

1 JAMES M. LINDSAY
Chief of Enforcement
2 JENNA C. RINEHART
Senior Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
1102 Q Street, Suite 3050
4 Sacramento, CA 95811
Telephone: (279) 237-9510
5 Email: JRinehart@fppc.ca.gov

6 Attorneys for Complainant
7 Enforcement Division of the Fair Political Practices Commission

8
9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11 In the Matter of

FPPC Case No. 22/207

12
13 **LYNDA HOPKINS,**

STIPULATION, DECISION AND ORDER

Date Submitted to Commission: Nov. 2024

14 Respondent.

15
16
17 **INTRODUCTION**

18 Respondent Lynda Hopkins (“Hopkins”) has served as a member of the Sonoma County Board
19 of Supervisors, representing District 5, since assuming office on January 3, 2017.

20 This case arose from a sworn complaint.

21 The Political Reform Act (the “Act”)¹ prohibits public officials from making, participating in
22 making, or attempting to influence governmental decisions in which the official knows or has reason to
23 know they have a financial interest. Hopkins violated the Act by making a governmental decision
24 involving LandPaths, a 501(c)(3) non-profit organization, at a time when Hopkins had a source of
25 income financial interest in LandPaths.

26 ///

27 _____
28 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18104 through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violation in this case occurred
3 on December 17, 2019. For this reason, all legal references and discussions of law pertain to the Act’s
4 provisions as they existed at that time.

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

6 When enacting the Act, California voters specifically found and declared that previous laws
7 regulating political practices had suffered from inadequate enforcement, and it was their purpose to
8 ensure that the Act be vigorously enforced.² For this reason, the Act is to be construed liberally to
9 accomplish its purposes.³

10 A central purpose of the Act is to ensure that public officials perform their duties in an impartial
11 manner, free from bias caused by their own financial interests.⁴ Along these lines, the Act requires
12 public officials to disclose their assets and income which may be materially affected by their official
13 actions and in appropriate circumstances disqualify themselves from acting so that conflicts of interest
14 may be avoided.⁵

15 **Conflict of Interest**

16 No public official at any level of state or local government shall make, participate in making or
17 in any way attempt to use their official position to influence a governmental decision⁶ in which they
18 know or have reason to know they have a financial interest.⁷ A public official has a financial interest in
19 a decision if it is reasonably foreseeable that the decision will have a material financial effect,
20 distinguishable from its effect on the public generally, on any source of income amounting to a total of
21 at least \$500 received by the public official within 12 months before the decision is made.⁸

22 In 2019, there were four steps to determine whether a public official had a conflict of interest in
23 a governmental decision under the Act.⁹

24 _____
25 ² Sections 81001, subd. (h), and 81002, subd. (f).

26 ³ Section 81003.

27 ⁴ Section 81001, subd. (b).

28 ⁵ Section 81002, subd. (c).

⁶ “Governmental decision” means any action taken by a government agency that has a financial effect on any person other than the governmental agency making the decision. (Regulation 18700, subd. (c)(4).)

⁷ Section 87100.

⁸ Section 87103, subd. (c); Regulation 18700, subd. (c)(6)(C).

⁹ Regulation 18700, subd. (d).

1 First, for a conflict to exist, it must have been reasonably foreseeable that the governmental
2 decision would have a financial effect¹⁰ on the public official's financial interests.¹¹ For a financial
3 interest explicitly involved in a decision, a financial effect on a financial interest is presumed to be
4 reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental
5 decision before the official or the official's agency.¹²

6 Second, the reasonably foreseeable financial effect must be material.¹³ The reasonably
7 foreseeable financial effect of a governmental decision on an official's financial interest in a source of
8 income is material if the source is a named party in, or the subject of, the decision including a claimant,
9 applicant, respondent, or contracting party.¹⁴

10 Third, the material financial effect on the public official's financial interest must not be
11 indistinguishable from its effect on the public generally.¹⁵ A governmental decision's financial effect
12 on a public official's financial interest is indistinguishable from its effect on the public generally if the
13 official establishes that a significant segment of the public is affected and the effect on their financial
14 interest is not unique compared to the effect on the significant segment.¹⁶ The burden of proof is on the
15 official to prove this affirmative defense.

