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6
7 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

8 **STATE OF CALIFORNIA**

9
10 In the Matter of) FPPC No. 10/579
11)
12 ANTONIO VILLARAIGOSA,) STIPULATION, DECISION and
13) ORDER
14 Respondent.)

15 Complainant Roman G. Porter, Executive Director of the Fair Political Practices Commission,
16 and Respondent Antonio Villaraigosa, hereby agree that this Stipulation will be submitted for
17 consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

18 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
19 matter and to reach a final disposition without the necessity of holding an administrative hearing to
20 determine the liability of Respondent.

21 Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural
22 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Section 18361.1
23 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
24 the right to personally appear at any administrative hearing held in this matter, to be represented by an
25 attorney at Respondent's own expense, to confront and cross-examine all witnesses testifying at the
26 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
27 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

1 It is further stipulated and agreed that Respondent Antonio Villaraigosa violated the Political
2 Reform Act by failed to report gifts on his 2006, 2007, 2008 and 2009 annual statements of economic
3 interests in violation of Section 87203 of the Government Code (21 counts), as described in Exhibit 1,
4 which is attached hereto and incorporated by reference, as though fully set forth herein. Exhibit 1 is a
5 true and accurate summary of the facts in this matter.

6 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
7 Respondent also agrees to the Commission imposing upon him an administrative penalty in the amount
8 of Twenty One Thousand Dollars (\$21,000). A cashier's check from Respondent in said amount, made
9 payable to the "General Fund of the State of California," is submitted with this Stipulation as full
10 payment of the administrative penalty, to be held by the State of California until the Commission issues
11 its Decision and Order regarding this matter. The parties agree that in the event the Commission refuses
12 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
13 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondent in
14 connection with this Stipulation shall be reimbursed to Respondent. The parties further stipulate and
15 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
16 Commission becomes necessary, this Stipulation shall be inadmissible and neither any member of the
17 Commission, nor the Executive Director, shall be disqualified because of prior consideration of this
18 Stipulation.

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20 Dated: _____

Roman G. Porter, Executive Director
Fair Political Practices Commission

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23 Dated: _____

Antonio Villaraigosa

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DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Antonio Villaraigosa FPPC No. 10/579,” including all attached exhibits, is hereby accepted as the final Decision and Order of the Fair Political Practices Commission, effective upon execution below by the Chairman.

IT IS SO ORDERED.

Dated: _____

Chairman
Fair Political Practices Commission

EXHIBIT 1

I. INTRODUCTION

Respondent Antonio Villaraigosa (Respondent Villaraigosa) has been the Mayor of the City of Los Angeles since 2005. In his role as Mayor, Respondent Villaraigosa has attended well over 3,000 community, civic, cultural and sporting events. Respondent Villaraigosa voluntarily disclosed to the public and the Los Angeles City Ethics Commission (CEC) that he had been provided with complimentary tickets or admission to a number of sporting and cultural events. In response to the information provided by Respondent Villaraigosa and various media reports, the City Ethics Commission (CEC) and the Fair Political Practices Commission (FPPC) initiated an investigation into potential gift and reporting violations by Respondent Villaraigosa from 2005 through 2010.

As an elected official, Respondent Villaraigosa is responsible for filing an annual statement of economic interests (SEI). On his annual SEI, Respondent Villaraigosa is required to disclose all income received, including all gifts received with a value of fifty dollars or more during the relevant period. Under the Political Reform Act (the Act) and supporting FPPC regulations, tickets or passes to certain events are not considered reportable gifts if they fall within an exception to the gift rules. Respondent Villaraigosa did not list the complimentary tickets and passes on his annual SEI's because he believed they fell within the exceptions. Nonetheless, FPPC staff determined that Respondent Villaraigosa received a total of 21 gifts from 2005 through 2009, with an individual value of fifty dollars or more that were not reported on his 2006, 2007, 2008 and 2009 annual SEIs, respectively.

Additionally, the City's Governmental Ethics Ordinance (GEO) prohibits City officials from accepting gifts valued in excess of \$100 from restricted sources. CEC staff found evidence that, between 2007 and 2010, Respondent Villaraigosa accepted tickets or passes valued in excess of \$100 from four different restricted sources to a number of events. In each instance, the CEC's staff concluded that the tickets or passes were provided by a restricted source to the Mayor because they were lobbyist employers or had permits approved by the City Council (or both) during the relevant time period, and because no gift exception applied to these tickets or passes under the GEO.

