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7

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

10 In the Matter of:

11 JOHN REED,

12 Respondent.
13

FPPC Case No. 2019-01117

STIPULATION, DECISION AND ORDER

14 **INTRODUCTION**

15 John Reed (“Reed”) served as a Planning Commissioner for the County of Madera. As a Planning
16 Commissioner, Reed had a duty to report his economic interests on an Annual Statement of Economic
17 Interests (“SEI”). Despite this requirement, Reed failed to disclose an economic interest in 2015 and 2016,
18 in violation of the Political Reform Act (the “Act.”)¹

19 **SUMMARY OF THE LAW**

20 The Act and its regulations are amended from time to time. All legal references and discussions of
21 law are intended to be citations to statutes and regulations as they existed in 2015 and 2016, at the time of
22 the violations in this case.
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28 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 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 previous
3 laws regulating political practices suffered from inadequate enforcement by state and local authorities.²
4 Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”³ Another
5 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously
6 enforced.”⁴

7 **Duty to File Statements of Economic Interests**

8 The Act requires public officials, including members of planning commissions, to file an annual
9 statement of economic interest to disclose investments, interests in real property and income received
10 since the last statement was filed.⁵ The annual statement for members of planning commissions is due on
11 April 1 to report for the period ending December 31.⁶

12 An official is required to report income received.⁷ If the official has income from a business entity,
13 including income to a sole proprietorship, the filer must report the name of every person from whom the
14 business entity received payments if the filer’s pro rata share of gross receipts from that person was equal
15 to or greater than ten thousand dollars (\$10,000) during a calendar year.⁸

16 **SUMMARY OF THE FACTS**

17 Reed served as a Planning Commissioner for the County of Madera, resigning on August 6, 2019
18 after serving for five years. Reed filed a 2015 Annual SEI and a 2016 Annual SEI but failed to disclose
19 that North Fork Community Development Council as a reportable source of income to Reed’s sole
20 proprietorship, John Reed General Contractor. According to Reed, he received more than \$10,000 in
21 income from North Fork Community Development Council in 2015 and 2016. He filed amendments for
22 both Annual SEIs to reflect this income shortly after being contacted by the Enforcement Division. The
23 amendments were filed on September 17, 2019.

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26 ² Section 81001, subdivision (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subdivision (f).

⁵ Section 87200 and 87202.

⁶ Regulation 18723, subdivision (b).

⁷ Section 87202 and 87207.

⁸ Section 87207, subdivision (b)(2).

1 North Fork Community Development Council had business before the Planning Commission,
2 including an item heard on September 29, 2015, therefore this matter is excluded from the streamline
3 settlement program under Regulation 18360.1, subdivision (d)(2)(B)(ii). Reed was hired as a general
4 contractor by North Form Community Development Council to prepare an application to the Madera
5 Planning Commission. Reed's name and connection to the source, North Form Community Development
6 Council, was presented to the Planning Commission as part of the item. Reed recused himself from hearing
7 or voting upon that matter.

8 VIOLATION

9 Count 1: Failure to Report a Disclosable Interest

10 Reed failed to disclose North Fork Community Development Council as a source of income on a
11 2015 and 2016 Annual Statement of Economic Interest, in violation of Government Code section 87207.

12 PROPOSED PENALTY

13 This matter consists of one count. The maximum penalty that may be imposed is \$5,000.⁹

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 Commission
16 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention
17 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)
18 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were
19 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.¹⁰

20 The Act requires disclosure of economic interests in order to assist the official and the public in
21 identifying sources of potential conflicts of interest. In this matter, the evidence suggest that Reed was
22 negligent in omitting a source of income, as opposed to deliberate or part of an intent to conceal, deceive,
23 or mislead. Reed has no prior history of enforcement actions.

24 The Commission considers penalties in prior cases with the same or similar violations and
25 comparable facts. *In the Matter of Leeann Walette Schierburg*, FPPC Case No. 16/586 concerned an
26 official who failed to disclose sources of income on her 2015 SEI. On August 20, 2020, the Commission
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28 ⁹ See Section 83116, subdivision (c).

¹⁰ Regulation 18361.5, subdivision (d).

1 imposed a \$2,000 penalty. In this matter, Schierburg had a pattern of failing to disclose the source of
2 income and the source of income had a contract with Schierburg's agency, causing a perception of a
3 conflict of interest. Here, Reed failed to disclose reportable income from a source for two statements and
4 the source had business before Reed's agency. In mitigation, when the source had business before the
5 Planning Commission, Reed's involvement with the source was disclosed on the agenda and the minutes
6 and Reed recused himself from the hearing and the vote. In his communication with Enforcement Staff,
7 Reed expressed his understanding that he did not need to report the source because he had no equity interest
8 or real estate interest. Upon learning of the requirement to report the income, Reed filed amended
9 statements within 11 days of being contacted. Therefore, a somewhat lower penalty is recommended.

10 After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant
11 facts, a penalty of \$1,500 is recommended.

12 **CONCLUSION**

13 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
14 Respondent John Reed hereby agree as follows:

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

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

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

22 4. Respondent understands, and hereby knowingly and voluntarily waives, any and all
23 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
24 This includes, but is not limited to the right to appear personally at any administrative hearing held in this
25 matter, to be represented by an attorney at Respondent's own expense, to confront and cross-examine all
26 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
27 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
28 reviewed.

1 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
2 Respondent agrees to the Commission imposing against them an administrative penalty in the amount of
3 \$1,500. One or more payments totaling said amount—to be paid to the General Fund of the State of
4 California—is/are submitted with this stipulation as full payment of the administrative penalty described
5 above, and same shall be held by the State of California until the Commission issues its decision and order
6 regarding this matter.

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

13 7. The parties to this agreement may execute their respective signature pages separately. A
14 copy of any party’s executed signature page, including a hardcopy of a signature page transmitted via fax
15 or as a PDF email attachment, is as effective and binding as the original.

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17 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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20 Dated: _____

John Reed