16 Fourth, the public official must have made, participated in making, or attempted to use their
17 official position to influence a governmental decision.¹⁷ A public official makes a governmental
18 decision if the official authorizes or directs any action, votes, appoints a person, obligates or commits
19 their agency to any course of action, or enters into any contractual agreement on behalf of their
20 agency.¹⁸

21 ///

22 ///

24 ¹⁰ "Financial effect" means an effect that provides a benefit of monetary value or provides, prevents, or avoids a
25 detriment of monetary value. (Regulation 18700, subd. (c)(5).)

26 ¹¹ Regulation 18700, subd. (d)(1).

27 ¹² Regulation 18701, subd. (a).

28 ¹³ Regulation 18700, subd. (d)(2).

¹⁴ Regulation 18702.3, subd. (a)(1).

¹⁵ Regulation 18700, subd. (d)(3).

¹⁶ Regulation 18703, subd. (a).

¹⁷ Regulation 18700, subd. (d)(4).

¹⁸ Regulation 18704, subd. (a).

1 **SUMMARY OF THE FACTS**

2 As a member of the Sonoma County Board of Supervisors, Hopkins is a public official who is
3 required to file a Statement of Economic Interests (“SEI”) at various times pursuant to the Act. On
4 March 19, 2019, Hopkins timely filed the 2018 Annual SEI and disclosed, among other interests, a
5 source of income financial interest in LandPaths, where Hopkins’ spouse served as a Community Care
6 Manager who received an annual income of \$10,000 - \$100,000. Additionally, Hopkins’ interest in
7 LandPaths was timely disclosed on Hopkins’ Candidate SEI, filed December 4, 2019, and on Hopkins’
8 2019 Annual SEI, filed February 24, 2020.

9 On December 17, 2019, at a regular meeting of the Sonoma County Board of Supervisors, an
10 item on the agenda’s consent calendar concerned “Fiscal Year 2019-2020 Tourism Impact Fund
11 Awards.” Included on this item was a list of non-profit organizations and the amount of funds each
12 would receive. LandPaths was specifically listed to receive \$20,000.

13 The Enforcement Division confirmed, at the time of this decision, Hopkins’ spouse was
14 employed with LandPaths. Additionally, the Enforcement Division confirmed Hopkins voted to
15 approve the Fiscal Year 2019-2020 Tourism Impact Fund Awards during the Sonoma County Board of
16 Supervisors meeting held on December 17, 2019. Ultimately, this item was approved with four
17 Supervisors voting for approval while one Supervisor was absent from the meeting.

18 Under the Act, there is a violation of the conflict of interest provisions when a public official
19 makes a governmental decision in which it is reasonably foreseeable that the decision would have a
20 material financial effect on any of the official’s financial interests that is not indistinguishable from its
21 effect on the public generally.

22 First, it was reasonably foreseeable that the approval of a \$20,000 Tourism Impact Fund Award
23 to LandPaths would have a financial effect on LandPaths. Since LandPaths was a named party in the
24 December 17, 2019 governmental decision, there is a presumption that the financial effect on
25 LandPaths is reasonably foreseeable.

26 Second, the reasonably foreseeable financial effect on LandPaths is deemed to be material under
27 the Act since the December 17, 2019 governmental decision named LandPaths as one of the non-profit
28 organizations to receive a Tourism Impact Fund Award.

1 Third, the Enforcement Division did not obtain any evidence to suggest that the Act's public
2 generally exception applies here. Further, Hopkins did not allege or establish that a significant segment
3 of the public was affected by the December 17, 2019 governmental decision involving LandPaths.

4 Fourth, on December 17, 2019, Hopkins voted to approve the Fiscal Year 2019-2020 Tourism
5 Impact Fund Awards which included an award of \$20,000 to LandPaths.