This stipulation is being entered into jointly by Respondent Villaraigosa, the FPPC and the CEC, to fully resolve the pending FPPC and CEC investigations and to provide a comprehensive settlement as to all matters within the scope of the FPPC and CEC investigations. It shall be effective only if approved by both agencies.

For the purposes of this Stipulation, Respondent violated the Act as follows:

COUNTS 1-21: As the Mayor of the City of Los Angeles, Respondent Villaraigosa failed to report 21 gifts, each in the amount of fifty dollars or more on his 2006, 2007, 2008 and 2009 annual statements of economic interests, respectively, which were due by April 1 of each subsequent year, in violation of Section 87203 of the Government Code.

Respondent Villaraigosa also violated the GEO as follows:

COUNTS 22 – 33: As the Mayor of the City of Los Angeles, Respondent Villaraigosa accepted 12 gifts in excess of restricted source limits between 2007 and 2010, in violation of Los Angeles Municipal Code (LAMC) § 49.5.10.

II. FPPC INVESTIGATION

SUMMARY OF APPLICABLE STATE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that the assets and income of public officials that may be materially affected by their official actions be disclosed, so that conflicts of interests may be avoided. In furtherance of this purpose, Section 87203 requires every person who holds an office specified in Section 87200 to annually file statements of economic interests, disclosing reportable investments, business positions, interests in real property, and sources of income.

Officeholders; Annual Statements

Every person who holds an office specified in Section 87200 shall, each year at a time specified by Commission regulations, file a statement disclosing his investments, his interests in real property and his income during the period since the previous statement filed. Government Code Section 87203.

Officeholders

This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election. Government Code Section 87200.

Disclosure of Income

When income is required to be reported, the annual statement shall contain the name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source. Government Code Section 87207.

Gifts: Tickets or Passes to Events

Section 82028 of the Act defines “gift” as “any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received...” Both the Act and regulations promulgated by the FPPC contain exceptions to the gift definition for certain events or activities.

An exception relevant to this stipulation formerly was found in FPPC Regulation 18944.1. From July 25, 1995 until February 7, 2009, Regulation 18944.1 provided, in relevant part, that passes or tickets “are not gifts to the official” if they “are provided to the official of the agency for use by the official and his or her spouse and immediate family because the official has an official or ceremonial role or function to perform on behalf of the agency at the event in question.”

Regulation 18944.1 was amended by the Commission on February 7, 2009 to state that a ticket or pass provided to an official by a source other than his or her agency “for his or her admission to an event at which the official performs a ceremonial role or function on behalf of the agency is not a gift to the official.” At the time of the amendment, the Commission indicated that the revision reincorporated the existing exception into the regulation.

"Ticket or pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose. A ticket or pass provided to an official for his or her admission to an event at which the official performs a ceremonial role or function on behalf of the agency is not a gift to the official. FPPC Regulation 18944.1. The terms “official or ceremonial role or function” and “ceremonial role or function” are not defined in the Act or FPPC Regulations, but have been the subject of FPPC advice letters.

SUMMARY OF FPPC FINDINGS

Respondent Antonio Villaraigosa has been the Mayor of the City of Los Angeles since 2005. Before serving as Mayor, Respondent Villaraigosa served as a public official in several capacities. In 1990, Respondent Villaraigosa was appointed to the Los Angeles Metropolitan Transportation Board and served there until 1994. In 1994, Respondent Villaraigosa was elected to the California State Assembly and was chosen to be Speaker of the Assembly in 1998. Respondent Villaraigosa left the Assembly in 2000. In 2003, Villaraigosa was elected to the Los Angeles City Council. As a public official at the State and local level nearly continuously since 1990, Respondent Villaraigosa received ethics training and was required to fill out and submit an annual SEI. Respondent Villaraigosa submitted annual SEIs for each year he held public office, and also filed semi-annual updates required by the City of Los Angeles.

From the start of his term as Mayor in 2005, Respondent Villaraigosa accepted 21 gifts in the form of admission to events, but failed to report them on his SEI. These unreported gifts are detailed in the table below. The evidence indicates that Respondent Villaraigosa attended the events to serve an official purpose, as evidenced by his actions at the events, at which he made press appearances, greeted attendees, was introduced at the event and, in many cases, only stayed at the event for a limited period of time to present a certificate. Respondent Villaraigosa’s attendance

at these events was in public and his attendance was obvious. At no point did he represent that he paid for his admission to these events.

