. Respondent has consulted with her attorney, James Harrison of Remcho, Johansen &  
16 Purcell, LLP, and understands, and hereby knowingly and voluntarily waives, all procedural rights set  
17 forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is  
18 not limited to the right to appear personally at any administrative hearing held in this matter, to be  
19 represented by an attorney at Respondent’s own expense, to confront and cross-examine all witnesses  
20 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial  
21 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially  
22 reviewed.

23 5. Respondent agrees to the issuance of the decision and order set forth below. Also,  
24 Respondent agrees to the Commission imposing against her an administrative penalty in the amount of  
25 \$3,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General  
26 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
27 administrative penalty described above, and same shall be held by the State of California until the  
28 Commission issues its decision and order regarding this matter.

