



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

June 29, 2016

FIRST CLASS U.S. MAIL and via email to [REDACTED]

Mr. Harold Tate
[REDACTED]

NOTICE OF INTENT TO ENTER DEFAULT DECISION AND ORDER

**Re: In the Matter of Harold Tate
FPPC No. 14/900**

Dear Mr. Tate:

Enclosed please find a courtesy copy of the Default Decision and Order, and accompanying Exhibit and attachments, in the above matter. The Fair Political Practices Commission ("Commission") will consider these papers at its public meeting on **July 21, 2016**, and decide whether to impose an administrative penalty in the amount of **\$3,000** or more against you.

You were previously served a Report in Support of a Finding of Probable Cause, commonly known as a probable cause report, advising you of your right to request a probable cause conference or submit a written response to the probable cause report. You did not request a probable cause conference, nor did you submit anything in writing for the Commission's Executive Director to consider in his determination of probable cause.

Following the issuance of a Report in Support of a Finding of Probable Cause, the Commission's Executive Director found probable cause that you committed one violation of the Political Reform Act's campaign reporting provisions. Thereafter, the Hearing Officer issued an Accusation against you on the same violation. The Accusation was served by substitution by being left at your workplace with the litigation coordinator on May 26, 2016. A duplicate copy was mailed to your workplace's litigation coordinator on the same date. Under the law, you have therefore received adequate notice of these proceedings and the action filed against you. Under the Administrative Procedure Act, you were required to file a Notice of Defense within 15 days after service of the Accusation. You failed to file the Notice of Defense form within that time. As such,



your right to an administrative hearing on this matter has been forfeited, and you are in a default position.

At its public meeting on **July 21, 2016**, the Commission may impose an administrative penalty against you in the amount of **\$3,000**. However, the Commission may impose up to a maximum penalty of **\$5,000** against you for this violation.

Following the issuance of the default order and imposition of the administrative penalty, we will commence legal proceedings to collect this fine, which may include converting the Commission's order to a court judgment. Please be advised that administrative penalties for violations of the Political Reform Act cannot be discharged in bankruptcy proceedings.

This letter is your **last opportunity** to resolve this matter informally by way of a stipulated settlement, before the default proceedings are commenced. If we do not reach a resolution, the enclosed documents will be placed on the Commission's agenda for the **July 21, 2016** meeting. Please contact me immediately if you wish to enter into a negotiated settlement.

You may contact me directly at (916) 322-5021.

Sincerely,

A black rectangular redaction box covering the signature of Tanya Smith.

Tanya Smith
Commission Counsel
Enforcement Division

Enclosures

GALENA WEST
Chief of Enforcement
TANYA SMITH
Commission Counsel
FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 620
Sacramento, CA 95814
Telephone: (916) 322-5021
Facsimile: (916) 322-1932

Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

In the Matter of)	FPPC No. 14/900
)	
HAROLD TATE,)	DEFAULT DECISION AND ORDER
Respondent.)	(Gov. Code Sections 11506 and 11520)
)	
)	

Complainant, the Enforcement Division of the Fair Political Practices Commission, hereby submits this Default Decision and Order for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

Pursuant to the California Administrative Procedure Act,¹ Respondent Harold Tate has been served with all of the documents necessary to conduct an administrative hearing regarding the above-captioned matter, including the following:

1. An Order Finding Probable Cause;
2. An Accusation;
3. A Notice of Defense (Two Copies);

¹The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code.

1 4. A Statement to Respondent; and

2 5. Copies of Sections 11506, 11507.5, 11507.6 and 11507.7 of the Government Code.

3 Government Code Section 11506 provides that failure of a respondent to file a Notice of Defense
4 within fifteen days after being served with an Accusation shall constitute a waiver of respondent's right
5 to a hearing on the merits of the Accusation. The Statement to Respondent, served on Tate, explicitly
6 stated that a Notice of Defense must be filed in order to request a hearing. Tate failed to file a Notice of
7 Defense within fifteen days of being served with the Accusation.

8 Government Code Section 11520 provides that if the respondent fails to file a Notice of Defense,
9 the Commission may take action, by way of a default, based upon the respondents' express admissions
10 or upon other evidence, and that affidavits may be used as evidence without any notice to the
11 respondent.

12 Tate violated the Political Reform Act as described in Exhibit 1, which is attached hereto and
13 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
14 the law and evidence in this matter. This Default Decision and Order is submitted to the Commission to
15 obtain a final disposition of this matter.

16
17 Dated: 23 June 16


Galena West, Chief of Enforcement
Fair Political Practices Commission

ORDER

The Commission issues this Default Decision and Order and imposes an administrative penalty of Three Thousand Dollars (\$3,000) upon Tate, payable to the "General Fund of the State of California."

IT IS SO ORDERED, effective upon execution below by the Chair of the Fair Political Practices Commission at Sacramento, California.

Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Harold Tate ("Tate") was, at all times relevant to this Default Decision, a physician and surgeon for the California Department of Corrections and Rehabilitation/California Correctional Health Care Services ("CDCR/CCHCS"). As a physician and surgeon, Tate is a "designated employee" under the Conflict of Interest Code for CDCR/CCHCS.

Under the Political Reform Act¹ and the CDCR/CCHCS Conflict of Interest Code, each designated employee is required to file an annual Statement of Economic Interests ("SEI") disclosing his or her reportable economic interests held during the preceding calendar year. Tate violated the Act by failing to file his 2013 annual SEI by April 1, 2014.

All relevant evidence in possession of the Enforcement Division is included in the attached Certification of Records ("Certification") filed herewith at Exhibit 1, A-1 through A-13, and incorporated herein by reference.

In this case, Tate violated the Act as follows:

- Count 1: As a designated employee of the CDCR/CCHCS, Tate had a duty under the Act and the CDCR/CCHCS Conflict of Interest Code to file an Annual SEI with the CCHCS Filing Clerk by April 1, 2014 for the January 1 through December 31, 2013 period. Tate failed to file an Annual SEI with the CCHCS Filing Clerk by April 1, 2014, in violation of Section 87300.

DEFAULT PROCEEDINGS UNDER THE ADMINISTRATIVE PROCEDURE ACT

When the Fair Political Practices Commission (the "Commission") determines that there is probable cause for believing that the Act has been violated, it may hold a hearing to determine if a violation has occurred.² Notice of the hearing, and the hearing itself, must be conducted in accordance with the Administrative Procedure Act (the "APA").³ A hearing to determine whether the Act has been violated is initiated by the filing of an accusation, which shall be a concise written statement of the charges specifying the statutes and rules which the respondent is alleged to have violated.⁴

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations.

² Gov. Code Section 83116.

³ The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code; Gov. Code Section 83116.

⁴ Gov. Code Section 11503.

Included among the rights afforded a respondent under the APA, is the right to file the Notice of Defense with the Commission within 15 days after service of the accusation, by which the respondent may (1) request a hearing, (2) object to the accusation because it does not state acts or omissions upon which the agency may proceed; (3) object to the accusation's form for being too indefinite or uncertain to allow the respondent to prepare a defense, (4) admit the accusation in whole or in part, (5) present new matter by way of a defense, or (6) object to the accusation because compliance would result in a material violation of another regulation affecting the respondent's substantive rights.⁵

The APA provides that a respondent's failure to file a Notice of Defense within 15 days after service of an accusation constitutes a waiver of the respondent's right to a hearing.⁶ Moreover, when a respondent fails to file a Notice of Defense, the Commission may take action based on the respondent's express admissions or upon other evidence, and affidavits may be used as evidence without any notice to the respondent.⁷

PROCEDURAL REQUIREMENTS AND HISTORY

A. Initiation of the Administrative Action

"The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action."⁸

A finding of probable cause may not be made by the Commission unless the person alleged to have violated the Act is 1) notified of the violation by service of process or registered mail with return receipt requested; 2) provided with a summary of the evidence; and 3) informed of his right to be present in person and represented by counsel at any proceeding of the Commission held for the purpose of considering whether probable cause exists for believing the person violated the Act.⁹ Additionally, the required notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office.¹⁰

No administrative action pursuant to Chapter 3 of the Act, alleging a violation of any of the provisions of Act, shall be commenced more than five years after the date on which the violation occurred.¹¹

⁵ Gov. Code Section 11506, subdivision (a)(1)-(6).

⁶ Gov. Code Section 11506, subdivision (c).

⁷ Gov. Code Section 11520, subdivision (a).

⁸ Gov. Code Section 91000.5, subdivision (a).

⁹ Gov. Code Section 83115.5.

