

1 GARY S. WINUK
Chief of Enforcement
FAIR POLITICAL PRACTICES COMMISSION

2 428 J Street, Suite 620
3 Sacramento, CA 95814
Telephone: (916) 322-5660
4 Facsimile: (916) 322-1932

5 Attorney for Complainant

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

8 **STATE OF CALIFORNIA**

9
10 In the Matter of) FPPC No. 09/645
11)
12 SEAN MACNEIL,) STIPULATION, DECISION and
13 Respondent.) ORDER
14)

15 Complainant Roman G. Porter, Executive Director of the Fair Political Practices Commission,
16 and Respondent Sean MacNeil (“Respondent”), 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 violated the Political Reform Act by failing to
2 disclose income on his calendar year 2007 Statement of Economic Interests in violation of Government
3 Code Section 87302 (1 count).

4 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
5 Respondent also agrees to the Commission imposing upon him an administrative penalty in the amount
6 of Two Thousand Dollars (\$2,000). A cashier's check from Respondent in said amount, made payable
7 to the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
8 administrative penalty, to be held by the State of California until the Commission issues its Decision and
9 Order regarding this matter. The parties agree that in the event the Commission refuses to accept this
10 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
11 meeting at which the Stipulation is rejected, all payments tendered by Respondent in connection with
12 this Stipulation shall be reimbursed to Respondent. Respondent further stipulates and agrees that in the
13 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
14 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
15 disqualified because of prior consideration of this Stipulation.

16 Dated: _____

17 _____
18 Roman G. Porter, Executive Director
19 Fair Political Practices Commission

20 Dated: _____

21 _____
22 Sean MacNeil

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DECISION AND ORDER

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The foregoing Stipulation of the parties “In the Matter of Sean MacNeil, FPPC No. 09/645,” 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: _____

Dan Schnur, Chairman
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Sean MacNeil (Respondent) was been the Chief of Staff to California State Senator Pat Wiggins from 2006 -2010. He is currently the Chief of Staff to Assembly Member Michael Allen. As a Chief of Staff of a Member of the Legislature, Respondent is required to file an annual Statement of Economic Interests (SEI) disclosing all income received as provided in Government Code Section 87302.

In this matter, Respondent received \$2,000 in income from the Friends of Pat Wiggins for State Senate 2010 campaign committee in March 2007 and failed to report this income on his 2007 annual SEI.

For the purposes of this Stipulation, Respondent's violation of the Political Reform Act is stated as follows:

- COUNT 1 Respondent failed to report \$2,000 in income received from the Friends of Pat Wiggins for State Senate 2010 campaign in March 2007 on his 2007 annual Statement of Economic Interests, in violation of Section 87302 of the Act.

SUMMARY OF THE LAW

Duty to File Annual Statement of Economic Interests

Every agency shall adopt and promulgate a Conflict of Interest Code. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter. Government Code Section 87300

Duty to Report Income on Annual Statement of Economic Interests

Each Conflict of Interest Code shall require that each designated employee file annual statements, disclosing reportable investments, business positions, interests in real property and income. Government Code Section 87302

SUMMARY OF THE FACTS

Respondent Sean MacNeil (Respondent) was been the Chief of Staff to California State Senator Pat Wiggins from 2006 -2010. He is currently the Chief of Staff to Assembly Member Michael Allen. As a Chief of Staff of a Member of the Legislature, Respondent is required to file

an annual Statement of Economic Interests (SEI) disclosing all income received as provided in Government Code Section 87302.

Respondent filed an annual SEI for calendar year 2007 by the April 1, 2008 deadline. He did not report \$2,000 in income received from the Friends of Pat Wiggins for State Senate 2010 campaign committee on his calendar year 2007 SEI.

COUNT 1

FAILING TO DISCLOSE INCOME ON A STATEMENT OF ECONOMIC INTERESTS

Respondent was at all relevant times the Chief of Staff for California State Senator Pat Wiggins. As a public official, Respondent was required to file an annual Statement of Economic Interests disclosing all income received. By failing to report \$2,000 in income received from the Friends of Pat Wiggins for State Senate 2010 campaign in March 2007 on his 2007 annual Statement of Economic Interests, Respondent violated Section 87302 of the Act.

CONCLUSION

This matter consists of one count of violating the Act carrying a maximum administrative penalty of \$5,000.

In determining the appropriate penalty for a particular violation of the Act, the 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.

For Count 1, failing to disclose income on an annual SEI, this can be a serious violation of the Act as it deprives the public of knowledge about sources of income to a public official and potential conflicts of interest. The administrative penalties for a violation of Section 87302 have ranged from the low to mid range of available penalties.

FACTORS IN AGGRAVATION

Respondent has a prior history of violating the Act. In FPPC No. 2002/271, Respondent was fined by the Commission in 2005 for signing two statements of economic interest for then-Assembly Member Pat Wiggins for which he was not the filer. Specifically, he signed then-

Assembly Member Wiggins' name to what he purported to be her annual SEI filing. When the FPPC returned the initial filing because it was signed by Respondent, not then-Assembly Member Wiggins, Respondent then signed the form again and re-submitted it. He was fined \$4,000 for two counts of this violation.

FACTORS IN MITIGATION

None.

PENALTY

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of the agreed upon penalty of Two Thousand Dollars (\$2,000).