

1 GARY S. WINUK
Chief of Enforcement
2 NEAL P. BUCKNELL
Senior Commission Counsel
3 Fair Political Practices Commission
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5660
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant

7
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

12 KELLI MOORS,

13 Respondent.

FPPC No. 13/917

14 STIPULATION, DECISION AND ORDER

15 **STIPULATION**

16 Complainant, the Fair Political Practices Commission, and Respondent Kelli Moors hereby agree
17 that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its
18 next regularly scheduled meeting.

19 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
20 matter and to reach a final disposition without the necessity of holding an additional administrative
21 hearing to determine the liability of Respondent, pursuant to section 83116 of the Government Code.

22 Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural
23 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of
24 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to
25 appear personally at any administrative hearing held in this matter, to be represented by an attorney at
26 Respondent's own expense, to confront and cross-examine all witnesses testifying at the hearing, to
27 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
28 the hearing as a hearing officer, and to have the matter judicially reviewed.

1 As described in Exhibit 1, it is further stipulated and agreed that Respondent, while acting in her
2 capacity as a member of the Carlsbad Unified School District Board of Trustees, made a governmental
3 decision directly relating to an entity with which she had an arrangement concerning prospective
4 employment, in violation of Government Code section 87407 (one count). Exhibit 1, which is attached
5 hereto and incorporated by reference as though fully set forth herein, is a true and accurate summary of
6 the facts in this matter.

7 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
8 Respondent also agrees to the Commission imposing upon her an administrative penalty in the amount of
9 \$4,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General
10 Fund of the State of California—is/are submitted with this Stipulation as full payment of the
11 administrative penalty described above, and same shall be held by the State of California until the
12 Commission issues its Decision and Order regarding this matter. The parties agree that in the event the
13 Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen (15)
14 business days after the Commission meeting at which the Stipulation is rejected, all payments tendered
15 by Respondent in connection with this Stipulation shall be reimbursed to Respondent. Respondent
16 further stipulates and agrees that in the event the Commission rejects the Stipulation and a full

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1 evidentiary hearing before the Commission becomes necessary, neither any member of the Commission,
2 nor the Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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5 Dated: _____

6 Gary S. Winuk, Chief of Enforcement
Fair Political Practices Commission

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9 Dated: _____

10 Kelli Moors, Respondent

11 **DECISION AND ORDER**

12 The foregoing Stipulation of the parties “In the Matter of Kelli Moors,” FPPC No. 13/917,
13 including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political
14 Practices Commission, effective upon execution below by the Chair.

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16 IT IS SO ORDERED.

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18 Dated: _____

19 Ann Ravel, Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

At all relevant times, Respondent Kelli Moors was a member of the Carlsbad Unified School District Board of Trustees.

The Political Reform Act (the “Act”)¹ prohibits public officials, including members of school boards, from making governmental decisions directly relating to anyone with whom they have an arrangement concerning prospective employment.

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

Count 1: On or about July 24, 2013, Respondent Kelli Moors, while acting in her capacity as a member of the Carlsbad Unified School District Board of Trustees, voted to approve a contract with the law firm of Fagen Friedman & Fulfroost, LLP for legal/professional services for the 2013-14 school year (for an amount not to exceed \$100,000). However, the day before the vote, Respondent had received and accepted a job offer from the same law firm. In this way, Respondent violated Section 87407, which prohibits public officials from making governmental decisions directly relating to anyone with whom they have an arrangement concerning prospective employment.

SUMMARY OF THE LAW

Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

When the Political Reform Act was enacted, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities. (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

One of the purposes of the Act is to ensure that public officials are disqualified from certain matters in order that conflicts of interest may be avoided. (Section 81002, subd. (c).) Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.” (Section 81002, subd. (f).)

¹ The 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.

Prohibition Against Influencing Prospective Employment

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, public officials² are prohibited from making, participating in making, or attempting to use their official positions to influence governmental decisions directly relating to anyone with whom they are negotiating—or directly relating to anyone with whom they have an arrangement concerning—prospective employment. (Section 87407.)

SUMMARY OF THE FACTS

As stated above, Respondent Kelli Moors was a member of the Carlsbad Unified School District Board of Trustees.

Count 1

On or about July 24, 2013, Respondent Kelli Moors, while acting in her capacity as a member of the Carlsbad Unified School District Board of Trustees, voted to approve a contract with the law firm of Fagen Friedman & Fulfroost, LLP for legal/professional services for the 2013-14 school year (for an amount not to exceed \$100,000).

However, the day before the vote, Respondent had received and accepted a job offer from the same law firm.

In this way, Respondent committed one violation of Section 87407, which prohibits public officials from making governmental decisions directly relating to anyone with whom they have an arrangement concerning prospective employment.

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of \$5,000. (Section 83116, subd. (c).)

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 the context of the following factors set forth in Regulation 18361.5, subdivisions (d)(1) through (6):

² Section 82048 defines “public official” to include an employee of a local government agency.

- (1) The seriousness of the violation;
- (2) The presence or absence of any intention to conceal, deceive or mislead;
- (3) Whether the violation was deliberate, negligent or inadvertent;
- (4) Whether the violator demonstrated good faith by consulting the Commission staff or any other government agency in a manner not constituting a complete defense under Government Code section 83114(b);
- (5) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
- (6) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

Regarding Count 1, making a governmental decision that directly relates to a prospective employer is a serious violation of the Act because it creates the appearance that the decision was made on the basis of the public official's own interests. One of the more recent stipulations involving a violation of Section 87407 imposed a penalty in the amount of \$4,000. (See *In the Matter of Mark Moses*, FPPC Case No. 10/1084, approved Aug. 22, 2013 [\$4,000 per count against city CFO who participated in contract negotiations with prospective employer].)

In this case, Respondent accepted a job offer from a law firm, and the very next day, she voted to approve a contract worth approximately \$100,000 with the same law firm. When Respondent voted, she chose not to recuse herself, and she did not notify the school board about her prospective employment until after the vote. Having served on the school board since the year 2000, Respondent was familiar with the general requirements of the Act.³

Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty in the amount of \$4,000 is justified. A higher penalty is not being sought because Respondent cooperated with the Enforcement Division of the Fair Political Practices Commission by agreeing to an early settlement of this matter well in advance of the Probable Cause Conference that otherwise would have been held.

PROPOSED PENALTY

Based on the facts of this case, including the factors discussed above, an agreed upon penalty of \$4,000 is recommended.

³ Approximately nine years ago, Respondent was prosecuted by the Enforcement Division for failure to file campaign statements in connection with a school board race.

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