¹⁰ Gov. Code Section 83115.5.

¹¹ Gov. Code Section 91000.5.

All relevant evidence in possession of the Enforcement Division is included in the following attachments and incorporated herein by reference: Exhibit A – Certification of Records (Certification), with attached Exhibits A-1 through A-12.

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against Tate in this matter by mailing the Report in Support of a Finding of Probable Cause (the “Report”) ¹² on Tate by certified mail, return receipt requested, at his rented post office box on September 1, 2015. The administrative action commenced on September 4, 2015, the date Tate’s agent signed for certified receipt of the Report, and the five year statute of limitations was effectively tolled on this date. ¹³

As required by Section 83115.5, the packet served on Tate contained a cover letter and a memorandum describing Probable Cause Proceedings, advising that Tate had 21 days in which to request a probable cause conference and/or to file a written response to the Report. ¹⁴ Tate neither requested a probable cause conference nor submitted a written response to the Report.

B. Ex Parte Request for a Finding of Probable Cause

Since Tate failed to request a probable cause conference or submit a written response to the Report by the statutory deadline, the Enforcement Division submitted an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation be Prepared and Served to Hearing Officer Heather M. Rowan on January 22, 2016. ¹⁵

On February 2, 2016, Hearing Officer Heather M. Rowan issued a Finding of Probable Cause and an Order to Prepare and Serve an Accusation on Grant and the Committee. ¹⁶

C. The Issuance and Service of the Accusation

Under the Political Reform Act, if the Hearing Officer makes a finding of probable cause, Enforcement Division shall prepare an accusation pursuant to Section 11503 of the APA, and have it served on the persons who are the subject of the probable cause finding. ¹⁷ The APA allows for a hearing to determine whether a right, authority, license or privilege should be revoked, suspended, or limited. The hearing is based on an accusation which must consist of a written statement of charges written in ordinary and concise language. The accusation must specify the acts or omissions being charged so that the respondent will be able to prepare his or her defense. The accusation must also specify the statutes and rules that the respondent allegedly violated. It cannot consist solely of charges based on the language of the statutes and rules. The accusation

¹² Certification, Exhibit A-1.

¹³ Certification, Exhibit A-2.

¹⁴ Certification, Exhibit A-3.

¹⁵ Certification, Exhibit A-4.

¹⁶ Certification, Exhibit A-5.

¹⁷ Regulation 18361.4, subdivision (e).

must be verified unless it is made by a public officer who is acting in his or her official capacity, or by an agency employee who will conduct the hearing. Any required verification can be made on information and belief.¹⁸

Upon the filing of the accusation, the agency shall: 1) serve a copy thereof on the respondent as provided in Section 11505, subdivision (c); 2) include a post card or other form entitled Notice of Defense which, when signed by or on behalf of the respondent and returned to the agency, will acknowledge service of the accusation and constitute a notice of defense under Section 11506; 3) include (i) a statement that respondent may request a hearing by filing a notice of defense as provided in Section 11506 within 15 days after service upon the respondent of the accusation, and that failure to do so will constitute a waiver of the respondent's right to a hearing, and (ii) copies of Sections 11507.5, 11507.6, and 11507.7.¹⁹

Section 11505, subdivision (b) sets forth the language required in the accompanying statement to the respondent.

The Accusation and accompanying information may be sent to the respondent by any means selected by the agency, but that no order adversely affecting the rights of the respondent shall be made by the agency in any case unless the respondent has been served personally or by registered mail as set forth in Section 11505.²⁰

When service cannot be effected by personal service or registered mail, substituted service may be used to give notice by leaving a copy of the Accusation with a person apparently in charge of a respondent's usual mailing address or place of business, and by subsequently mailing a copy by first class mail to the same address.²¹ Service is deemed complete on the 10th day after mailing.

On February 22, 2016, the Commission's Chief of Enforcement, Galena West, issued an Accusation against Tate in this matter.²² Enforcement Division made several unsuccessful attempts to personally serve Tate with the Accusation.²³ In accordance with Section 11505 and Civil Code of Procedure 415.20, the Accusation and accompanying information, consisting of a Statement to Respondent, two copies of a Notice of Defense Form, and copies of Government Code Sections 11506, 11507.5, 11507.6 and 11507.7 were personally served by substitute service upon Tate's workplace litigation coordinator on May 26, 2016.²⁴

In accordance with California Code Civ. Proc. Section 415.20 (b), the Enforcement Division's process server mailed a copy of the Accusation and accompanying information to

¹⁸ Section 11503.

¹⁹ Gov. Code Section 11505, subdivision (a).

²⁰ Gov. Code Section 11505, subdivision (c).

²¹ Civil Code of Procedure Section 415.20 subdivision (b).

²² Certification, Exhibit A-6.

²³ Certification, Exhibits A-7.

²⁴ Certification, Exhibit A-8.

Tate's workplace litigation coordinator on May 26, 2016, using first class mail.²⁵ Therefore, service was deemed complete on June 5, 2016.

Prior to effecting substituted service, the process server hired by Enforcement Division verified Tate's workplace litigation coordinator would accept service of process on his behalf.²⁶

Along with the Accusation served on June 5, 2016, the Enforcement Division served Tate with a "Statement to Respondent" which notified him that he could request a hearing on the merits and warned that, unless a Notice of Defense was filed within 15 days of service of the Accusation, he would be deemed to have waived the right to a hearing.²⁷ Tate did not file a Notice of Defense within the statutory time period, which ended on June 20, 2016.

As a result, on June 29, 2016, Commission Counsel Tanya Smith sent a letter to Tate advising that this matter would be submitted for a Default Decision and Order at the Commission's public meeting scheduled for July 21, 2016.²⁸ A copy of the Default Decision and Order, and this accompanying Exhibit 1 with attachments, was included with the letter.

SUMMARY OF THE LAW

An express purpose of the Political Reform Act is to ensure that the assets and income of public officials, which may be materially affected by their actions, be disclosed so that conflicts of interest may be avoided.²⁹ In furtherance of this purpose, the Act requires every local agency to adopt and promulgate a conflict of interest code.³⁰

Designated employees must report their financial interests each year

A "designated employee" is any member of an agency whose position is designated in a Conflict of Interest Code because the position entails making or participating in decisions which may foreseeably have a material effect on any financial interest.³¹ An agency's conflict of interest code must specifically designate the positions within the agency that are required to file SEIs, and to disclose reportable investments, business positions, interests in real property, and sources of income.³² Thus, designated employees must file annual SEIs under the Act.

²⁵ Certification, Exhibit A-8.

²⁶ Certification, Exhibit A-7.

²⁷ Certification, Exhibit A-6.

²⁸ Certification, Exhibit A-9.

²⁹ Gov. Code Section 81002, subdivision (c).

³⁰ Gov. Code Section 87300.

³¹ Gov. Code Section 82019, subdivision (a).

³² Gov. Code Section 87302, subdivision (a).

An agency's conflict of interest code must require each designated employee of the agency to file annual SEIs at a time specified in the agency's conflict of interest code.³³ These statements must disclose investments, income, business positions, and interests in real property held or received at any time during the previous calendar year.³⁴

An agency's conflict of interest code has the force of law.³⁵ Any violation of those requirements is a violation of the Act.

SUMMARY OF THE EVIDENCE

Unless otherwise indicated, documents supporting the following summary of evidence are included in the attached Certification of Records filed herewith at Exhibit A, A-10 through A-13, and incorporated herein by reference.

Respondent Harold Tate has been a designated employee at CDCR/CCHCS since at least 2009. He currently works as a physician and surgeon for CDCR/CCHCS.³⁶ The Conflict of Interest Code for CDCR/CCHCS designates a physician and surgeon as an employee who must file annual SEIs.³⁷

Because Tate is a physician and surgeon, he is required to file an annual SEI for each year that he is employed as a physician and surgeon, disclosing his reportable economic interests held during the previous calendar year. Thus, Tate was required to file an annual SEI for 2013, for which the filing deadline was April 1, 2014.

