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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
STATE OF CALIFORNIA  
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10  
11 In the Matter of ) FPPC No.: 11/097  
12 )  
13 BOB ARCHULETA, ) STIPULATION, DECISION and  
14 ) ORDER  
15 Respondent. )  
16 )  
17 )

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

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

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

1 attorney at Respondent's own expense, to confront and cross-examine all witnesses testifying at the  
2 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge  
3 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

4 It is further stipulated and agreed that Respondent Bob Archuleta violated the Political Reform  
5 Act by receiving a gift in excess of the gift limitation, in violation of Section 89503, subdivision (a) of  
6 the Government Code (1 count), as described in Exhibit 1, which 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 One Thousand Five Hundred Dollars (\$1,500). A cashier's check from Respondent in said amount,  
12 made payable to the "General Fund of the State of California," is submitted with this stipulation as full  
13 payment of the administrative penalty, and shall be held by the State of California until the Commission  
14 issues its decision and order regarding this matter. The parties agree that in the event the Commission  
15 refuses to accept this stipulation, it shall become null and void, and within fifteen (15) business days  
16 after the Commission meeting at which the stipulation is rejected, all payments tendered by Respondent  
17 in connection with this stipulation shall be reimbursed to Respondent. Respondent further stipulates and  
18 agrees that in the event the Commission rejects the stipulation, and a full evidentiary hearing before the  
19 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,  
20 shall be disqualified because of prior consideration of this stipulation.

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22 Dated: \_\_\_\_\_

\_\_\_\_\_  
Roman G. Porter  
Executive Director  
Fair Political Practices Commission

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26 Dated: \_\_\_\_\_

\_\_\_\_\_  
Bob Archuleta, Respondent

1 **DECISION AND ORDER**

2 The foregoing stipulation of the parties “In the Matter of Bob Archuleta, FPPC No. 11/097,”  
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.  
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6 IT IS SO ORDERED.

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8 Dated: \_\_\_\_\_

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10 Ann Ravel, Chair  
11 Fair Political Practices Commission  
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## EXHIBIT 1

### INTRODUCTION

Respondent Bob Archuleta was a city council member for the City of Pico Rivera at all times relevant to this complaint. Respondent began serving in this position in March of 2007, and is currently in office, serving as Mayor Pro Tem. As such, Respondent is subject to the annual gift limits of the Political Reform Act (the “Act”).<sup>1</sup>

During 2008, Respondent was prohibited from accepting gifts from a single source that exceeded \$390 in the calendar year. In this matter, Respondent received an annual VIP theater pass from Krikorian Premier Theaters (“Krikorian”) valid for the 2008 calendar year. This pass entitled the holder to four complementary theater admissions at any one time; one to the pass holder and up to three guests.

For the purposes of this stipulation, Respondent’s violation is stated as follows:

COUNT 1: In 2008, as a city council member for the City of Pico Rivera, Respondent accepted gifts of admissions from Krikorian Premier Theaters valued in the amount of \$1,616, which exceeded the \$390 gift limit, in violation of Government Code Section 89503, subdivision (a).

### SUMMARY OF THE LAW

#### **Prohibition Against Accepting Gifts in Excess of Gift Limit**

Section 89503, subdivision (a), of the Act states that “No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250).” The \$250 gift limit amount is adjusted biennially to reflect changes in the Consumer Price Index pursuant to Section 89503, subdivision (f). For the calendar year 2008, the applicable gift limit was \$390 from a single source. (Regulation 18940.2.)

Section 82028 defines a “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 and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.

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<sup>1</sup> 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.

Regulation 18946(d)(2) specifically provides that a “ticket” or “pass” “means anything that provides an admission privilege to an event or function and for which similar tickets or passes are offered for sale to the public.”

Pursuant to Regulation 18943(a)(4), a gift may be paid down within 30 days of receipt or acceptance by reimbursing the donor. In such event the value of the gift is reduced by the amount of the reimbursement, and the amount of the any gift which must be disclosed is reduced by the amount of the reimbursement.

### **SUMMARY OF THE FACTS**

In this matter, Respondent received an annual VIP theater pass from Krikorian Premier Theaters (“Krikorian”) in 2008. This pass entitled the holder to receive up to four complementary theater admissions at any one time; one to the pass holder and three guests.

According to documents provided by Krikorian, Respondent received 178 complementary admissions from the Krikorian “Pico Rivera Village Walk 15” theater in Pico Rivera, valued at \$1,424, and an additional 24 admissions from the Krikorian “Downey Cinema 10” theater in Downey, valued at \$192; for a total of \$1,616 in admissions for 2008. Respondent reimbursed Krikorian for the full amount of the admissions obtained in 2008 on March 25, 2010.

### **CONCLUSION**

This matter consists of one count, which carries a maximum possible administrative penalty of Five Thousand Dollars (\$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. The Enforcement Division also considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6), which include: 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; whether there was a pattern of violations; and whether upon learning of the violation the Respondent voluntarily filed amendment to provide full disclosure. Additionally, liability under the Act is governed in significant part by the provisions of Section 91001, subdivision (c), which requires the Commission to consider whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith, in applying remedies and sanctions.

Accepting a gift in excess of the legal gift limit is a serious violation of the Act. In the present matter, Respondent was serving his first term in public office when he received the gift. As a newly elected councilmember, Respondent contends he was unfamiliar with the gift laws and did not understand the valuation rules as they applied to his usage of the pass. When confronted with information regarding the gift, Respondent retained counsel and, after determining the actual value, reimbursed the donor for the full value of the gift.

Other similar cases regarding a violation of Section 89503 that have been recently approved by the Commission include:

*In the Matter of David Weaver, David Weaver for Glendale City Council, and Erlinda Weaver*, FPPC No. 05/272. In this case, Respondent, a city council member, accepted an over the limit gift from a friend in the form of \$1,023 in ceiling tile murals and the free installation of the ceiling tile murals. A \$3,000 penalty for this violation was approved by the Commission on December 10, 2009.

*In the Matter of Timothy Noonan*, FPPC No. 09/376, was approved by the Commission on December 10, 2009. This case involved a state commission member who accepted gifts of tickets to events in 2008 and 2009, respectively valued at \$900 and \$3,000. The penalty amount in this case was \$2,500; 1,000 for the 2008 violation and \$1,500 for the 2009 violation.

In this case, Respondent's actions were similar to the cases above in that none of these cases appear to include anything more than negligent behavior. Respondent has no prior Enforcement history and has fully cooperated with Enforcement in this matter. In addition, Respondent reimbursed the donor for the full value of the gift.

#### **PROPOSED PENALTY**

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the Respondent's pattern of behavior, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of One Thousand Five Hundred Dollars (\$1,500) is recommended.