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

12 In the Matter of) FPPC No. 12/031
13)
14 JAMES CAMERON,) STIPULATION, DECISION and
15) ORDER
16 Respondent.)
17

18 Complainant the Fair Political Practices Commission and Respondent James Cameron agree that
19 this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next
20 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, pursuant to Section 83116 of the Government Code.

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 James Cameron violated the Political Reform
4 Act by failing to report gifts received in the amount of fifty dollars or more on his annual Statement of
5 Economic Interests, in violation of Sections 87300 and 87302 of the Government Code (1 count);
6 accepting gifts, which exceeded the gift limit, in violation of Section 89503, subdivision (c) of the
7 Government Code (1 count); and making, participating in the making, or influencing a governmental
8 decision by signing and approving a Contract of Purchase for \$20,005,000 in bond anticipation notes
9 with E.J. De La Rosa & Co., Inc., who was the source of a gift that exceeded the annual gift limit
10 applicable to Respondent, in violation of Government Code Section 87100 (1 count). All counts are
11 described in Exhibit 1, which is attached hereto and incorporated by reference as though fully set forth
12 herein, and is a true and accurate summary of the facts in this matter.

13 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
14 Respondent also agrees to the Commission imposing upon him an administrative penalty in the amount
15 of Six Thousand Five Hundred Dollars (\$6,500). A cashier's check from Respondent in said amount,
16 made payable to the "General Fund of the State of California," is submitted with this Stipulation as full
17 payment of the administrative penalty, to be held by the State of California until the Commission issues
18 its decision and order regarding this matter. The parties agree that in the event the Commission refuses
19 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
20 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondent in
21 connection with this Stipulation shall be reimbursed to Respondent. Respondent further stipulates and
22 agrees that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
23 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
24 shall be disqualified because of prior consideration of this Stipulation.

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Dated: _____
Gary Winuk, Enforcement Chief,
on behalf of the
Fair Political Practices Commission

Dated: _____
James Cameron,
Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of James Cameron,” FPPC No. 12/031, 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 Chair.

IT IS SO ORDERED.

Dated: _____
Ann Ravel, Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent James Cameron (“Respondent”) has been the Chief Financial Officer¹ for the City of Oxnard since assuming office April 14, 2008. As a designated employee, Respondent is required to file an annual Statement of Economic Interests (“SEI”) disclosing all income received as required by the Political Reform Act (the “Act”).² In this matter, Respondent received gifts exceeding the reporting threshold of \$50 in 2008, and failed to report these gifts on his annual SEI. In addition, Respondent received gifts exceeding the applicable gift limit in 2008, then impermissibly made, participated in the making, or influenced a governmental decision concerning the donor which had a reasonably foreseeable material financial effect on the source of the gift.

For the purposes of this Stipulation, Respondent’s violations of the Act are stated as follows:

COUNT 1: In 2008, Respondent James Cameron, a designated employee of the City of Oxnard, failed to report gifts received from E.J. De La Rosa & Co., Inc. and J.F. Shea Co., & Affiliated Companies, in the amount of fifty dollars or more on his 2008 annual Statement of Economic Interests, in violation of Sections 87300 and 87302 of the Government Code.

COUNT 2: During 2008, Respondent James Cameron, a designated employee of the City of Oxnard, accepted approximately \$886.81 in gifts, which exceeded the \$390 gift limit, from E.J. De La Rosa & Co., Inc., in violation of Section 89503, subdivision (c) of the Government Code.

COUNT 3: On or about July 28, 2009, Respondent James Cameron, a designated employee of the City of Oxnard, made, participated in the making, or influenced a governmental decision by signing and approving a Contract of Purchase for \$20,005,000 in bond anticipation notes with E.J. De La Rosa & Co., Inc., the source of a gift that exceeded the annual gift limit applicable to Respondent, in which he knew or should have known was in violation of Government Code Section 87100.

¹ Although Respondent refers to his position as “Chief Financial Officer,” the position was classified as “Finance & Management Services Director” from April 14, 2008 until January 27, 2009, when the title was officially changed by the city council. His position will be referred to as Chief Financial Officer in this document for ease of application.

² 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.

SUMMARY OF THE LAW

Duty to File Annual Statement of Economic Interests

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 87300 requires every agency to 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. (Section 87300.)

Disclosure Provisions

Section 82019, subdivision (a), defines “designated employee” to include any member of any agency whose position is “designated in a Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.” Each Conflict of Interest Code shall require that each designated employee file annual statements, disclosing reportable investments, business positions, interests in real property and sources of income. (Section 87302.) “Income” is defined, in part, as a payment received, including but not limited to any salary, wage, or gift, including any gift of food or beverage. (Section 82030, subd. (a).)