On April 4, 2014 and June 5, 2014, CDCR/CCHCs' filing officer notified Tate that he had not filed his 2013 annual SEI.³⁸ By August 27, 2014, CDCR/CCHC's filing officer referred Tate's case to the Enforcement Division because his 2013 annual SEI had not been filed. Between September 4, 2014 and February 23, 2015, Enforcement Division sent Tate two letters and left him two voice mail messages regarding his unfiled SEI. Tate left one voice mail message for Enforcement Division in which he stated that he filed the SEI, but did not keep a copy to show he had filed.³⁹

On September 1, 2015, Chief of Enforcement Division Galena West sent a letter to Tate informing him that his 2013 annual SEI was still due, and serving a Probable Cause Report upon him. (See Certification, Exhibit A-3.) Tate did not respond. By failing to timely file his 2013 annual SEI, Tate committed one violation of the Act, as follows:

³³ The agency's conflict of interest code may incorporate Regulation 18730 by reference. If so, then the filing deadline is April 1. (Regulation 18730(b)(5)(C). If not incorporated, the conflict of interest code must specify a filing date. The CDCR/CCHCS Conflict of Interest Code incorporates Regulation 18730, and thus, the filing deadline for annual statements of economic interests for CDCR/CCHCS designated employees is April 1.

³⁴ Gov. Code Section 87302, subdivision (b).

³⁵ Gov. Code Section 87300.

³⁶ Certification, Exhibit A-10.

³⁷ Certification, Exhibit A-11.

³⁸ Certification, Exhibit A-12.

³⁹ Certification, Exhibit A-10.

Count 1: Failure to Timely File 2013 Annual Statement of Economic Interests

As a physician and surgeon for the California Department of Corrections and Rehabilitation/ California Correctional Health Care Services, Tate had a duty to file his 2013 annual statement of economic interests by the April 1, 2014 due date. By failing to timely file his 2013 annual statement of economic interests, Tate violated Government Code Sections 87300 and 87302.

As of June 28, 2016, Tate has not filed his 2013 annual SEI.⁴⁰

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of five thousand dollars (\$5,000).⁴¹

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 subdivision (d)(1) through (6): (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 governmental agency in a manner not constituting 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.

Failure to file an SEI is a serious violation of the Act because it deprives the public of important information about a public official's economic interests, which could lead to potential conflicts of interests regarding decisions he may make in his official capacity.

Failure to file statements of economic interests which are not included in the SEI Streamlined Program have historically received substantial penalties, varying in range up to the maximum penalty of Five Thousand Dollars (\$5,000) per count. Such penalties are warranted when the Respondent has a prior non-filing history, accompanying violations, prior prosecutions, and/or remains in office.

In this matter, Tate failed to timely file his 2013 annual SEI by the April 1, 2014 deadline, failed to respond to two written notifications from his agency's SEI filing officer, and failed to respond to Enforcement Division's two letters and two voice mail messages requesting

⁴⁰ Exhibit A-13.

⁴¹ Gov. Code Section 83116, subd. (c).

him to file his 2013 annual SEI. Tate stated in a voice mail to Enforcement Division that he had filed, but did not provide a copy of an SEI. Tate's filing officer maintains he did not file.

In mitigation, Tate has no prior enforcement action for violations of this same type. Since 2009, Tate has filed three total SEIs, two of which were filed late but which were not referred to the Enforcement Division.

The Enforcement Division also takes into consideration previous cases that were approved by the Commission in determining penalties. In this matter, the following case was used as a guideline:

- *In the Matter of Jocelyn Woodard*, FPPC No. 12/527 (Default Decision), the Commission approved a penalty of \$4,000 at its September 19, 2013 meeting for Woodard's failure to file her 2011 annual statement of economic interests by her agency's due date. Woodard had no previous enforcement history with the Commission, ignored multiple written notifications about her failure to file, and had left her designated position.
- *In the Matter of Jonathan Leone*, FPPC No. 11/932 (Default Decision). At its August 22, 2013 meeting, the Commission approved a penalty of \$2,000 for each of Leone's failures to file two annual statements of economic interests in covering 2010 and 2011, for a combined penalty of \$4,000. Leone had previously received a warning letter for failing to file his 2008 annual SEI, and had ignored multiple written notifications about his failure to file.

Tate's failure to file his 2013 annual SEI is comparable to *Woodard* and *Leone*. Like *Woodard* and *Leone*, Tate ignored multiple letters regarding his duty to file his annual SEI and was aware of his obligation to disclose. Given Tate's continued failure to file his 2013 annual SEI and his lack of cooperation, it is respectfully requested that the Commission impose a penalty of \$3,000 for Count 1.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, it is respectfully requested that a penalty of \$3,000 be imposed against Tate.



**DECLARATION OF CUSTODIAN OF RECORDS
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
Enforcement Division**

CERTIFICATION OF RECORDS

The undersigned declares and certifies as follows:

1. I am employed as a Staff Services Analyst by the California Fair Political Practices Commission (Commission). My business address is: California Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814.
2. I am a duly authorized custodian of the records maintained by the Commission in the Enforcement Division. As such, I am authorized to certify copies of those records as being true and correct copies of the original business records which are in the custody of the Commission.
3. I have maintained documents in *FPPC Case No. 14/900, Harold Tate*, and have caused copies to be made of documents contained therein. I certify that the copies attached hereto are true and correct copies of the documents prepared in the normal course of business and which are contained in files maintained by the Commission. The attached documents are as follows:

- EXHIBIT A-1: Copy of Report in Support of a Finding of Probable Cause and accompanying documents, dated September 1, 2015.
- EXHIBIT A-2: Copy of Certified Mail Returned Receipt for the Report in Support of a Finding of Probable Cause, signed September 4, 2015.
- EXHIBIT A-3: Copy of cover letter to Respondent regarding the Report in Support of a Finding of Probable Cause, memorandum describing Probable Cause Proceedings, and applicable statutes and regulations, dated September 1, 2015.
- EXHIBIT A-4: Copy of Ex Parte Request for a Finding of Probable Cause, dated January 22, 2016.
- EXHIBIT A-5: Copy of the Finding of Probable Cause and Order to Prepare and Serve an Accusation, and its proof of service, dated February 2, 2016.

- EXHIBIT A-6: Copy of Statement to Respondent, Accusation, Notice of Defense (2 copies) and accompanying documents, dated February 22, 2016.
- EXHIBIT A-7: Copy of Declaration in Support of Default Decision and Order signed by David Bainbridge, dated June 27, 2016.
- EXHIBIT A-8: Copy of Proof of Substituted Service dated May 26, 2016 for: Statement to Respondent, Accusation, Notice of Defense (2 copies) and accompanying documents.
- EXHIBIT A-9: Copy of a Notice of Intent to Enter Default Decision and Order sent to Respondent, dated June 29, 2016.
- EXHIBIT A-10: Copy of Declaration of Teri Rindahl in Support of Default Decision and Order, dated June 28, 2016.
- EXHIBIT A-11: Copy of excerpted California Department of Corrections and Rehabilitation Conflict of Interest Code.
- EXHIBIT A-12: Copy of written notifications sent to Respondent by filing officer of the California Department of Corrections and Rehabilitation, dated January 29, 2014, April 4, 2014, and June 5, 2014.
- EXHIBIT A-13: Copy of Declaration of Tanya Smith in Support of Default Decision and Order, dated June 28, 2016.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 29th, 2016, at Sacramento, California.


Kathryn Trumbly
Staff Services Analyst, Enforcement Division
Fair Political Practices Commission

Exhibit A-1

DEFAULT DECISION AND ORDER FPPC NO. 14/0900

1 GALENA WEST
Chief of Enforcement
2 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
3 Sacramento, CA 95814
Telephone: (916) 322-5660
4 Facsimile: (916) 322-1932

5 Attorney for Complainant
Enforcement Division of the Fair Political Practices Commission
6

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

10 In the Matter of) FPPC No. 14/900
11)
12 **HAROLD TATE**) **REPORT IN SUPPORT OF A FINDING OF**
13) **PROBABLE CAUSE**
14) Conference Date: TBA
15) Conference Time: TBA
Respondent.) Conference Location: Commission Offices
428 J Street, Suite 620
Sacramento, CA 95814

16 **INTRODUCTION**

17 Respondent Harold Tate is a Physician and Surgeon for the California Department of Corrections
18 and Rehabilitation/California Correctional Health Care Services (“CDCR/CCHCS”), where he started
19 working in August 2004. The Political Reform Act (the “Act”)¹ requires designated employees to file an
20 Annual Statement of Economic Interests (“SEI”) disclosing all relevant economic interests. Tate failed
21 to file a 2013 Annual SEI.

22 **SUMMARY OF THE LAW**

23 All legal references and discussions of law pertain to the Act’s provisions as they existed in
24 2013.

25 _____
26 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
27 are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2
of the California Code of Regulations, and all regulatory references are to this source.

