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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
10 STATE OF CALIFORNIA
11

12 In the Matter of) FPPC No. 06/084
13)
14) STIPULATION, DECISION and
HENRY VEATCH,) ORDER
15)
16)
Respondent.)
17)

18 Complainant Roman G. Porter, Executive Director of the Fair Political Practices Commission,
19 and Respondent Henry Veatch hereby agree that this stipulation will be submitted for consideration by
20 the Fair Political Practices Commission at its next regularly scheduled meeting.

21 The parties agree to enter into this stipulation to resolve all factual and legal issues raised in this
22 matter, and to reach a final disposition without the necessity of holding an administrative hearing to
23 determine the liability of Respondent.

24 Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural
25 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
26 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
27 the right to personally appear at any administrative hearing held in this matter, to be represented by an
28 attorney at Respondent's own expense, to confront and cross-examine all witnesses testifying at the

1 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
2 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

3 It is further stipulated and agreed that Respondent Henry Veatch violated the Political Reform
4 Act by failing to disqualify himself from making a governmental decision that had a reasonably
5 foreseeable material financial effect on his source of income, in violation of Section 87100 of the
6 Government Code (1 count), as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by
7 reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this
8 matter.

9 Respondent agrees to the issuance of the decision and order, which is attached hereto.
10 Respondent also agrees to the Commission imposing upon him an administrative penalty in the amount
11 of Three Thousand Dollars (\$3,000). A cashier's check from Respondent in said amount, made payable
12 to the "General Fund of the State of California," is submitted with this stipulation as full payment of the
13 administrative penalty, to be held by the State of California until the Commission issues its decision and
14 order regarding this matter. The parties agree that in the event the Commission refuses to accept this
15 stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
16 meeting at which the stipulation is rejected, all payments tendered by Respondent in connection with
17 this stipulation shall be reimbursed to Respondent. Respondent further stipulates and agrees that in the
18 event the Commission rejects the stipulation, and a full evidentiary hearing before the Commission
19 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
20 disqualified because of prior consideration of this stipulation.

21
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23 Dated: _____

Roman G. Porter
Executive Director
Fair Political Practices Commission

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25
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27 Dated: _____

Henry Veatch, Respondent

1 **DECISION AND ORDER**

2 The foregoing stipulation of the parties “In the Matter of Henry Veatch, FPPC No. 06/084,”
3 including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political
4 Practices Commission, effective upon execution below by the Chairman.

5
6 IT IS SO ORDERED.

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8
9 Dated: _____

Dan Schnur, Chairman
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Henry Veatch is a member of the Alpine County Board of Supervisors (the “Board”). He was sworn in January 3, 2005.

In this matter, Respondent Veatch, as a member of the Board, participated in making and made governmental decisions, which had a material financial effect on his source of income Alpine Children’s Center (“ACC”), in violation of Government Code Section 87100.

For the purposes of this stipulation, Respondent’s violation of the Political Reform Act (the “Act”)¹ is stated as follows:

COUNT 1: On or about November 15, 2005, Respondent Henry Veatch made a governmental decision to allocate funding to the Alpine Children’s Center as a member of the Alpine County Board of Supervisors, a decision in which he had a financial interest, in violation of Section 87100 of the Government Code.

SUMMARY OF THE LAW

A finding upon which the Act is based, as stated in Section 81001, subdivision (b), is that public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests, or the financial interests of persons who have supported them.

To prevent conflicts of interest in governmental decision making, Section 87100 prohibits state and local public officials from making, participating in making, or attempting to use their official positions to influence a governmental decision in which they know, or have reason to know, that they have a financial interest. Under Section 87103, a public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on a recognized economic interest of the official. For purposes of Sections 87100 and 87103, there are six analytical steps to consider when determining whether an individual has a conflict of interest in a governmental decision.²

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. 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 Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² As set forth in regulations 18700 through 18708, the Commission has established an eight-step analysis for determining whether a public official has a conflict of interest in a governmental decision. The last two steps of the analysis are exceptions that allow a public official to participate in a governmental decision even though the official may have a conflict of interest. The two exceptions are not relevant to this matter.

First, the individual must be a public official as defined by the Act. Section 82048 defines “public official” to include members of a state or local governmental agency.

Second, the official must make, participate in making, or attempt to use his or her official position to influence a governmental decision. Under Regulation 18702.1, subdivision (a)(1), a public official “makes a governmental decision” when the official, acting within the authority of his or her office or position, votes on a matter. Under Regulation 18702.2, subdivision (b)(2), a public official “participates in making a governmental decision” when the official advises or makes recommendations to the decision maker either directly, or without significant intervening substantive review, by preparing and presenting any report, analysis, opinion, orally or in writing, which requires the exercise of judgment on the part of the official and the purpose of which is to influence a governmental decision.

Third, the official must have an economic interest that may be financially affected by the governmental decision. Under Section 87103, subdivision (c), an economic interest of a public official includes any source of income of \$500 or more in value provided or promised to, received by, the public official within 12 months prior to the time the decision is made. Income includes any community property interest in the income of a spouse. (Section 82030, subd. (a).)

