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

10  
11 In the Matter of:

FPPC No. 13/844

12  
13 ALFONSO PEREZ;

STIPULATION, DECISION, and ORDER

14 Respondent.

15  
16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
18 Respondent Alfonso Perez hereby agree that this Stipulation will be submitted for consideration by the  
19 Fair Political Practices Commission at its next regularly scheduled meeting.

20 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this  
21 matter and to reach a final disposition without the necessity of holding an additional administrative  
22 hearing to determine the liability of Respondents.

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

3 It is further stipulated and agreed that Respondent violated the Political Reform Act by failing to  
4 timely file his 2012 annual statement of economic interests, in violation of Sections 87300 and 87302 of  
5 the Government Code (1 count) as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated  
6 by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in  
7 this matter.

8 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.  
9 Respondent also agrees to the Commission imposing an administrative penalty in the total amount of  
10 One Thousand Dollars (\$1,000). A cashier's check from Respondents in said amount, made payable to  
11 the "General Fund of the State of California," is submitted with this Stipulation as full payment of the  
12 administrative penalty, and shall be held by the State of California until the Commission issues its  
13 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to  
14 accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the  
15 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in  
16 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and  
17 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the  
18 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,  
19 shall be disqualified because of prior consideration of this Stipulation.

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22 Dated: \_\_\_\_\_ Gary S. Winuk, on Behalf of the Enforcement Division  
23 Fair Political Practices Commission

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25 Dated: \_\_\_\_\_ Alfonso Perez, Respondent  
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1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Alfonso Perez,” FPPC No. 13/844,  
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: \_\_\_\_\_

\_\_\_\_\_ Joann Remke, Chair

9 Fair Political Practices Commission  
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1 **EXHIBIT 1**

2 **INTRODUCTION**

3 Respondent Alfonso Perez (“Respondent Perez”) has served as a Commissioner on the San  
4 Francisco Entertainment Commission since December 2009. As a commissioner with the San Francisco  
5 Entertainment Commission, Respondent Perez is a “designated employee” as defined in section 82019,  
6 subdivision (a), of the Political Reform Act (the “Act”)<sup>1</sup> and in the Conflict of Interest Code for the San  
7 Francisco Entertainment Commission. As required by Section 87302 of the Act and the San Francisco  
8 Entertainment Commission’s conflict of interest code, each designated employee is required to file an  
9 annual statement of economic interests (“SEI”), disclosing the economic interests that he or she held  
10 during the preceding calendar year.

11 This matter arose from a non-filer referral received by the FPPC from the San Francisco Ethics  
12 Commission. As a Commissioner on the San Francisco Entertainment Commission, Respondent Perez  
13 was required to file an annual SEI for the year 2012 by April 2, 2013. Respondent ultimately filed his  
14 2012 annual SEI on September 30, 2014.

15 For the purposes of this Stipulation, Respondent’s violation is as follows:

16 **COUNT 1:** Respondent Alfonso Perez, a Commissioner on the San Francisco Entertainment  
17 Commission, failed to timely file his 2012 annual statement of economic interests in  
18 violation of Sections 87300 and 87302 of the Government Code.  
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20 **SUMMARY OF THE LAW**

21 An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the  
22 assets and income of public officials that may be materially affected by their official actions be  
23 disclosed, so that conflicts of interests may be avoided. In furtherance of this purpose, Section 87300  
24 requires every state and local agency to adopt and promulgate a conflict of interest code. Under Section  
25 87300, the requirements of an agency’s conflict of interest code have the force of law, and any violation

26 \_\_\_\_\_  
27 <sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to  
28 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.

1 of those requirements is deemed a violation of the Act. Section 87302, subdivision (a), provides that an  
2 agency's conflict of interest code must specifically designate the positions within the agency that are  
3 required to file statements of economic interests, disclosing reportable investments, business positions,  
4 interests in real property, and sources of income. Under Section 82019, subdivision (a), and Section  
5 87302, the persons who are to be designated in an agency's conflict of interest code are the officers,  
6 employees, members, and consultants of the agency whose position with the agency entails making, or  
7 participating in making, governmental decisions that may foreseeably have a material effect on one or  
8 more of the person's economic interests. Under Section 87302, subdivision (b), an agency's conflict of  
9 interest code must require, among other things, every designated employee of the agency to file an  
10 annual SEI, at a time specified in the agency's conflict of interest code, for each year that the employee  
11 remains in office, disclosing his or her reportable economic interests during the preceding calendar year.