1 Jurisdiction

2 The Fair Political Practices Commission (the "Commission") has administrative jurisdiction to
3 enforce the provisions of the Act.²

4 Probable Cause Proceedings

5 Prior to the Enforcement Division commencing an administrative action, the General Counsel of
6 the Commission or her designee (the "hearing officer"), must make a finding that there is probable
7 cause to believe the respondent has violated the Act.³ After a finding of probable cause, the
8 Commission may hold a noticed hearing in accordance with the Administrative Procedure Act⁴ to
9 determine whether violations occurred, and levy an administrative penalty of up to \$5,000 for each
10 violation.⁵

11 Standard for Finding Probable Cause

12 To make a finding of probable cause, the hearing officer must be presented with sufficient
13 evidence to lead a person of ordinary caution and prudence to believe, or entertain a strong suspicion,
14 that a respondent committed or caused a violation.⁶

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

16 When enacting the Political Reform Act, the people of the state of California found and
17 declared that previous laws regulating political practices suffered from inadequate enforcement by state
18 and local authorities.⁷ To that end, the Act must be liberally construed to achieve its purposes.⁸

19 There are many purposes of the Act. One purpose is to increase transparency and decrease
20 conflicts of interest in the actions of public officials by requiring disclosure of their financial
21 interests.⁹ Another is to provide adequate enforcement mechanisms so that the Act will be "vigorously
22 enforced."¹⁰

23 ² Section 83116.

24 ³ Section 83115.5, and Reg. 18361 and 18361.4.

25 ⁴ Section 11500, et seq.

26 ⁵ Section 83116, and Reg. 18361.4, subd. (e).

27 ⁶ Reg. 18361.4, subd. (e).

28 ⁷ Section 81001, subd. (h).

⁸ Section 81003.

1 Conflict of Interest Codes

2 Section 87300 of the Act requires every state and local agency to develop a Conflict of Interest
3 Code. These codes must designate those officials who participate in making decisions which may
4 foreseeably have a material financial effect on any financial interest belonging to that official, and
5 require those designated officials to disclose all reportable interests on SEIs.¹¹

6 CDCR/CCHCS Conflict of Interest Code

7 CDCR/CCHCS's Conflict of Interest Code designates Physician and Surgeon as a position that is
8 required to file SEIs. The CDCR/CCHCS' Code requires designated officials to file Annual SEIs by
9 April 1st of the succeeding year.

10 Liability for Violations

11 Any person who violates any provision of the Act, who purposely or negligently causes any
12 other person to violate any provision of the Act, or who aids and abets any other person in the violation
13 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.¹²

14 **SUMMARY OF THE EVIDENCE**

15 Tate has worked for CDCR/CCHCS for almost eleven years. He has been required to file SEIs
16 since at least 2010. He failed to file an Annual SEI for 2013.

17 CDCR/CCHCS sent Tate three written notifications of his obligation to file an Annual SEI for
18 2013 before referring the case to the Enforcement Division. CDCR/CCHCS sent these notifications on
19 April 1, 2014, April 14, 2014, and June 5, 2014.

20 The Enforcement Division received a referral regarding Tate's non-filing of an Annual SEI for
21 2013 from the CDCR/CCHCS on July 11, 2014. The Enforcement Division contacted Tate on
22 September 4, 2014. On September 11, 2014, Mr. Tate called the Enforcement Division's office and left
23

24,
25 ⁹ Section 81002, subd. (c)
26 ¹⁰ Section 81002, subd. (f).
27 ¹¹ Section 87302, subd. (b).
28 ¹² Sections 83116, and 83116.5.

1 a message stating he filed an Annual SEI for 2013, but that he did not have a copy to verify its filing.
2 The Enforcement Division attempted to return his call on the same day but was unable to reach Tate.

3 The Enforcement Division sent Tate a second letter on January 5, 2015 and received no
4 response. On February 20, 2015, the Enforcement Division called Tate and left him a voicemail. He has
5 not responded to that voicemail.

6 As of June 22, 2015, Tate has not filed an Annual SEI for 2013 according to CDCR/CCHCS.

7 **VIOLATION**

8 Count 1: Failure to File Annual SEI

9 Tate failed to file an Annual SEI for the year of 2013 in violation of Sections 87300 and 87302.

10 **OTHER RELEVANT MATERIAL**

11 Tate has failed to file the outstanding statement despite numerous contacts over a year-long
12 period. Tate's filing officer states that Tate has a history of filing late and has been late two out of three
13 years.

14 **EXCULPATORY OR MITIGATING INFORMATION**

15 Tate contends he filed the 2013 Annual SEI but he does not have a copy and his filing clerk
16 does not have a record of him filing the SEI.

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CONCLUSION

Probable cause exists to believe that Harold Tate violated the Act by failing to file a 2013 Annual SEI. The Enforcement Division respectfully requests an order finding probable cause pursuant to Section 83115.5 and Regulation 18361.4.

Dated: Sept 15

Respectfully Submitted,

FAIR POLITICAL PRACTICES COMMISSION



Galena West
Chief, Enforcement Division

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814. On September 2, 2015, I served the following document(s):

1. Letter dated September 1, 2015 from Galena West;
2. FPPC No. 14-900 Report in Support of a Finding of Probable Cause;
3. Memorandum regarding Probable Cause Proceedings;
4. Selected Sections of the California Government Code regarding Probable Cause Proceedings for the Fair Political Practices Commission; and
5. Selected Regulations of the Fair Political Practices Commission regarding Probable Cause Proceedings

By United States Postal Service. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the addresses listed below and placed the envelope or package for collection and mailing by certified mail, return receipt requested, following my company's ordinary business practices. I am readily familiar with this business' practice for collection and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

SERVICE LIST

Harold Tate


I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 2, 2015.


Kathryn Trumbly

Exhibit A-2

DEFAULT DECISION AND ORDER FPPC NO. 14/0900

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Harold Tate



2. Article Number
(Transfer from service label)

7013 0600 0000 3678 5954

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X



Agent
 Addressee

B. Received by (Printed Name)

MO CHAWA

C. Date of Delivery

9/15

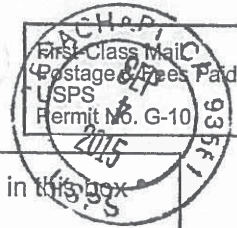
D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

UNITED STATES POSTAL SERVICE



• Sender: Please print your name, address, and ZIP+4 in this box

Fair Political Practices Commission
Enforcement Division
428 J Street, Suite 620
Sacramento, CA 95814

RECEIVED
FAIR POLITICAL
PRACTICES COM.



Exhibit A-3

DEFAULT DECISION AND ORDER FPPC NO. 14/0900



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

September 1, 2015

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Harold Tate



In the Matter of Harold Tate; FPPC No. 14/900

Dear Mr. Tate:

The Enforcement Division of the Fair Political Practices Commission (the "Commission") is proceeding with an administrative action against you for your failure to comply with the filing and disclosure provisions of the Political Reform Act (the "Act"), as described in our previous correspondence dated September 4, 2014 and January 5, 2015. The enclosed Report in Support of a Finding of Probable Cause (the "Report") contains a summary of the alleged violations and the relevant law and evidence.

You have the right to file a written response to the Report. That response may contain any information you think is relevant and that you wish to bring to the attention of the Commission's General Counsel (the "Hearing Officer"). In your response, please indicate whether you would like the Hearing Officer to make a determination of probable cause based on the written materials alone (the Report and your response) or request a conference, during which you may orally present your case to the Hearing Officer. Probable cause conferences are held in our office which is located at 428 J Street, Ste. 620, Sacramento, CA 95814. You may appear at the conference in person or by telephone and you are entitled to be represented by counsel. *If you wish to submit a written response or request a probable cause conference, it must be filed with the Commission Assistant, John Kim, at the address listed above within 21 days from the date of service of this letter.* You can reach Mr. Kim at (916) 327-8269.

Please note that probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether there is probable cause to believe that the Act was violated. However, settlement discussions are encouraged by the Commission and may take place at any time except during a probable cause conference. *If you are interested in reaching a settlement in this matter, please contact Dave Bainbridge at (916) 323-6302 or dbainbridge@fppc.ca.gov.*

Finally, you have the right to request discovery of the evidence in possession of, and relied upon by, the Enforcement Division. *This request must also be filed with Mr. Kim within 21 days from the date of service of this letter.* Should you request discovery, the Enforcement Division will provide the evidence by service of process or certified mail. From the date you are served with the evidence, you would have an additional 21 days to file a written response to the Report, just as described above.

Should you take no action within 21 days from the date of service of this letter, your rights to respond and to request a conference are automatically waived and the Enforcement Division will independently pursue the issuance of an accusation.