6 Based on the foregoing, Hopkins had a conflict of interest with respect to the December 17,
7 2019 governmental decision regarding the Tourism Impact Fund Award to LandPaths.

8 VIOLATION

9 **Count 1: Conflict of Interest**

10 On December 17, 2019, Hopkins, a member of the Sonoma County Board of Supervisors, had a
11 conflict of interest when Hopkins voted on a governmental decision that had a reasonably foreseeable
12 material financial effect on Hopkins' financial interest, LandPaths, in violation of Government Code
13 Section 87100.

14 PROPOSED PENALTY

15 This matter consists of one proposed count. The maximum penalty that may be imposed is
16 \$5,000 per count. Thus, the maximum penalty that may be imposed for the count charged here is
17 \$5,000.¹⁹

18 Conflict of interest violations are not eligible for the Streamline Settlement Program.²⁰

19 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
20 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with
21 an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division
22 considers the facts and circumstances of the violation in the context of the following factors set forth in
23 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused
24 by the specific violation; (2) The level of experience of the violator with the requirements of the
25 Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases;
26 (4) The presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation
27

28 ¹⁹ Section 83116, subd. (c).

²⁰ Regulations 18360.1, subd. (b), and 18360.2, subd. (b).

1 was deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by
2 consulting the Commission staff or any other governmental agency in a manner not constituting
3 complete defense under Government Code Section 83114(b); (7) Whether the violation was isolated or
4 part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or
5 similar laws; and (8) Whether the violator, upon learning of a reporting violation, voluntarily filed
6 amendments to provide full disclosure.²¹

7 A conflict of interest is a serious violation of the Act with a high degree of public harm. This
8 type of violation undermines public trust in government by creating the appearance that the decision
9 was the product of a conflict of interest. Also, such conduct contradicts the Act's decree that public
10 officials should serve the needs of all citizens in an impartial manner—free from bias caused by their
11 own financial interests. In this matter, Hopkins was aware of the financial interest held in LandPaths as
12 Hopkins timely disclosed this financial interest on the 2018 Annual SEI. Additionally, Hopkins
13 disclosed LandPaths as a financial interest on the Candidate SEI, filed December 4, 2019, and on the
14 2019 Annual SEI, filed February 24, 2020.

15 Hopkins contends that the violation occurred due to an oversight on her part as she did not
16 identify that LandPaths was included in the Fiscal Year 2019-2020 Tourism Impact Fund Awards.
17 According to Hopkins, another Supervisor added LandPaths to the agenda item after Hopkins' review
18 and Hopkins failed to review the agenda item again prior to voting on the item.

19 At the time of the governmental decision, Hopkins had some experience with the conflict of
20 interest provisions of the Act as Hopkins had been in office since January 3, 2017. On July 18, 2018,
21 the FPPC issued an advice letter to the Sonoma County Counsel on behalf of Hopkins which discussed
22 Hopkins' source of income financial interest, LandPaths, and explained that Hopkins would need to
23 recuse herself from any discussions or decisions involving LandPaths to avoid a conflict of interest
24 violation.²² The violation at issue here was isolated and Hopkins does not have a prior history of
25 violating the Act.

26
27
28 ²¹ Regulation 18361.5, subd. (e).

²² *Hopkins* Advice Letter, No. A-18-056.

1 In this matter, there was no evidence to support an intent to conceal, deceive or mislead the
2 public as to Hopkins' financial interests as Hopkins timely disclosed LandPaths as a source of income
3 financial interest on applicable SEIs. There is no evidence to suggest Hopkins knowingly voted on a
4 governmental decision in which Hopkins knew it was a prohibited conflict of interest. Instead, the
5 evidence suggests that Hopkins was negligent in failing to identify that LandPaths was included in the
6 Fiscal Year 2019-2020 Tourism Impact Fund Awards agenda item. Hopkins did not consult with
7 Commission staff or any other governmental agency regarding participating in the December 17, 2019
8 vote involving an award of \$20,000 to LandPaths.