The 21 gifts received by Respondent Villaraigosa were as follows:

COUNT	DATE OF EVENT	NAME OF EVENT	DESCRIPTION
1	11/03/2005	LATIN GRAMMYS AFTER PARTY - SHRINE AUDITORIUM	TICKET
2	12/03/2005	UCLA VS. USC FOOTBALL GAME -- L.A. COLISEUM	2 PASSES
3	03/05/2006	ACADEMY AWARDS AND GOVERNORS BALL -- KODAK THEATER	4 TICKETS
4	04/13/2006	LUIS MIGUEL CONCERT -- STAPLES CENTER	4 TICKETS
5	08/15/2006	SHAKIRA CONCERT -- STAPLES CENTER	TICKET
6	09/30/2006	PEPE AQUILAR - UNIVERSAL AMPITHEATER	4 TICKETS
7	01/28/2007	ANNUAL SAG AWARDS AND POST AWARD GALA - L.A. SHRINE EXPO CENTER	TICKET
8	02/11/2007	GRAMMY AWARDS AND POST GRAMMY PARTY -- STAPLES CENTER	TICKET
9	06/26/2007	BET AWARDS SHOW - SHRINE AUDITORIUM	3 TICKETS
10	11/18/2007	AMERICAN MUSIC AWARDS	TICKET
11	04/11/2008	LOS ANGELES LAKERS GAME -- STAPLES CENTER	TICKET
12	05/23/2008	LOS ANGELES LAKERS GAME -- STAPLES CENTER	2 TICKETS
13	09/28/2008	LUIS MIGUEL CONCERT - NOKIA THEATER	TICKET
14	10/13/2008	DODGERS NLCS PLAYOFFS GAME 4 - DODGERS STADIUM	TICKET
15	11/16/2008	VINCENTE FERNANDEZ CONCERT - GIBSON AMPITHEATER	TICKET
16	03/17/2009	LOS ANGELES LAKERS GAME -- STAPLES CENTER	TICKET
17	05/20/2009	AMERICAN IDOL FINALE -- NOKIA THEATER	2 TICKETS
18	06/28/2009	LOS ANGELES DODGERS GAME V. SEATTLE MARINERS -- DODGERS STADIUM	TICKET

COUNT	DATE OF EVENT	NAME OF EVENT	DESCRIPTION
19	09/12/2009	ALEJANDRO FERNANDEZ CONCERT - GIBSON AMPITHEATER	TICKET
20	10/07/2009	LOS ANGELES DODGERS PLAYOFF GAME V. SAINT LOUIS CARDINALS - DODGERS STADIUM	TICKET
21	10/16/2009	LOS ANGELES DODGERS PLAYOFF GAME V. PHILADELPHIA PHILLIES – DODGERS STADIUM	TICKET

FPPC VIOLATIONS

COUNTS 1-21: FAILING TO REPORT GIFTS

As the Mayor of the City of Los Angeles, Respondent Villaraigosa failed to report 21 gifts, each in the amount of fifty dollars or more on his 2006, 2007, 2008 and 2009 annual statements of economic interests, respectively, which were due by April 1 of each subsequent year, in violation of Section 87203 of the Government Code.

III. CEC INVESTIGATION

SUMMARY OF APPLICABLE CITY LAW

The GEO, LAMC § 49.5.1 *et seq.*, establishes governmental ethics standards for the conduct of Los Angeles City officials and employees. The GEO classifies various City officials, including the Mayor, as “high level filers.” *See* LAMC § 49.5.2. These officials must file a statement of economic interest in accordance with the Act and must also file financial disclosure statements pursuant to LAMC § 49.5.6. Besides these disclosure and reporting requirements and in addition to the state gift limits for government officials, the GEO imposes additional restrictions on gifts and travel expenses given to City officials by restricted sources. With regard to high level filers, such as the Mayor, the following persons are considered restricted sources:

- a. a lobbyist, lobbying firm, or lobbyist employer;
- b. a person doing or seeking to do business with the City;
- c. a person who, during the reporting period, knowingly attempted to influence the official in any legislative or administrative action which would have a direct material financial effect on such person; or
- d. a person who is a party to a proceeding involving a license, permit or other entitlement for use while a proceeding involving such matter is, or within the prior nine months was, pending before the official or before the city council or a board, commission, committee, or other similar body of which the official is a voting member, and for nine months following the date a final decision is rendered in the proceeding.

See LAMC § 49.5.2.