For your convenience, I have enclosed a fact sheet on probable cause proceedings and copies of the most relevant statutes and regulations.

Sincerely,

A solid black rectangular box redacting the signature of the Enforcement Chief.

✓ Galena West
Enforcement Chief

Enclosures

PROBABLE CAUSE FACT SHEET

INTRODUCTION

The Fair Political Practices Commission is required by law to determine whether probable cause exists to believe that the Political Reform Act (the "Act") was violated before a public administrative accusation may be issued.

The probable cause proceedings before the Fair Political Practices Commission are unique, and most respondents and their attorneys are unfamiliar with them. Therefore, we have prepared this summary to acquaint you with the process.

THE LAW

Government Code sections 83115.5 and 83116 set forth the basic requirement that a finding of probable cause be made in a "private" proceeding before a public accusation is issued and a public hearing conducted in accordance with the Administrative Procedure Act.

The Commission has promulgated regulations further defining the probable cause procedure and delegating to the General Counsel (the "Hearing Officer" for purposes of these proceedings) the authority to preside over such proceedings and decide probable cause. A copy of these statutes and regulations are attached for your convenience.

In summary, the statutes and regulations entitle you to the following:

- a) A written probable cause report containing a summary of the law alleged to have been violated, and a summary of the evidence, including any exculpatory and mitigating information and any other relevant material and arguments;
- b) The opportunity to request discovery, respond in writing, and to request a probable cause conference within 21 days of service of the probable cause report;
- c) If the Commission met to consider whether a civil lawsuit should be filed in this matter, a copy of any staff memoranda submitted to the Commission and a transcript of staff discussions with the Commission at any such meeting; and
- d) If a timely request was made, a non-public conference with the General Counsel and the Enforcement Division staff to consider whether or not probable cause exists to believe the Act was violated.

THE PROCEDURE

Probable Cause Report

Administrative enforcement proceedings are commenced with the service, by registered or certified mail or in person, of a probable cause report. The report will contain a summary of the law and the evidence, including any exculpatory and mitigating information of which the staff has knowledge and any other relevant material and arguments. It is filed with the Hearing Officer.

Discovery

Within 21 calendar days following the service of the probable cause report, you may request discovery of the evidence in the possession of the Enforcement Division. This is not a right to full discovery of the Enforcement Division file, but to the evidence relied upon by the Division along with any exculpatory or mitigating evidence¹.

This request must be sent by registered or certified mail to the Commission Assistant.

Response to Probable Cause Report

Within 21 calendar days following the service of the probable cause report (or, if you timely requested discovery, within 21 calendar days from the service of the evidence) you may submit a response to the Report. By regulation, the written response may contain, "... a summary of evidence, legal arguments, and any mitigating or exculpatory information." (Cal. Code Regs., tit. 2, § 18361.4, subd. (c).)

You must file your response with the Commission Assistant and provide a copy, by service of process or registered or certified mail with return receipt requested, to all other proposed respondents listed in the probable cause report.

Staff Reply

Within 10 calendar days following the date the response was filed with the Commission Assistant, Commission staff may submit any evidence or argument in rebuttal. You will be served with a copy of any such reply.

Probable Cause Conference

Probable cause conferences are held at the offices of the Fair Political Practices Commission, which is located at 428 J Street, Ste. 620, Sacramento, CA 95814. You may appear at the conference in person or by telephone. The proceedings are not public unless all proposed respondents agree to open the conference to the public. Otherwise, the probable cause report, any written responses, and the probable cause conference itself are confidential.

Unless the probable cause conference is public, the only persons who may attend are the staff of the Commission, any proposed respondent and his or her attorney or representative, and, at the discretion of the Hearing Officer, witnesses.

The Hearing Officer may, but need not, permit testimony from witnesses. Probable cause conferences are less formal than court proceedings. The rules of evidence do not apply. The conferences will be recorded and a copy of the recording will be provided upon request.

Since it has the burden of proof, the Enforcement Division is permitted to open and close the conference presentations. The Hearing Officer may also hold the record open to receive additional evidence or arguments.

Probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether or not there is probable cause to believe that the

¹ But see Title 2, California Code of Regulations, Section 18362, which states that the Commission provides access to complaints, responses to complaints, and investigative files and information in accordance with the requirements of the Public Records Act. (Govt. Code § 6250, et seq.)

Political Reform Act was violated. Anyone who wishes to discuss settlement with the Enforcement Division may do so before or after the probable cause conference but not during the conference.

Pursuant to Title 2, California Code of Regulations, Section 18361.4, subdivision (e), the Hearing Officer will find probable cause "if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation."

Ordinarily, probable cause determinations are made based upon the written probable cause report, any written response by the respondent, any written reply by the Enforcement Division, and the oral arguments presented at the conference. Timely written presentations are strongly recommended.

Probable Cause Order and Accusation

Once the matter is submitted to the Hearing Officer, the probable cause decision will normally be made within ten days. If the Hearing Officer finds probable cause, he will issue a Finding of Probable Cause, which will be publicly announced at the next Commission Meeting. An accusation will be issued soon after the Finding of Probable Cause is publicly announced.

Continuances

Every reasonable effort is made to accommodate the schedules of parties and counsel. However, once a date has been set it is assumed to be firm and will not be continued except upon the order of the Hearing Officer after a showing of good cause. Settlement negotiations will be considered good cause only if the Hearing Officer is presented with a fully executed settlement, or is convinced that settlement is imminent.

Settlements

Settlement discussions may take place at any time except during the probable cause conference. In order to open settlement discussions, a proposed respondent or his or her counsel or representative should present a written offer to settle stating, where appropriate, the violations to be admitted, and the monetary penalty or other remedy to be tendered.

The Enforcement Division attorney assigned to the case will negotiate any potential settlement on behalf of the Fair Political Practices Commission, and will draft the language of the settlement agreement. The Hearing Officer will not directly participate in the negotiations, but will be represented by Enforcement Division attorneys. Staff attorneys will present settlement offers to the Hearing Officer for his/her approval.

CONCLUSION

This fact sheet was intended to give you a brief summary of the probable cause process at the Fair Political Practices Commission. Such a summary cannot answer every question that might arise in such proceedings. Therefore, if you have any questions that are not addressed by this fact sheet or the copies of the law and regulations we have attached, feel free to contact the attorney whose name appears on the probable cause report.

Attachments: Relevant Sections of (1) California Government Code , and (2) Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations.

CALIFORNIA GOVERNMENT CODE

Probable Cause Statutes

§ 83115.5. Probable cause; violation of title; notice of violation; summary of evidence; notice of rights; private proceedings

No finding of probable cause to believe this title has been violated shall be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of his right to be present in person and represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the commission a written request that the proceeding be public.

§ 83116. Violation of title; probable cause; hearing; order

When the Commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The Commission shall have all the powers granted by that chapter. When the Commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

- (a) Cease and desist violation of this title.
- (b) File any reports, statements, or other documents or information required by this title.
- (c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

**REGULATIONS OF THE FAIR POLITICAL PRACTICES COMMISSION
TITLE 2, DIVISION 6 OF THE CALIFORNIA CODE OF REGULATIONS**

Probable Cause Regulations

§ 18361 (b). Delegation by the Executive Director Pertaining to Enforcement Proceedings and Authority to Hear Probable Cause Proceedings.

Probable cause proceedings under Regulation 18361.4 shall be heard by the General Counsel or an attorney from the Legal Division. The General Counsel may delegate the authority to hear probable cause proceedings, in writing, to an administrative law judge.

§ 18361.4. Probable Cause Proceedings

(a) Probable Cause Report. If the Chief of the Enforcement Division decides to commence probable cause proceedings pursuant to Sections 83115.5 and 83116, he or she shall direct the Enforcement Division staff to prepare a written report, hereafter referred to as "the probable cause report." The probable cause report shall contain a summary of the law and evidence gathered in connection with the investigation, including any exculpatory and mitigating information of which the staff has knowledge and any other relevant material and arguments. The evidence recited in the probable cause report may include hearsay, including declarations of investigators or others relating the statements of witnesses or concerning the examination of physical evidence.

(b) No probable cause hearing will take place until at least 21 calendar days after the Enforcement Division staff provides the following, by service of process or registered or certified mail with return receipt requested, to all proposed respondents:

- (1) A copy of the probable cause report;
- (2) Notification that the proposed respondents have the right to respond in writing to the probable cause report and to request a probable cause conference at which the proposed respondent may be present in person and represented by counsel, and;
- (3) If the Commission met in executive session on this matter pursuant to Regulation 18361.2, a copy of any staff memoranda submitted to the Commission at that time along with the recording of any discussion between the Commission and the staff at the executive session as required in subdivision (b) of Regulation 18361.2.