Section 87300 requires that every agency adopt and promulgate a Conflict of Interest Code and that Code shall have the force of law. In addition, any violation of that Code by a designated employee shall be a violation of the Act. Section 87302, subdivision (b), provides that an agency’s Conflict of Interest Code must require each designated employee of the agency to file annual statements of economic interests at a time specified in the agency’s conflict of interest code, disclosing investments, income, business positions, and interests in real property, held or received at anytime during the previous calendar year and that the information required to be disclosed describing these interests is the same as that required by Sections 87206 and 87207. An agency’s Conflict of Interest Code may incorporate Regulation 18730, which contains a model conflict of interest code, by reference.

The City of Oxnard’s Conflict of Interest Code (“Oxnard Code”) incorporates the Regulation 18730 model code by reference and lists the positions of “Finance & Management Director” and “Chief Financial Officer” as designated employees who make or participate in making governmental decisions which may foreseeably have a material effect on their financial interests. The Oxnard Code lists the Finance & Management Director and Chief Financial Officer as designated employees in Disclosure Category 1. The Oxnard Code states that Disclosure Category 1 requires that the designated employee complete all schedules of his annual SEI to disclose³:

³This disclosure excludes income from pensions for disability or retirement paid by a governmental entity.

“1. All financial interests, sources of income, investments and business positions and business entities located within or subject to the jurisdiction of the City [of Oxnard].

2. Business entities doing business, planning to do business, or having done business during the prior two years within the City [of Oxnard].

3. Any other financial interest, investment, interest in real property, source of income, or business position if the business entity in which the investment or business position is held, the interest in real property, financial interest or source of income may foreseeably be affected materially by any decision made or participated in by the designated person by reason of the City [of Oxnard] position held.”

Gift Limits

Section 89503, subdivision (c), of the Act states that “No member of a state board or commission or designated employee of a state or local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty (\$250) if the member or employee would be required to report the receipt of income or gifts from that source on his or his statement of economic interests.” The \$250 gift limit amount is adjusted biennially to reflect changes in the Consumer Price Index pursuant to Section 89503, subdivision (f). For 2007 and 2008, the applicable gift limit from a single source was \$390. For 2009 and 2010, the applicable gift limit from a single source was \$420.

Section 82028, subdivision (a), provides that a “gift” means any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received. Regulation 18941⁴ states that “...a gift is ‘received’ or ‘accepted’ when the recipient knows that he or she has either actual possession of the gift or takes any action exercising direction or control over the gift.” Regulation 18944 states that a gift confers a personal benefit on the official when the official⁵ enjoys a direct benefit from the gift, the official uses the gift, or the official exercises discretion and control over who will use the gift or how to dispose of the gift. In addition, Regulation 18945, subdivision (a), states that a person is the source of a gift if the person either gives the gift directly to the official or the “person makes a payment to a third party and in fact directs and controls the use of the payment to make a gift to one or more clearly identified officials.” Regulation 18945, subdivision (b), states that official may presume that the person delivering or offering the gift is the source of the gift. Regulation 18946 states that the value of the gift is the fair market value as of the date of receipt or promise of the gift.

Conflicts of Interest

The primary purpose of the conflict of interest provisions of the Act is to ensure that, “public officials, whether elected or appointed, 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.” (Section 81001, subd. (b).) In furtherance of this goal, Section 87100 prohibits

⁴ All regulations in this document are referenced as they were in effect in the relevant year (2008 – 2009) for that Count.

⁵ Section 82048 defines “public official” to include “every member, officer, employee or consultant of a state or local government agency.”

a public official from making, participating in making, or in any way attempting to use this official position to influence a governmental decision in which the official knows, or has reason to know, that he has 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 an economic interest of the official. For purposes of Section 87100 and 87103, there are six analytical steps to consider when determining whether an individual has a conflict of interest in a governmental decision.⁶

1. **Public Official:** The individual must be a public official. Section 82048 defines “public official” to include “every member, officer, employee or consultant” of a local government agency.

2. **Decisions:** The official must make, participate in making, or attempt to use his official position to influence a governmental decision. A public official “makes a governmental decision” when the official, acting within the authority of his or her office or position: (1) Votes on a matter; (2) Appoints a person; (3) Obligates or commits his or her agency to any course of action; (4) Enters into any contractual agreement on behalf of his or her agency; or (5) Determines not to act, unless such determination is made because of his or her financial interest. (Reg. 18702.1, subd. (a).) A public official “participates in making a governmental decision” when, acting within the authority of his or her position, the official negotiates, without significant substantive review, regarding a governmental decision or advises or makes recommendations to the decisionmaker either directly or without significant intervening substantive review. (Reg. 18702.2.) A public official “attempts to use his or her official position to influence a governmental decision” of his her agency when the official acts or purports to act, on behalf of, or as the representative of his or her agency to any member, officer, employee, or consultant. (Reg. 18702.3.)