A City official may not accept or knowingly solicit a gift from a restricted source, and a restricted source may not offer or make a gift, that would cause the cumulative dollar value of gifts from that restricted source to the City official to exceed \$100 during any calendar year. LAMC §§ 49.5.10(A)(2) and (3).

SUMMARY OF CEC FINDINGS

Between 2007 and 2010, Respondent accepted 12 gifts from restricted sources in excess of the annual \$100 limit established by LAMC § 49.5.10(A)(3). Specifically, Respondent Villaraigosa accepted tickets from the Academy of Motion Picture Arts and Sciences (MPAS), the Academy of Television Arts and Sciences, Anschutz Entertainment Group (AEG), and the National Academy of Recording Arts and Sciences (NARAS). Additional detail for each excess gift is provided in the table below.

COUNT	DATE	EVENT	DESCRIPTION	SOURCE	BASIS FOR RESTRICTED SOURCE STATUS
22	2/25/07	Academy Awards and Governors Ball- Kodak Theater	2 tickets valued at \$700 total, less \$350 paid from Officeholder Account <i>(\$250 in excess)</i>	MPAS	1) Lobbyist employer; 2) "Special Event" status and permit fee waiver granted by City Council
23	9/16/07	Primetime Emmy Awards – Shrine Auditorium	2 tickets valued at \$1,200 total <i>(\$1,100 in excess)</i>	Academy of Television Arts and Sciences	"Special Event" status and permit fee waiver granted by City Council
24	12/5/07	Spice Girls Concert – Staples Center	2 tickets valued at \$239 total <i>(\$139 in excess)</i>	AEG	1) Lobbyist employer; 2) "Special Event" status and permit fee waiver granted by City Council
25	2/10/08	Grammy Awards – Staples Center	2 tickets valued at \$2,400 total <i>(\$2,300 in excess)</i>	NARAS	1) Lobbyist employer; 2) "Special Event" status and permit fee waiver granted by City Council

COUNT	DATE	EVENT	DESCRIPTION	SOURCE	BASIS FOR RESTRICTED SOURCE STATUS
26	2/24/08	Academy Awards and Governors Ball – Hollywood and Highland Ballroom	2 tickets valued at \$2,200 total <i>(\$2,100 in excess)</i>	MPAS	1) Lobbyist employer; 2) “Special Event” status and permit fee waiver granted by City Council
27	5/14/08 7/16/08	Los Angeles Lakers Game v. Utah Jazz – Staples Center ESPY Awards Show – Nokia Theater	2 tickets valued at \$160 total 6 tickets valued at \$600 total <i>(\$660 in excess)</i>	AEG	1) Lobbyist employer; 2) “Special Event” status and permit fee waiver granted by City Council
28	9/21/08	Primetime Emmy Awards – Nokia Theater	1 ticket valued at \$600 <i>(\$500 in excess)</i>	Academy of Television Arts and Sciences	“Special Event” status and permit fee waiver granted by City Council
29	2/8/09	Grammy Awards – Staples Center	1 ticket valued at \$1,400 <i>(\$1,300 in excess)</i>	NARAS	“Special Event” status and permit fee waiver granted by City Council
30	2/22/09	Academy Awards and Governors Ball – Hollywood and Highland Grand Ballroom	1 ticket valued at \$1,100 <i>(\$1,000 in excess)</i>	MPAS	1) Lobbyist employer; 2) “Special Event” status and permit fee waiver granted by City Council
31	9/20/09	Primetime Emmy Awards and Governors Ball – Nokia Theater	2 tickets to each valued at \$2,600 total <i>(\$2,500 in excess)</i>	Academy of Television Arts and Sciences	“Special Event” status and permit fee waiver granted by City Council
32	1/31/10	Grammy Awards – Staples Center	4 tickets valued at \$4,800 <i>(\$4,700 in excess)</i>	NARAS	Lobbyist employer

COUNT	DATE	EVENT	DESCRIPTION	SOURCE	BASIS FOR RESTRICTED SOURCE STATUS
33	3/7/10	Academy Awards and Governors Ball – Hollywood and Highland Grand Ballroom	4 tickets to each valued at \$4,400 <i>(\$4,300 in excess)</i>	MPAS	Lobbyist employer

CEC VIOLATIONS

COUNTS 22 – 33: ACCEPTING EXCESS GIFTS FROM A RESTRICTED SOURCE

Between 2007 and 2010, as the Mayor of the City of Los Angeles, Respondent Villaraigosa accepted 12 gifts from restricted sources in excess of the \$100 annual limit, in violation of LAMC § 49.5.10(A)(3).