(c) Response to Probable Cause Report.

- (1) Each proposed respondent may submit a written response to the probable cause report. The response may contain a summary of evidence, legal arguments, and any mitigating or exculpatory information. A proposed respondent who submits a response must file it with the Commission Assistant who will forward the response to the General Counsel or an attorney in the Legal Division (the "hearing officer") and provide a copy, by service of process or registered or certified mail with return receipt requested, to all other proposed respondents listed in the probable cause report not later than 21 days following service of the probable cause report.
- (2) Within 21 calendar days following the service of the probable cause report, a proposed

respondent may request discovery of evidence in the possession of the Enforcement Division. This request must be sent by registered or certified mail to the Commission Assistant. Upon receipt of the request, the Enforcement Division shall provide discovery of evidence relied upon by the Enforcement Division sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation, along with any exculpatory or mitigating evidence. This is not a right to full discovery of the Enforcement Division file. The Enforcement Division shall provide access to documents for copying by the Respondent, or upon agreement among the parties, the Enforcement Division will provide copies of the requested documents upon payment of a fee for direct costs of duplication. The Enforcement Division shall provide such evidence by service of process or registered or certified mail with return receipt requested to all respondents, with a copy to the Commission Assistant. A respondent may submit a written response to the probable cause report described in subsection (1) no later than 21 calendar days after service of discovery.

- (3) The Commission staff may submit any evidence or argument in rebuttal to the response. When the Commission staff submits evidence or argument in rebuttal to the response, it shall provide a copy, by service of process or registered or certified mail with return receipt requested, to all proposed respondents listed in the probable cause report not later than 10 calendar days following the date the response was filed with the Commission Assistant. The hearing officer may extend the time limitations in this section for good cause. At any time prior to a determination of probable cause, the hearing officer may allow additional material to be submitted as part of the initial response or rebuttal.

(d) Probable Cause Conference. Any proposed respondent may request a probable cause conference. The request shall be served upon the Commission Assistant and all other proposed respondents not later than 21 days after service of the probable cause report unless the hearing officer extends the time for good cause. The Commission Assistant shall fix a time for the probable cause conference and the hearing officer shall conduct the conference informally. The conference shall be closed to the public unless a proposed respondent requests and all other proposed respondents agree to a public conference. If the conference is not public, only members of the Commission staff, any proposed respondent and his or her legal counsel or representative shall have the right to be present and participate. The hearing officer may allow witnesses to attend and participate in part or all of the probable cause conference. In making this determination, the hearing officer shall consider the relevancy of the witness' proposed testimony, whether the witness has a substantial interest in the proceedings, and whether fairness requires that the witness be allowed to participate. Representatives of any civil or criminal prosecutor with jurisdiction may attend the conference at the discretion of the hearing officer if they agree to respect the confidential nature of the proceedings. If the conference is not open to the public and none of the parties and the presiding officer object, the conference may be conducted in whole or in part by telephone. The probable cause conference shall be recorded. The hearing officer may determine whether there is probable cause based solely on the probable cause report, any responses or rebuttals filed and any arguments presented at the probable cause conference by the interested parties. If the hearing officer requires additional information before determining whether there is probable cause, he or she may permit any party to submit additional evidence at the probable cause conference.

(e) Finding of Probable Cause. The hearing officer may find there is probable cause to believe a violation has occurred if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation. A finding of probable cause by the hearing officer does not constitute a finding that a violation has actually occurred. The hearing officer shall not make a finding of probable cause if he or she is presented with clear and convincing evidence that, at a time prior to the alleged violation, the violator consulted with the staff of the Commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice of the staff or because of the staff's failure to provide advice. If the hearing officer makes a finding of probable cause, the Enforcement Division shall prepare an Accusation pursuant to Section 11503 and have it served upon the person or persons who are subjects of the probable cause finding. The hearing officer shall publicly announce the finding of probable cause. The announcement shall contain a summary of the allegations and a cautionary statement that the respondent is presumed to be innocent of any violation of the Act unless a violation is proved in a subsequent proceeding. The Chief of the Enforcement Division shall be responsible for the presentation of the case in support of the Accusation at an administrative hearing held pursuant to Section 83116.

§ 18362. Access to Complaint Files

- (a) Access to complaints, responses thereto, and investigative files and information shall be granted in accordance with the requirements of the Public Records Act (Government Code Section 6250, et seq.).
- (b) When release of material is requested pursuant to subdivision (a), the Executive Director, or his or her designee, shall review the material prior to its release or prior to a claim of exemption to determine that the requirements of the Public Records Act have been satisfied.
- (c) Any person requesting copies of material pursuant to subdivision (a) shall reimburse the Commission \$0.10 per page for each page copied or supply copying equipment and make copies in the offices of the Commission. Documents may not be removed from the offices of the Commission. If the request is for copies totaling ten pages or less, the copies shall be provided without charge for copying since the administrative costs do not warrant collection of \$1.00 or less. If the request is for copies totaling more than ten pages, reimbursements of copying costs shall include the cost for the first ten pages. Charges imposed pursuant to this subdivision are for the purpose of recovering the cost of copying.
- (d) Requests for access and copies pursuant to subdivision (a) shall be made in writing and shall specifically identify the documents sought.

§ 18361.2. Memorandum Respecting Civil Litigation.

- (a) If the Executive Director concludes civil litigation should be initiated, he or she shall submit to the Commission a written memorandum, which shall be first reviewed by the General Counsel, or an attorney from the Legal Division, summarizing the facts and the applicable law of the case and recommending the initiation of a lawsuit. The memorandum shall include all exculpatory and mitigating information known to the staff.

- (b) The Commission shall review the memorandum at an executive session. The General Counsel, or an attorney from the Legal Division, and the Commission Assistant shall be in attendance. No other member of the staff may be present unless the Commission meets with a member of the staff for that person to answer questions. The Commission may not resume its deliberations until the person is no longer present. Any communication between the Commission and the person during the executive session shall be recorded. After review of the memorandum, the Commission may direct the Executive Director to do any of the following:
- (1) Initiate civil litigation.
 - (2) Decide whether probable cause proceedings should be commenced pursuant to 2 Cal. Code of Regulations Section 18361.4.
 - (3) Return the matter to the staff for further investigation.
 - (4) Take no further action on the matter or take any other action it deems appropriate.
- (c) If the Commission decides to initiate civil litigation, the Commission may then permit other members of the staff to attend the executive session.
- (d) If the Executive Director deems it necessary, he or she may call a special meeting of the Commission to review a staff memorandum recommending the initiation of civil litigation.
- (e) It is the intent of the Commission in adopting this section to preserve for the members of the Commission the authority to decide whether alleged violations should be adjudicated in administrative hearings or in civil litigation, while at the same time avoiding the possibility that discussions with members of the staff might cause members of the Commission to prejudge a case that might be heard by the Commission under Government Code Section 83116.

Exhibit A-4

DEFAULT DECISION AND ORDER FPPC NO. 14/0900



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

January 22, 2016

Mr. Harold Tate



Re: FPPC File No. 14/900, Harold Tate

Dear Mr. Tate:

Enclosed please find the following document: Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served.

Please either refer to the materials previously sent to you regarding probable cause proceedings, or contact me directly at (916) 322-3956, if you have any questions or concerns regarding this matter.

Sincerely,



Sean Creadick
Law Clerk
Enforcement Division

Enclosures

GALENA WEST
Chief of Enforcement
DAVE BAINBRIDGE
Assistant Chief of Enforcement
FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 620
Sacramento, CA 95814
Telephone: (916) 322-5660
Facsimile: (916) 322-1932

Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of

HAROLD TATE,

Respondent.

) FPPC No. 14/900

)
) EX PARTE REQUEST FOR A FINDING OF
) PROBABLE CAUSE AND AN ORDER THAT
) AN ACCUSATION BE PREPARED AND
) SERVED

) Gov. Code § 83115.5

TO HEATHER M. ROWAN, HEARING OFFICER OF THE FAIR POLITICAL
PRACTICES COMMISSION:

Pursuant to Section 83115.5 of the Political Reform Act (the "Act")¹ and Regulation 18361.4, Respondent Harold Tate was served with a copy of a report in support of a finding of probable cause ("Report") in the above-entitled matter.² The Report, attached as "Exhibit A," was part of a packet of materials, including a cover letter and a memorandum describing probable cause proceedings, which was sent to Tate on September 2, 2015, by certified mail, with a return receipt requested, and received by Tate on September 4, 2015. A copy of the signed return receipt is attached as "Exhibit B".