3. **Economic Interests:** The official must have an economic interest, as defined in Section 87103, that may be financially affected by the governmental decision. In 2007 and 2008, a public official had a financial interest in any donor of a gift or gifts aggregating \$390 or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. (Sections 87103, subd. (e), and 89503, subd. (c); Reg.18940.2.) In 2009, a public official had a financial interest in any donor of a gift or gifts aggregating \$420 or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. (Sections 87103, subd. (e), and 89503, subd. (c); Reg.18940.2.)

4. **Direct or Indirect Financial Effect on Economic Interests:** It must be determined if the economic interest of the official is directly or indirectly involved in the decision. (Reg. 18704.) A source of a gift is directly involved in a decision if he or she is the “subject of the proceeding” or “is a named party in” 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. (Reg. 18704.1.)

⁶The two additional steps of the analysis—whether the financial effect is indistinguishable from the effect on the public generally and whether the official’s participation was legally required—are not applicable to this case.

5. **Material Financial Effect on Economic Interests:** It must be determined if the governmental decision has a material financial effect on the economic interest. In the case of an economic interest that is the directly involved donor of a gift, the financial effect is presumed to be material. (Reg. 18705.4, subd. (a).)

6. **Foreseeability:** At the time of the governmental decision, it must have been reasonably foreseeable that the decision would have a material financial effect. A material financial effect on an economic interest is reasonably foreseeable if it is substantially likely that one or more of the materiality standards applicable to the economic interest will be met as a result of the governmental decision. (Reg. 18706; *In re Thorner* (1975) 1 FPPC Ops. 198.)

SUMMARY OF THE FACTS

This matter arose from a referral from the Ventura County District Attorney's office. Respondent Cameron was the Chief Financial Officer for the City of Oxnard at all times relevant to this matter. Under the Act and the Oxnard Code, designated employees are required to file annual SEIs disclosing all sources of income, including gifts received of \$50 or more from a single source. (Section 87302, subd. (a).) The City of Oxnard further defines this by requiring reporting of all sources of income located within or subject to the jurisdiction of the City of Oxnard and, in addition, all sources of income that may foreseeably be affected materially by any decision made or participated in by the designated person by reason of the City of Oxnard position held even if not located within or subject to the jurisdiction of the City of Oxnard. Respondent Cameron failed to disclose E.J. De La Rosa & Co., Inc. ("De La Rosa"), a municipal bond underwriter who does business with the City of Oxnard, on his annual SEI for 2008, after receiving meals, a professional baseball game, and tickets to a Broadway show for Respondent and his wife from De La Rosa exceeding the \$50 reporting threshold and exceeding the \$390 gift limit threshold. In 2008, Respondent also failed to disclose a gift of a dinner, which exceeded the \$50 reporting threshold, received from J.F. Shea Co., & Affiliated Companies ("Shea LLC"), a developer who does business in the City of Oxnard, on his annual SEI for the year 2008. In addition, Respondent Cameron signed and approved a Contract of Purchase for \$20,005,000 in bond anticipation notes with De La Rosa, the source of a gift that exceeded the annual gift limit applicable to Respondent in violation of the conflict of interest rules of the Act.

COUNT 1

Failure to Disclose Gifts on a Statement of Economic Interests

Respondent Cameron was a designated employee of the City of Oxnard at all times relevant to this matter, attaining his current position of Chief Financial Officer with the City on April 14, 2008. As a designated employee, Respondent was required to file an annual Statement of Economic Interests disclosing all income received. Respondent filed his 2008 SEI⁷ with the Oxnard City Clerk on March 18, 2009 and disclosed two gifts received from De La Rosa. The gifts disclosed are referenced on the chart below, which includes the value reported by

⁷ This Statement of Economic Interests covered the period of April 14, 2008 through December 31, 2008, reflecting the date Respondent Cameron assumed office.