9 The Commission considers penalties in prior cases with the same or similar violations and
10 comparable facts. A recent similar case involving a local public official who made a governmental
11 decision in which they had a conflict of interest includes *In the Matter of Steve Dallas*; FPPC Case No.
12 2018-00804. Steve Dallas, a former Mayor of Carmel-by-the-Sea, among other violations, violated the
13 Act's conflict of interest provisions by participating in and making a governmental decision involving
14 the source of a gift in which Dallas had a financial interest. On February 6, 2018, the Carmel-by-the-
15 Sea City Council, including Dallas, discussed and voted to authorize the closure of city streets and to
16 allow the consumption of alcohol in public for the Monterey Winemakers' Celebration Event. This
17 Event was hosted by the Monterey County Vintners & Growers Association (the "Association"). At the
18 time of the decision, Dallas had a financial interest in the Association as the Association was the source
19 of a gift, valued at \$1,000, to Dallas within the 12 months preceding the date of the decision. The
20 financial effect on the Association was reasonably foreseeable as the Association was a named party in
21 the decision. Since the Association was a named party in the decision, the reasonably foreseeable
22 financial effect of the decision is deemed material, resulting in a conflict of interest. In aggravation,
23 Dallas also failed to timely disclose the receipt of the gift from the Association on Dallas' SEI. On July
24 21, 2022, the Commission approved a penalty of \$4,000 for this violation.

25 A lesser penalty than that approved in *Dallas* is recommended. Similar to *Dallas*, Hopkins
26 voted on a governmental decision involving a source of income financial interest resulting in a conflict
27 of interest. Hopkins contends that initially LandPaths was not included on the agenda but was later
28 added on another Supervisor's recommendation. Unlike *Dallas*, where the financial interest was not

1 timely disclosed on an SEI, here, Hopkins timely disclosed LandPaths on applicable SEIs. In
2 mitigation, the governmental decision at issue here resulted in an award of \$20,000 to LandPaths, a
3 lesser benefit than what was provided to the Association in *Dallas*. Further, in mitigation, Hopkins'
4 spouse did not have any direct involvement with the LandPaths program for which the funds were
5 allocated. In aggravation, Hopkins failed to properly recuse from an April 7, 2020 governmental
6 decision involving LandPaths by failing to identify the financial interest that gave rise to the conflict.
7 However, Hopkins abstained from voting or participating in any discussion involving the item, and
8 Hopkins was not required to leave the room since the item was on the consent calendar. Therefore, a
9 penalty of \$3,000 is recommended.

10 CONCLUSION

11 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
12 Respondent, Lynda Hopkins, hereby agree as follows:

- 13 1. Respondent violated the Act as described in the foregoing pages, which are a true and accurate
14 summary of the facts in this matter.
- 15 2. This stipulation will be submitted for consideration by the Fair Political Practices Commission
16 at its next regularly scheduled meeting – or as soon thereafter as the matter may be heard.
- 17 3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose of
18 reaching a final disposition without the necessity of holding an administrative hearing to determine the
19 liability of Respondent pursuant to Section 83116.
- 20 4. Respondent understands and hereby knowingly and voluntarily waives any and all procedural
21 rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This
22 includes, but is not limited to, the right to appear personally at any administrative hearing held in this
23 matter, to be represented by an attorney at Respondent's own expense, to confront and cross-examine
24 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an
25 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter
26 judicially reviewed.
- 27 5. Respondent agrees to the issuance of the decision and orders set forth below. Also, Respondent
28 agrees to the Commission imposing against them an administrative penalty in the amount of \$3,000.

1 One or more cashier's checks or money orders totaling said amount – to be paid to the General Fund of
2 the State of California – is/are submitted with this stipulation as full payment of the administrative
3 penalty described above, and same shall be held by the State of California until the Commission issues
4 its decision and order regarding this matter.

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

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

14
15
16 Dated: _____

James M. Lindsay, Chief of Enforcement
Fair Political Practices Commission

17
18
19
20 Dated: _____

Lynda Hopkins, Respondent

