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

10  
11 In the Matter of:

12 Wendy Mitchell,

13 Respondent.

FPPC Case No. 16/252

14 **STIPULATION, DECISION AND ORDER**

15 **INTRODUCTION**

16 Wendy Mitchell was a Commissioner for the California Coastal Commission from 2010, through  
17 December 29, 2016, when she resigned. The Political Reform Act (the “Act”)<sup>1</sup> requires members of the  
18 California Coastal Commission to disclose reportable economic interests on a Statement of Economic  
19 Interests (“SEI”) at various times. Mitchell violated the Act by failing to timely disclose all reportable  
20 income on her 2015 Annual SEI.

21 **SUMMARY OF THE LAW**

22 The Act and its regulations are amended from time to time. The violations in this case occurred in  
23 2015 and 2016. For this reason, all legal references and discussions of law pertain to the Act’s provisions  
24 as they existed at that time.

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

2                   When enacting the Political Reform Act, the people of California found and declared that  
3 previous laws regulating political practices suffered from inadequate enforcement by state and local  
4 authorities.<sup>2</sup> Thus, it was decreed that the Act “should be liberally construed to accomplish its  
5 purposes.”<sup>3</sup>

6   **Statements of Economic Interests**

7                   An express purpose of the Act is to ensure that the assets and income of public officials which  
8 may be materially affected by their official actions be disclosed, so that conflicts of interest may be  
9 avoided.<sup>4</sup> In furtherance of this purpose, the Act requires California Coastal Commissioners to  
10 periodically disclose their investments, real property interests, and income.<sup>5</sup>

11                   Members of the California Coastal Commission are required to file an SEI that discloses  
12 reportable investments, business positions, interests in real property, and sources of income from the  
13 previous calendar year.<sup>6</sup>

14                   Under the Act, income includes a person’s share of income from any business entity in which  
15 they own a 10% or greater interest.<sup>7</sup> A public official is required to report on her SEI every person from  
16 whom she receives gross income of \$10,000 or more in a calendar year due to the public official’s 10%  
17 or greater interest in a business entity.<sup>8</sup>

18   **SUMMARY OF THE FACTS**

19                   Mitchell owns and operates WM Consulting. Carollo Engineers, Inc. paid WM Consulting \$5,000  
20 per month from August 2014, through March 1, 2016, to provide consulting services to their Los Angeles  
21 Office relating to groundwater clean-up in the Los Angeles area. Mitchell disclosed Carollo Engineers,  
22 Inc. as a source of income of \$10,000 or more to WM Consulting on her 2014 and 2016 Annual SEIs, but  
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25                   <sup>2</sup> Section 81001, subdivision (h).  
26                   <sup>3</sup> Section 81003.  
27                   <sup>4</sup> Section 81002, subdivision (c).  
28                   <sup>5</sup> Section 87200.  
                      <sup>6</sup> Sections 87200 and 87203.  
                      <sup>7</sup> Section 82030, subdivision (a).  
                      <sup>8</sup> Section 87207, subdivision (b)(2).

1 failed to disclose Carollo Engineers, Inc. as a source of income of \$10,000 or more to WM Consulting on  
2 her 2015 Annual SEI. Mitchell filed an amendment to her 2015 Annual SEI in conjunction with this  
3 settlement, disclosing Carollo Engineers, Inc. as a source of income of \$10,000 or more to WM  
4 Consulting.

## 5 VIOLATIONS

### 6 Count 1

#### 7 *Failure to Timely Disclose a Source of Income on a Statement of Economic Interest*

8 Mitchell failed to timely disclose her source of income of \$10,000 or more to her consulting  
9 business on her 2015 Annual Statement of Economic Interest, in violation of Sections 87203 and 87207,  
10 subdivision (b)(2).