Respondent, the actual value of the gifts, and identifies all of the other gifts received by Respondent in 2008:

Date Received	Gift	Donor	Reported Value	Actual Value
05/05/2008	Lunch	De La Rosa	Not reported	\$15.86
06/30/2008	Dinner	De La Rosa	Not reported	\$127.79
07/14/2008	Lunch	De La Rosa	Not reported	\$14.28
07/15/2008	Lunch	De La Rosa	Not reported	\$17.61
09/03/2008	Drinks @ Dodgers	De La Rosa	Not reported	\$8.88
09/03/2008	Drinks @ Dodgers	De La Rosa	Not reported	\$22.90
09/03/2008	Dodgers vs. San Diego	De La Rosa	\$300	\$321.43
12/03/2008	Dinner	De La Rosa	Not reported	\$181.56
12/04/2008	Broadway Show (Respondent & Spouse)	De La Rosa	\$45	\$176.50
12/05/2008	Dinner (Respondent & Spouse)	Shea LLC	Not reported	\$216.40
TOTAL (De La Rosa):				\$886.81
TOTAL (Shea LLC):				\$216.40

By failing to report \$541.81⁸ in gifts received from De La Rosa and a \$216.40 gift received from Shea LLC in 2008 on his 2008 annual SEI, Respondent violated Sections 87300 and 87302 of the Government Code.

COUNT 2
Acceptance of Gifts in Excess of the Annual Gift Limit

Respondent Cameron was a designated employee of the City of Oxnard at all times relevant to this matter. As a designated employee, Respondent was prohibited from accepting

⁸ \$541.81 represents the total amount that was required to be reported (\$886.81) minus the amount reported by Respondent Cameron (\$345.00).

gifts from a single source in excess of the \$390 annual gift limit for 2008. As shown in the chart from Count 1 (page 6), Respondent received gifts totaling approximately \$886.81 in 2008 from De La Rosa, \$496.81 over the annual gift limit.

By accepting gifts over the annual gift limit in 2008, Respondent violated Section 89503, subdivision (c), of the Government Code.

COUNT 3

Making, Participating and Influencing of a Governmental Decision Concerning the Donor of the Gifts Received in Excess of the Annual Gift Limit

Respondent Cameron was the Chief Financial Officer for the City of Oxnard at all times relevant to this matter. Between the period of July 29, 2008 and July 28, 2009, Respondent Cameron received gifts of meals, drinks, a professional baseball game and a Broadway show for him and his wife from De La Rosa totaling \$746.38⁹. The gift limit for 2008 was \$420, making the gifts from De La Rosa \$326.38 over the gift limit. Gifts aggregating \$420 or more in value provided to, received by, or promised to the public official within 12 months prior to the time when a decision is made make the source of the gift or gifts an “economic interest” of the official’s. (Sections 87103, subd. (e), and 89503, subd. (c); Reg.18940.2.)

On or about July 28, 2009, Respondent James Cameron, a designated employee of the City of Oxnard, made, participated in the making, or influenced a governmental decision by entering into a contractual agreement on behalf of his agency by signing and approving a Contract of Purchase for \$20,005,000 in bond anticipation notes with E.J. De La Rosa & Co., Inc., the source of a gift that exceeded the annual gift limit applicable to Respondent, in which he knew or should have known was in violation of Government Code Section 87100.

De La Rosa was directly involved in the decision since it was the “subject of the proceeding” and “is a named party in” the contract. (Regulation 18704.1.) The decision had a reasonably foreseeable material financial effect on De La Rosa, (in this case the effect is presumed to be material) since De La Rosa became the underwriter for over \$20 million in bonds, which they then reoffered for sale to the public.

By making, participating in making or influencing the decision regarding De La Rosa, Respondent violated Section 87100, of the Government Code.

CONCLUSION

This matter consists of three counts, which carries a maximum possible administrative penalty of Fifteen Thousand Dollars (\$15,000).

⁹ This total is the amount of gifts received during the second half of 2008 from July 29, 2008 through December 31, 2008, as indicated on the chart for Count 1 on page 6 (\$711.27), plus the two gifts of lunch Respondent received from De La Rosa during the first half of 2009 (January 13, 2009 - \$14.81 and April 30, 2009 - \$20.30).

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): 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3) whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated good faith in consulting with Commission staff; 5) whether there was a pattern of violations; and 6) whether the Respondent, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

SEI Non-Disclosure: Penalties for SEI non-disclosure violations range widely depending on the circumstances of each case. Disclosure of economic interests is important to provide transparency and prevent conflicts of interest. Failure to report all required information on an SEI is a serious violation of the Act because it deprives the public of important information about a public official's economic interests and it has the potential to conceal conflicts of interest.