Fourth, it must be determined if the economic interest of the official is directly or indirectly involved in the decision. Under Regulation 18704.1, subdivision (a)(2), a source of income is directly involved in a decision before an official’s agency when that person, either directly or by an agent is a named party in, or is the subject of, the proceeding concerning the decision before the official or the official’s agency. A person is the subject of a proceeding if a decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with the subject person.

Fifth, it must be determined what materiality standard will apply to the economic interest of the public official. Under Regulation 18705.3, subdivision (a), any reasonably foreseeable financial effect on a person who is a source of income to the public official, and who is directly involved in the governmental decision before the official’s agency, is deemed material.

Sixth, it must have been reasonably foreseeable, at the time the governmental decision was made, that the decision would have a material financial effect on the economic interest of the official. Under Regulation 18706, subdivision (a), a material financial effect on an economic interest is reasonably foreseeable if it is substantially likely, not just a mere possibility, that one or more of the materiality standards applicable to that economic interest will be met as a result of the governmental decision. (*In re Thorner* (1975) 1 FPPC Ops. 198.)

SUMMARY OF THE FACTS

Failure to Disqualify from Participating in Making a Governmental Decision

On or about November 15, 2005, Respondent Henry Veatch, as a member of the Board, participated in making and made a governmental decision regarding ACC, which employed his

wife, Edie Veatch. In the 12 months prior to the governmental decision that Respondent Veatch participated in on November 15, 2005, Mrs. Veatch received income of approximately 2,521.39 and vacation pay of approximately 1,949.25 for her work as a financial officer, cook and teacher for ACC. Therefore ACC was a source of income to Respondent Veatch due to his community property interest in the income received within the 12 months prior to the time the decision in question was made. After March 2005, Ms. Veatch subsequently volunteered for an unpaid position as the chief financial advisor for ACC.

Due to Respondent Veatch's income from ACC, he was prohibited from participating in making any governmental decision concerning ACC.

Respondent Was a Public Official as Defined by the Act

As a member of the Alpine County Board of Supervisors, Respondent Veatch was a public official as defined in Section 82048, and was therefore subject to the prohibition against conflicts of interests under Section 87100.

Respondent Participated in and Made Governmental Decisions

The minutes of the Board's meeting of November 15, 2005, reflect that Respondent Veatch seconded a motion to provide funding of \$24,000 a year, for the next three years, to ACC's Home Visitor Program, and he voted in favor of the motion. Therefore, Respondent Veatch participated in and made a governmental decision regarding ACC.

Respondent Had an Economic Interest in ACC as a Source of Income

Respondent Veatch's Assuming Office Statement of Economic Interests filed on January 24, 2005, reported ACC as a source of income to him through his spouse's employment there. In the 12 months prior to the November 15, 2005 governmental decision that Respondent Veatch participated in, Mrs. Veatch received income of approximately 2,521.39 and vacation pay of approximately 1,949.25 for her work as a financial officer, cook and teacher for ACC. Therefore, ACC was a source of income to Respondent Veatch due to his community property interest in income of \$500 or more received within the 12 months prior to the time the governmental decision in question was made.

Respondent's Economic Interest Was Directly Involved in the Decisions

In the decision, ACC was entitled to an allocation of funds and was, therefore, the subject of the proceeding. As the subject of the proceeding, ACC was directly involved in the decision made by Respondent Veatch under Regulation 18704.1, subdivision (a)(2).

Applicable Materiality Standard

Since ACC was directly involved in the governmental decision participated in and made by Respondent Veatch, any reasonably foreseeable financial effect of the decision on ACC, a source of income to Respondent, was presumed to be material and constituted the basis for a

conflict of interest.

It Was Reasonably Foreseeable That the Applicable Materiality Standard Would Be Met

The governmental decision Respondent Veatch participated in or made concerned the allocation of money for ACC's programs. It was reasonably foreseeable at the time the decision was made that his participation in the decision approving the allocations would have at least some financial effect on ACC.

Based on his financial interest in ACC, Respondent Veatch should have disqualified himself from participating in making any decision which would have a reasonably foreseeable material financial effect on ACC.

Accordingly, by making a governmental decision in which he had a financial interest, Respondent violated Section 87100.

Aggravating Factors

None.

Mitigating Factors

Respondent was a newly elected public official with no prior history of violating the Political Reform Act, and his spouse quit her income producing job with ACC two months after Respondent Veatch assumed office. Additionally, before participating in the decision that led to the violation, the Respondent sought legal advice from an attorney who now serves as the County Counsel for the County of Madera.

CONCLUSION

This matter consists of one count of violating Section 87100 of the Act, which carries a maximum administrative penalty of Five Thousand Dollars (\$5,000).

The act of participating in a governmental decision in which a public official has a financial interest is a violation of the Act, as it creates the appearance that a governmental decision was made on the basis of an official's interest. The typical administrative penalty for a conflict of interest violation occurring after January 1, 2001, has ranged from \$2,500 to \$5,000, depending on the facts of the case.

The facts of this case justify imposition of the agreed upon penalty of \$3,000.