In the cover letter dated September 1, 2015, and the attached materials, Tate was advised that he could respond in writing to the Report and orally present the case to the Hearing Officer at a probable

¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Gov. Code § 83115.5; Cal. Code Reg., tit. 2, § 18361.4.

1 cause conference to be held in Sacramento. Tate was further advised that in order to have a probable
2 cause conference he needed to make a written request for one on or before 21 days of the date he
3 received the Report. Additionally, Tate was advised that if he did not request a probable cause
4 conference, such a conference would not be held and probable cause would be determined based solely
5 on the Report and any written response that he submitted within 21 days of the date he was served with
6 the Report. To date, Tate has not submitted a written response or requested a probable cause conference.

7 WHEREFORE, based on the attached Report, the Enforcement Division requests a finding by
8 the Hearing Officer that probable cause exists to believe that Tate committed a violation of the Act,
9 stated as follows:

10 Count 1: Harold Tate, a Physician and Surgeon for the California Department of Corrections and
11 Rehabilitation/California Correctional Health Care Services since 2004, failed to file an
12 annual statement of economic interests for 2013 with the California Correctional Health
Care Services by April 1, 2014, in violation of Government Code section 87300.

13 Additionally, after finding probable cause exists, the Enforcement Division requests an order by
14 the Hearing Officer that an accusation be prepared against Manning and served upon him.³

15 A copy of this Request was mailed via U.S. Mail to Tate on January 22, 2016, at the last known
16 address, as follows:

17 Harold Tate
18 785 Tucker Road, G, PMB 583
19 Tehachapi, CA 93561

20 Dated: Jan. 22/2016

21 Respectfully Submitted,
22 **FAIR POLITICAL PRACTICES COMMISSION**
23 Galena West
24 Chief of Enforcement



25 By: Dave Bainbridge
26 Assistant Chief
27 Enforcement Division

28 ³ Gov. Code § 11503.

EXHIBIT A

1 GALENA WEST
Chief of Enforcement
2 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
3 Sacramento, CA 95814
Telephone: (916) 322-5660
4 Facsimile: (916) 322-1932

5 Attorney for Complainant
Enforcement Division of the Fair Political Practices Commission
6

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

10 In the Matter of

11
12 **HAROLD TATE**

13
14 Respondent.

) FPPC No. 14/900
)
) **REPORT IN SUPPORT OF A FINDING OF**
) **PROBABLE CAUSE**
)
) Conference Date: TBA
) Conference Time: TBA
) Conference Location: Commission Offices
) 428 J Street, Suite 620
) Sacramento, CA 95814

15
16 **INTRODUCTION**

17 Respondent Harold Tate is a Physician and Surgeon for the California Department of Corrections
18 and Rehabilitation/California Correctional Health Care Services ("CDCR/CCHCS"), where he started
19 working in August 2004. The Political Reform Act (the "Act")¹ requires designated employees to file an
20 Annual Statement of Economic Interests ("SEI") disclosing all relevant economic interests. Tate failed
21 to file a 2013 Annual SEI.

22 **SUMMARY OF THE LAW**

23 All legal references and discussions of law pertain to the Act's provisions as they existed in
24 2013.

25
26 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
27 are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2
of the California Code of Regulations, and all regulatory references are to this source.

1 Jurisdiction

2 The Fair Political Practices Commission (the "Commission") has administrative jurisdiction to
3 enforce the provisions of the Act.²

4 Probable Cause Proceedings

5 Prior to the Enforcement Division commencing an administrative action, the General Counsel of
6 the Commission or her designee (the "hearing officer"), must make a finding that there is probable
7 cause to believe the respondent has violated the Act.³ After a finding of probable cause, the
8 Commission may hold a noticed hearing in accordance with the Administrative Procedure Act⁴ to
9 determine whether violations occurred, and levy an administrative penalty of up to \$5,000 for each
10 violation.⁵

11 Standard for Finding Probable Cause

12 To make a finding of probable cause, the hearing officer must be presented with sufficient
13 evidence to lead a person of ordinary caution and prudence to believe, or entertain a strong suspicion,
14 that a respondent committed or caused a violation.⁶

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

16 When enacting the Political Reform Act, the people of the state of California found and
17 declared that previous laws regulating political practices suffered from inadequate enforcement by state
18 and local authorities.⁷ To that end, the Act must be liberally construed to achieve its purposes.⁸

19 There are many purposes of the Act. One purpose is to increase transparency and decrease
20 conflicts of interest in the actions of public officials by requiring disclosure of their financial
21 interests.⁹ Another is to provide adequate enforcement mechanisms so that the Act will be "vigorously
22 enforced."¹⁰

23 _____
24 ² Section 83116.

25 ³ Section 83115.5, and Reg. 18361 and 18361.4.

26 ⁴ Section 11500, et seq.

27 ⁵ Section 83116, and Reg. 18361.4, subd. (e).

28 ⁶ Reg. 18361.4, subd. (e).

⁷ Section 81001, subd. (h).

⁸ Section 81003.

1 Conflict of Interest Codes

2 Section 87300 of the Act requires every state and local agency to develop a Conflict of Interest
3 Code. These codes must designate those officials who participate in making decisions which may
4 foreseeably have a material financial effect on any financial interest belonging to that official, and
5 require those designated officials to disclose all reportable interests on SEIs.¹¹

6 CDCR/CCHCS Conflict of Interest Code

7 CDCR/CCHCS's Conflict of Interest Code designates Physician and Surgeon as a position that is
8 required to file SEIs. The CDCR/CCHCS' Code requires designated officials to file Annual SEIs by
9 April 1st of the succeeding year.

10 Liability for Violations

11 Any person who violates any provision of the Act, who purposely or negligently causes any
12 other person to violate any provision of the Act, or who aids and abets any other person in the violation
13 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.¹²

14 **SUMMARY OF THE EVIDENCE**

15 Tate has worked for CDCR/CCHCS for almost eleven years. He has been required to file SEIs
16 since at least 2010. He failed to file an Annual SEI for 2013.

17 CDCR/CCHCS sent Tate three written notifications of his obligation to file an Annual SEI for
18 2013 before referring the case to the Enforcement Division. CDCR/CCHCS sent these notifications on
19 April 1, 2014, April 14, 2014, and June 5, 2014.

20 The Enforcement Division received a referral regarding Tate's non-filing of an Annual SEI for
21 2013 from the CDCR/CCHCS on July 11, 2014. The Enforcement Division contacted Tate on
22 September 4, 2014. On September 11, 2014, Mr. Tate called the Enforcement Division's office and left
23

24
25 ⁹ Section 81002, subd. (c)

26 ¹⁰ Section 81002, subd. (f).

27 ¹¹ Section 87302, subd. (b).

28 ¹² Sections 83116, and 83116.5.

1 a message stating he filed an Annual SEI for 2013, but that he did not have a copy to verify its filing.
2 The Enforcement Division attempted to return his call on the same day but was unable to reach Tate.

3 The Enforcement Division sent Tate a second letter on January 5, 2015 and received no
4 response. On February 20, 2015, the Enforcement Division called Tate and left him a voicemail. He has
5 not responded to that voicemail.

6 As of June 22, 2015, Tate has not filed an Annual SEI for 2013 according to CDCR/CCHCS.

7 **VIOLATION**

8 Count 1: Failure to File Annual SEI

9 Tate failed to file an Annual SEI for the year of 2013 in violation of Sections 87300 and 87302.

10 **OTHER RELEVANT MATERIAL**

11 Tate has failed to file the outstanding statement despite numerous contacts over a year-long
12 period. Tate's filing officer states that Tate has a history of filing late and has been late two out of three
13 years.

14 **EXCULPATORY OR MITIGATING INFORMATION**

15 Tate contends he filed the 2013 Annual SEI but he does not have a copy and his filing clerk
16 does not have a record of him filing the SEI.

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CONCLUSION

Probable cause exists to believe that Harold Tate violated the Act by failing to file a 2013 Annual SEI. The Enforcement Division respectfully requests an order finding probable cause pursuant to Section 83115.5 and Regulation 18361.4.