## 11 PROPOSED PENALTY

12 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per  
13 count. Thus, the maximum penalty that may be imposed is \$5,000.<sup>9</sup>

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

22 The Commission has found disclosure to be essential. The Commission also considers penalties  
23 in prior cases involving similar violations. A similar case includes the following:

24 *In the Matter of Robert A. Lovingood, FPPC Case No. 14/1149.* In March 2017, the Commission  
25 approved a stipulated decision for failing to disclose economic interests of \$10,000 or more to his  
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<sup>9</sup> Section 83116, subdivision (c).

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<sup>10</sup> Regulation 18361.5, subdivision (d).

1 business entities in four separate violations with a penalty of \$1,500 for each count. The *Lovingood* case  
2 included an allegation of a conflict of interest although no conflict of interest was found.

3 The failure to timely disclose her economic interest violates one of the Act's central purposes:  
4 that the assets and income of public officials and designated employees that may materially affect their  
5 official decisions should be disclosed in order to avoid conflicts of interest. Mitchell's violation deprived  
6 the public of important and timely information regarding her economic interest.

7 In aggravation, the California Coastal Commission, including Mitchell, voted unanimously to  
8 approve an application filed by the City of Santa Barbara to reactivate the Charles E. Meyer Desalination  
9 Facility on February 13, 2015. The City of Santa Barbara had hired Carollo Engineers, Inc. regarding the  
10 desalination project. Mitchell failed to disclose her economic interest after the vote in February 2015,  
11 which was the subject of public scrutiny during this time.

12 In mitigation, Mitchell self-referred this case and did disclose her source of income in Carollo  
13 Engineers, Inc. on her 2014 and 2016 Annual SEIs. Further, Mitchell's work with Carollo Engineers, Inc.  
14 was located in the Los Angeles area, unrelated to the desalination project and Carollo Engineers, Inc. was  
15 not the subject of the application decided by the California Coastal Commission. The Enforcement  
16 Division found no evidence that Mitchell was aware of Carollo Engineers, Inc. involvement with the  
17 desalination project at the time of the vote. Additionally, Mitchell cooperated with the Enforcement  
18 Division, amended her 2015 SEI to include the source of income, and has no prior history of violating the  
19 Act.

20 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty  
21 in the amount of \$1,500 is justified.

## 22 **CONCLUSION**

23 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
24 Respondent Wendy Mitchell hereby agree as follows:

- 25 1. Respondent violated the Act as described in the foregoing pages, which are a true and  
26 accurate summary of the facts in this matter.
- 27 2. This stipulation will be submitted for consideration by the Fair Political Practices  
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1 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

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

5 4. Respondent has consulted with her attorney, Gary Winuk, Kaufman Legal Group.  
6 Respondent understands and hereby knowingly and voluntarily waive, any and all procedural rights set  
7 forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is  
8 not limited to the right to appear personally at any administrative hearing held in this matter, to be  
9 represented by an attorney at Respondents’ own expense, to confront and cross-examine all witnesses  
10 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial  
11 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially  
12 reviewed.

13 5. Respondent agrees to the issuance of the decision and order set forth below. Also,  
14 Respondent agrees to the Commission imposing against her an administrative penalty in the amount of  
15 \$1,500. One or more payments totaling this amount—to be paid to the General Fund of the State of  
16 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
17 above, and they will be held by the State of California until the Commission issues its decision and order  
18 regarding this matter.

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

25 7. The parties to this agreement may execute their respective signature pages separately. A  
26 copy of any party’s executed signature page—including a hardcopy of a signature page transmitted via  
27 fax or as a PDF email attachment—is as effective and binding as the original.  
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Dated: \_\_\_\_\_

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Galena West, Chief of Enforcement  
Fair Political Practices Commission

Dated: \_\_\_\_\_

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Wendy Mitchell, Respondent

The foregoing stipulation of the parties “In the Matter of Wendy Mitchell,” FPPC Case No. 16/252, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

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Alice T. Germond, Chair  
Fair Political Practices Commission