12 The applicable Conflict of Interest Code for the San Francisco Entertainment Commission  
13 ("Conflict of Interest Code") requires that all persons holding the position of Commissioner must file  
14 annual SEIs disclosing the their "income (including gifts) from any source, interests in real property,  
15 investments, and all business positions in which the designated employee is a director, officer, partner,  
16 trustee, employee, or holds any position of management."

#### 17 **SUMMARY OF THE FACTS**

18 In 2012, Respondent Alfonso Perez ("Respondent Perez") was a Commissioner with the San  
19 Francisco Entertainment Commission. The position of commissioner is a designated position under the  
20 Conflict of Interest Code for the San Francisco Entertainment Commission. As a designated employee  
21 under the Conflict of Interest Code for the San Francisco Entertainment Commission, Respondent Perez  
22 was required to file an annual SEI disclosing reportable economic interests that he held in the preceding  
23 calendar year. Respondent Perez was required to file his Annual SEI for the year of 2012 on or before  
24 April 2, 2013.

25 In the months following the SEI deadline, Respondent Perez received several letters from the  
26 San Francisco Ethics Commission and Fair Political Practices Commission Enforcement Division  
27 ("Enforcement Division") explaining his continued duty to file his delinquent 2012 annual SEI.  
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1 Respondent Perez filed his 2012 annual SEI with the San Francisco Ethics Commission on September  
2 30, 2014.

3 Respondent Perez has a prior enforcement action for the same type of violation. On April 25,  
4 2013, the Commission approved a \$400 streamline fine for Respondent Perez' failure to timely file his  
5 2011 SEI.

6 COUNT 1

7 **Failure to Timely File Required Statement of Economic Interests**

8 Respondent Perez has served as a Commissioner on the San Francisco Entertainment  
9 Commission since December 2009. As a Commissioner on the San Francisco Entertainment  
10 Commission, Respondent Perez was required to file an annual SEI for the year of 2012 with the San  
11 Francisco Ethics Commission by April 2, 2013. Respondent did not file his 2012 annual SEI until  
12 September 30, 2014. By failing to timely file his 2012 annual statement of economic interests,  
13 Respondent violated Sections 87300 and 87302 of the Government Code.

14 **CONCLUSION**

15 This matter consists of one count of violating the Act, which carries a maximum administrative  
16 penalty of five thousand dollars (\$ 5,000).

17 In determining the appropriate penalty for a particular violation of the Act, the Commission  
18 considers the typical treatment of a violation in the overall statutory scheme of the Act, with an  
19 emphasis on serving the purposes and intent of the Act. Additionally, the Commission considers the  
20 facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5,  
21 subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the  
22 voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent  
23 demonstrated good faith in consulting with Commission staff; and whether there was a pattern of  
24 violations.

25 Failure to file a statement of economic interests is a serious violation of the Act because it  
26 deprives the public of important information about a public official's economic interests which could  
27 lead to potential conflicts of interests regarding decisions he/she may make in his/her official capacity.  
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1 Failure to file statements of economic interests which are not included in the Expedited Procedures of  
2 the SEI Streamlined Program have historically received penalties in the middle to lower ranges of  
3 penalties per count. Recent stipulations approved by the Commission concerning SEI non-filers who  
4 had previously failed to file include *In the Matter of Jerry Baker* (FPPC No. 14/122) and *In the Matter*  
5 *of Jill Sherman-Warne* (FPPC No. 11/838). The Commission approved fines of \$1,000 in each case.

6 In this case, Respondent Perez' actions were similar to the cases above in that none of these  
7 cases appear to include anything more than negligent behavior. Additionally, Respondent Perez does not  
8 qualify for the SEI Streamline Program because he has a prior enforcement action for the same type of  
9 violation. On April 25, 2013, the Commission approved a \$400 streamline fine for Respondent Perez'  
10 failure to timely file his 2011 SEI. Due to the previous enforcement action against him, Respondent  
11 Perez should have been aware of his duties and requirements under the Act.

12 For these reasons an administrative penalty in the amount of one thousand dollars (\$1,000) for  
13 Count 1 is recommended.

#### 14 **PROPOSED PENALTY**

15 After consideration of the factors of Regulation 18361.5, including whether the behavior in  
16 question was inadvertent, negligent or deliberate and the presence or absence of good faith, as well as  
17 consideration of penalties in prior enforcement actions, the imposition of a penalty of one thousand  
18 dollars (\$1,000) is recommended.