IV. FPPC PENALTY DISCUSSION

This matter consists of twenty-one counts of violating the Act carrying a maximum administrative penalty of \$105,000.

In determining the appropriate penalty for a particular violation of the Act, the FPPC 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 demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

Depending on the circumstances, the Enforcement Division has considered failure to report gifts on an annual SEI to be either a non-serious or serious violation of the Act. The violation is more serious where, as here, the failure to report involves numerous gifts over a span of five years. But the violation is less serious where, as here, the Respondent had a good faith and reasonable belief that he had no obligation to report his attendance at events on an annual SEI. The typical administrative penalty for similar violations, depending on the facts of the case, has been in the low-to-mid range of available penalties.

FPPC FACTORS IN AGGRAVATION

Respondent Villaraigosa has been in office in one capacity or another for almost twenty years. He has received ethics training regarding the rules of gift disclosure on numerous occasions over the span of his career. Additionally, he was well aware of the resources available to him

through the CEC, the Los Angeles City Attorney's office, and the FPPC to provide clarification of reporting rules and requirements.

Respondent Villaraigosa's large number of unreported gifts, a total of 21, deprived the public of knowledge of gifts from groups or individuals that may have had business before the City of Los Angeles.

FPPC FACTORS IN MITIGATION

Respondent Villaraigosa has no history of violating the Act and cooperated with the investigation. Respondent Villaraigosa voluntarily provided much of the information before it was requested by the FPPC and CEC. He also has reported dozens of gifts on the SEIs he did file for each calendar year for which he has served as Mayor.

Respondent Villaraigosa's violation of the Act was unintentional, as he had a good faith belief that the tickets or passes he received to events were not "gifts" within the meaning of the Act or the Los Angeles Governmental Ethics Ordinance, and thus were not reportable on his SEIs. He attended these events in his official capacity on behalf of the City of Los Angeles. He also contends that, based on advice he received over the years as a public official, he understood that when he attended events in his official capacity and/or had a public purpose for attending an event, any tickets or passes he received were exempt from disclosure under FPPC Regulation 18944.1. Additionally, Respondent Villaraigosa states that the CEC has advised, in the CEC Hahn Advice Letter, that attending events to show the City's support for cultural and athletic institutions and competitions that take place in the City of Los Angeles, and the business they generate, is part of the Mayor's role. Thus, Respondent Villaraigosa's failure to include these events on his SEIs was based on a mistaken understanding of his legal requirements

V. CEC PENALTY DISCUSSION

Charter § 706(c)(3) establishes the CEC's penalty formula: "up to five thousand (\$5,000) for each violation or three times the amount which the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater." In this case, the maximum penalties range from \$60,000 (\$5000 x 12 counts) to \$62,547 (3 x the total value of gifts accepted in excess of the gift limits). However, LAAC § 24.1.2(e)(7)(E) requires the CEC to consider all relevant circumstances when assessing penalties.

CEC FACTORS IN AGGRAVATION AND MITIGATION

In addition to the FPPC's analysis of factors in aggravation and mitigation, the CEC notes that Respondent Villaraigosa's acceptance of 12 excess gifts from restricted sources raises concerns about potential conflicts of interest. However, Respondent Villaraigosa asserts that his acceptance of excess gifts was unintentional and resulted from his good faith belief that the tickets and passes fell within an exception to the gift requirements. Therefore, despite Respondent Villaraigosa's violations, the CEC believes the specific facts of this case, Respondent's lack of prior enforcement history for GEO violations, his full cooperation and candor during the investigation of this matter,

and his willingness to admit liability and be held accountable for his violations merit a penalty below the maximum. Staff recommends that Respondent Villaraigosa be assessed a penalty of \$20,849 for his violations of LAMC § 49.5.10. The recommended penalty is the equivalent of the gift value accepted in excess of the restricted source limits. Respondent Villaraigosa also has agreed to amend each CEC Form 10 that he filed or was required to file for calendar years 2007 through 2010 to accurately reflect his receipt of these gifts.

VI. CONCLUSION

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of the agreed-upon penalty of Forty-One Thousand Eight Hundred Forty-Nine Dollars (\$41,849) for Respondent Villaraigosa. This represents the penalty recommended by the FPPC of Twenty-One Thousand Dollars (\$21,000) for Counts 1 – 21 and the penalty recommended by the CEC of Twenty Thousand Eight Hundred Forty-Nine Dollars (\$20,849) for Counts 22 – 33.