Regarding the failure to disclose gifts received over the \$50 reporting threshold on SEIs, the typical penalty amounts have varied depending on the circumstances of the case. Recent prior penalties concerning SEI disclosure violations include:

- *In re Bryan MacDonald*, FPPC No. 12/028 (Approved December 13, 2012). Bryan MacDonald, as a member of the Oxnard City Council, failed to disclose gifts received from a developer who does business in the city on his 2009 SEI. No evidence was found to show that the gifts were intentionally omitted from his SEI. Further, he stated that he was unaware of the requirement to disclose the gifts. The gifts were also over the applicable limit. The approved stipulated settlement was \$1,000 for the violation of failing to disclose income on an SEI and \$2,000 for the violation of the gift limit provisions of the Act.
- *In re Andres Herrera*, FPPC No. 12/027 (Approved December 13, 2012). Andres Herrera, as a member of the Oxnard City Council, failed to disclose gifts received from a developer who does business in the city on his 2007, 2008, and 2009 SEIs and failed to disclose gifts received from a municipal bond underwriter who does business with the city on his 2008 SEI. The Commission approved a \$1,000 per violation regarding the non-disclosure of the gifts. Respondent Herrera stated that he was unaware of the reporting requirements and no evidence was found that the gifts were intentionally omitted. The gifts were also over the applicable gift limits for which a \$2,000 penalty per violation was approved. In addition, the gifts in excess of the limits caused Respondent to have a conflict of interest when voting to approve a development project involving the source of the gifts over the limits and received a fine of \$3,500 for this violation.

In this matter, Respondent Cameron did not disclose gifts received from a bond underwriter who regularly does business with his jurisdiction and a gift of dinner for Respondent

and his wife from a developer who regularly does business within his jurisdiction. Respondent has no prior history of violating the Act. Respondent disclosed two items on his original SEIs before being contacted by the Enforcement Division, thinking that he was only required to disclose tangible gifts, not meals. Based on the above prior cases and the information provided in this case, imposition of a \$1,000 penalty is recommended for this violation.

Over-the-limits Gift: Penalties for gifts received over the applicable limits violations in the last couple of years range between \$1,500 for gifts of low amounts with little possibility of causing a conflict of interest to \$2,500 but depends on the circumstances of each case. Recent prior penalties concerning gifts received over the applicable limits violations were discussed above and assessed a \$2,000 fine per violation for gifts over the limits from persons who do business within or with the jurisdiction.

In this matter, Respondent Cameron received gifts over the limits from a bond underwriter who does regular business with the City of Oxnard. Respondent has paid down the gifts received to the amount of the applicable gift limit. Based on the above prior cases and the information provided in this case, imposition of a \$2,000 penalty for this count is recommended.

Conflict of Interest: Making a governmental decision in which an official has a financial interest may create the appearance that the governmental decision was a product of that conflict of interest. Penalties for conflict of interest violations in the last couple of years range between \$2,500 to \$4,500 but depending on the circumstances of each case. Recent prior penalties concerning conflict of interest violations include:

- *In re Andres Herrera*, FPPC No. 12/027 (Approved December 13, 2012). As described above, Respondent Herrera was a member of the Oxnard City Council a received gifts from a developer who does business in the city on his 2007, 2008, and a municipal bond underwriter who does business with the city on his 2008 SEI. The gifts in excess of the limits caused Respondent to have a conflict of interest when voting to approve a development project involving the source of the gifts over the limits and received a fine of \$3,500 for this violation.
- *In re Edmund Sotelo*, FPPC No. 12/029 (Approved August 16, 2012). Respondent Sotelo was the City Manager for the City of Oxnard and failed to disclose gifts received from a developer who does business in the city on his 2007, 2008, and 2009 SEIs. The Commission approved a \$1,000 per violation regarding the non-disclosure of the gifts. Respondent Sotelo stated that he was unaware of the reporting requirements, no evidence was found that the gifts were intentionally omitted, and Respondent voluntarily reported gifts for which the Enforcement Division had no records. The gifts were also over the applicable gift limits for which a \$2,000 penalty per violation was approved. In addition, the gifts in excess of the limits caused Respondent to have a conflict of interest when Respondent approved a revised development schedule for the developer who was the source of the gifts over the limits and received a fine of \$3,500 for this violation.

In this case, Respondent asserts that he did not realize that he could not participate in the process regarding the bond underwriting process because of the gifts he had received. Respondent believes that he was not impacted by the gifts. Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty in the amount of \$3,500 is justified. A higher penalty is not being sought because Respondent cooperated fully with the Enforcement Division of the Fair Political Practices Commission. Additionally, there is no history of prior violations of the Act by Respondent.

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 Six Thousand Five Hundred Dollars (\$6,500) is recommended.