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

12 In the Matter of) FPPC No. 14/395
13)
14 CARLOS VILLAPUDUA,) STIPULATION, DECISION and
15) ORDER
16 Respondent.)
17)

18 Complainant, the Fair Political Practices Commission, and Respondent Carlos Villapudua agree
19 that this stipulation will be submitted for consideration by the Fair Political Practices Commission at its
20 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, 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 Carlos Villapudua violated the Political
4 Reform Act when he failed to disclose various investment interests and sources of income on his 2012
5 and 2013 annual statements of economic interests, in violation of Government Code Sections 87203 and
6 87207, subdivision (a) (1 count). All counts are described in Exhibit 1. Exhibit 1 is attached hereto and
7 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
8 the facts in this 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 it an administrative penalty in the amount of
11 One Thousand Dollars (\$1,000). A cashier's check from Respondent Carlos Villapudua 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, to be held by the State of California until the Commission issues
14 its decision and order regarding this matter. The parties agree that in the event the Commission refuses
15 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
16 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
17 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.

21
22 Dated: _____

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

23
24
25 Dated: _____

Carlos Villapudua, Respondent

1 **DECISION AND ORDER**

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3 The foregoing Stipulation of the parties “In the Matter of Carlos Villapudua,” FPPC No. 14/395,
4 including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political
5 Practices Commission, effective upon execution below by the Chair.

6 IT IS SO ORDERED.

7
8 Dated: _____

9 _____
10 Joann Remke, Chair
11 Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Carlos Villapudua is currently a San Joaquin County Supervisor, having been elected to that position on November 4, 2008.

On his 2012 and 2013 annual statements of economic interests (“SEIs”), Respondent failed to declare business, investment, and real property interests, as well as sources of income and gifts.

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

COUNT 1: Respondent Carlos Villapudua failed to disclose various business, investment, and real property interests, as well as sources of income and gifts, on his 2012 and 2013 annual statements of economic interests, in violation of Sections 87203 and 87207, subdivision (a).

SUMMARY OF THE LAW

One of the express purposes of the Act, as set forth in Section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided. The Act therefore establishes an economic interest reporting system designed to accomplish this purpose of disclosure.

In furtherance of that purpose, Section 87203 requires every person who holds an office described in Section 87200 to annually file with the Fair Political Practices Commission, (the “FPPC”) at a time specified in the Commission’s regulations, a statement of economic interests disclosing his or her reportable investments, interests in real property, and income. Section 87200 lists these public officials and includes county supervisors. The statement must include all of official’s reportable economic interests during the preceding calendar year. (Regulation 18723, subdivision (a).)

The Act specifies disclosure concerning the investments, business and real property interests, as well as income and gifts received by public officials. Sections 87206 and 87207.

Section 82030 defines income to include any salary and wages received by the official’s spouse, and Section 82033 defines interest in real property to include any interest held by the

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 18109 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.

official's immediate family.

SUMMARY OF THE FACTS

Respondent Carlos Villapudua is currently a San Joaquin County Supervisor, having been elected to that position on November 4, 2008.

On his 2012 annual SEI, Respondent originally declared he had no interests to report. In June of 2012, he married, and should have reported his spouse's economic interests, as well as wedding gifts. Respondent filed an amended SEI for calendar year 2012 on July 3, 2014. On his amended SEI, he reported the following:

Unreported Economic Interest
An investment in the Cilantro Group, a restaurant that closed in 2013, valued at between \$2,000-\$10,000
An investment in the Blue Frog, a tasting room acquired in 2012, valued at between 10,001-\$100,000
Spouse's investment in, and income from, Wire two Wire, a campaign consulting business, valued at between \$2,000-\$10,000
Spouse's investment in, and income from, Edith Lopez/Villapudua, Notary/Tax Preparer Services, valued at between \$2,000-\$10,000
Spouse's rental property and income from a rental tenant on Schedule B, located at 2198 Ralph Avenue in Stockton
Spouse's rental property and income from a rental tenant on Schedule B, located at 1135 N. Stockton Street in Stockton
Receipt of 56 wedding gifts on Schedule D. (Some of the donors may be family members, and these gifts are not required to be reported.)

On his 2013 annual SEI, Respondent reported income, investment, and real property interests, as well as travel reimbursements. Respondent filed an amended SEI for calendar year 2013 on June 27, 2014. On his amended SEI, he reported the following:

Unreported Economic Interest
An investment in the Cilantro Group, a restaurant that closed in 2013, valued at between \$2,000-\$10,000
Spouse's investment in, and income from, Wire two Wire, a campaign consulting business, valued at between \$2,000-\$10,000
Income received by Wire two Wire from six clients
Spouse's investment in, and income from, Edith Lopez/Villapudua, Notary/Tax Preparer Services, valued at between \$2,000-\$10,000

By failing to disclose business, investment, and real property interests, as well as sources of income and gifts on 2012 and 2013 annual SEIs that he filed on or about April 2, 2013 and March 20, 2014, respectively, Respondent violated Sections 87203 and 87207, subdivision (a).

Respondent subsequently filed amendments to his 2012 and 2013 annual SEIs disclosing these economic interests.

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.

Other similar cases regarding a violation of Section 87203 that have been recently approved by the Commission include:

In the Matter of Glen Daigle, FPPC No. 10/474, had a similar fact pattern; a Murrieta City Planning Commissioner failed to disclose required information regarding investments, income, and assets of/from business entities on an annual SEI. The commission approved settlement of this case, with a \$1,000 penalty for the nondisclosure violation, on October 14, 2010.

In the Matter of Michael Rubio, FPPC No. 07/293, had a similar fact pattern; a member of the Kern County Board of Supervisors failed to disclose required information regarding income on an annual SEI. The commission approved settlement of this case, with a \$1,000 penalty for the nondisclosure violation, on January 28, 2011.

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.

Respondent's violation of the Act was deliberate at worst and negligent at best. Respondent should have been aware of his duties under the Act disclose all sources of income on his SEIs.

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 patter of behavior, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of One Thousand Dollars (\$1,000) is recommended.

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