Dated: Sept 15

Respectfully Submitted,

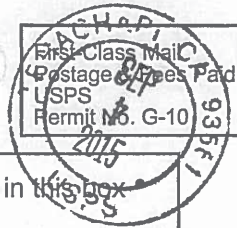
FAIR POLITICAL PRACTICES COMMISSION



Galena West
Chief, Enforcement Division

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> [Redacted] <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) MO CRAWA</p> <p>C. Date of Delivery 9/15</p>
<p>1. Article Addressed to:</p> <p style="text-align: center;">Harold Tate</p> <p>[Redacted Address]</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label) 7013 0600 0000 3678 5954</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

UNITED STATES POSTAL SERVICE



• Sender: Please print your name, address, and ZIP+4 in this box

Fair Political Practices Commission
Enforcement Division
 428 J Street, Suite 620
 Sacramento, CA 95814

RECEIVED
 FAIR POLITICAL PRACTICES COMM.
 SEP 15 8 PM '05



EXHIBIT B

Exhibit A-5

FPPC No. 14/900, In the matter of Harold Tate

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814. On the date below, I served the following document:

FINDING OF PROBABLE CAUSE AND ORDER TO PREPARE AND SERVE AN ACCUSATION

MANNER OF SERVICE

(U.S. Mail) By causing a true copy thereof to be served on the parties in this action through the U.S. Mail and addressed as listed below. I am familiar with the procedure of the Fair Political Practices Commission for collection and processing of correspondence for mailing with the United States Postal Service, and the fact that the correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

SERVICE LIST

Mr. Harold Tate



(By Personal Service) On Wednesday, February 3, 2016, at approximately 1:15 p.m., I personally served:

Galena West, Chief of Enforcement, at 428 J Street, Suite 700, Sacramento, CA 95814.
Dave Bainbridge, Assistant Chief of Enforcement, at 428 J Street, Suite 700, Sacramento, CA 95814.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this document is executed at Sacramento, California, on February 3, 2016.



Sheva Tabatabaiejad

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

In the Matter of

HAROLD TATE,

Respondent.

) FPPC No. 14/900

)

)

) FINDING OF PROBABLE CAUSE AND
) ORDER TO PREPARE AND SERVE AN
) ACCUSATION

)

) Gov. Code § 83115.5

)

)

By means of an Ex Parte Request for an Order Finding Probable Cause and an Order that an Accusation be Prepared and Served, dated January 22, 2016, the Enforcement Division submitted the above-entitled matter to the Hearing Officer for a determination of Probable Cause. As set forth in the Ex Parte Request For a Finding of Probable Cause and an Order that an Accusation be Prepared and Served (Ex Parte Request), the Enforcement Division served a Report in Support of a Finding of Probable Cause (PC Report) on Respondent Harold Tate concerning this matter on September 4, 2015, by certified mail, return receipt requested. Accompanying the PC Report was a packet of materials that informed Tate of his right to file a written response to the PC Report and to request a probable cause conference within 21 days following service of the PC Report. During the 21 days that followed service of the PC Report, Tate did not file a response to the PC Report or request a probable cause conference. Pursuant to California Code of Regulations title 2, section 18361.4, determination of probable cause may be made solely on papers submitted when the respondent does not request a probable cause conference.¹

In making a probable cause determination, it is the duty of the Hearing Officer of the Fair Political Practices Commission to determine whether probable cause exists to believe that a respondent violated the Political Reform Act as alleged by the Enforcement Division in the PC Report served on the respondent.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations.

1 Probable cause to believe a violation has occurred can be found to exist when "the evidence is
2 sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion
3 that the proposed respondent(s) committed or caused a violation."²

4 The PC Report served on Tate and the subsequent Ex Parte Request in this matter alleges a
5 violation of the Political Reform Act was committed, as follows:


6 Count 1: Harold Tate, a Physician and Surgeon for the California Department of Corrections and
7 Rehabilitation/California Correctional Health Care Services since 2004, failed to file an
8 annual statement of economic interests for 2013 with the California Correctional Health
Care Services by April 1, 2014, in violation of Government Code section 87300.

9 Based on the Ex Parte Request given to me, I find that notice has been given to Tate.³ I further
10 find, based on the PC Report and the Ex Parte Request, that there is probable cause to believe Tate
11 violated the Political Reform Act as alleged in Count 1, as identified above.

12 I therefore direct that the Enforcement Division issue an accusation against Tate in accordance
13 with this finding.

14 IT IS SO ORDERED.

15
16 Dated: 2/2/16

17 
18 Heather M. Rowan
19 Hearing Officer
20 Fair Political Practices Commission
21
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27 ² Cal. Code Reg., tit. 2, § 18361.4, subd. (e).

28 ³ Government Code § 83115.5; Cal. Code Reg., tit. 2, § 18361.4, subd. (b).

Exhibit A-6

DEFAULT DECISION AND ORDER FPPC NO. 14/0900

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814. On May 24, 2016, I served the following document(s):

1. Statement to Respondent;
2. FPPC Case No. 14/900: Accusation;
3. Notice of Defense (Two Copies);
4. Selected Sections of the California Government Code, Administrative Procedure Act.

By Personal Delivery. I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By personal service. At 3:00 a.m. (p.m.):

I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By providing the document(s) listed above with instructions for registered process server to personally deliver the envelope(s) to the person(s) at the address(es) set forth on the service list below. **The signed proof of service by the registered process server will be attached as soon as it is available.**

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

SERVICE LIST

Personal Service

Harold Tate
California Correctional Center - Tehachapi
Medical Services - CCHCS
24900 Highway 202
Tehachapi, CA 93561

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 24, 2016.


Roone Petersen



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

STATEMENT TO RESPONDENT

[Government Code Section 11505, subdivision (b)]

Harold Tate

FPPC Case No. 14/900

Enclosed is an Accusation, which was filed with the Fair Political Practices Commission (the "FPPC") and which is hereby served upon you, along with two copies of a Notice of Defense and Government Code Sections 11506 through 11508.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the FPPC within 15 days after the Accusation was served on you, the FPPC may proceed upon the Accusation without a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled Notice of Defense, or by delivering or mailing a notice of defense as provided by Section 11506 of the Government Code to the Commission Assistant at the FPPC.

You may, but need not, be represented by counsel at any or all stages of these proceedings.

If you desire a list of the names and addresses of witnesses against you, or an opportunity to inspect and copy the items mentioned in Section 11507.6 of the Government Code that are in the possession, custody, or control of this agency, or if you wish to discuss the possibility of resolving this matter without a formal hearing, you may contact Angela J. Brereton, Senior Commission Counsel, FPPC Enforcement Division.

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the FPPC or, if an administrative law judge has been assigned to the hearing, the Office of Administrative Hearings, within 10 working days after you discover the good cause. Failure to give notice within 10 days will deprive you of a postponement.

After a hearing, the FPPC will consider the following factors in determining whether to assess a penalty (Title 2, California Code of Regulations, Section 18361.5, subdivision (d).):

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 Commission staff or any other government agency in a manner not constituting a complete defense under Government Code Section 83114, subdivision (b);
5. Whether the violation was isolated or part of a pattern;
6. Whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
7. Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

1 GALENA WEST
Chief of Enforcement
2 DAVE BAINBRIDGE
Assistant Chief of Enforcement
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
9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
10 STATE OF CALIFORNIA

11 In the Matter of) FPPC No. 14/900
12)
13 HAROLD TATE,) **ACCUSATION**
14)
15 Respondent.) (Gov. Code §11503)
16)
17)

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, after a
19 finding of probable cause pursuant to Government Code section 83115.5, alleges the following:

20 **JURISDICTION**

- 21 1. Complainant is the Enforcement Division of the Fair Political Practices Commission and
22 makes this Accusation in its official capacity and in the public interest.
- 23 2. The authority to bring this action is derived from Title 2, California Code of Regulations,
24 Sections 18361 and 18361.4, subdivision (e), and the statutory law of the State of California, specifically
25 including, but not limited to, Government Code Sections 83111, 83116, and 91000.5, which assign to
26 the Enforcement Division the duty to administer, implement, and enforce the provisions of the Political
27 Reform Act, found at Government Code Sections 81000 through 91014.

1 9. The requirements of an agency's conflict of interest code have the force of law, and any
2 violation of those requirements is deemed a violation of the Act.⁷

3 10. CDCR/CCHCS's Conflict of Interest Code designates Physician and Surgeon as a
4 position that is required to file Statements of Economic Interest ("SEI"). The CDCR/CCHCS Code
5 requires designated officials to file Annual SEIs by April 1 of the succeeding year.

6 **B. Probable Cause Proceedings**

7 11. "Service of the probable cause hearing notice, as required by Section 83115.5, upon the
8 person alleged to have violated this title shall constitute the commencement of the administrative
9 action."⁸

10 12. A finding of probable cause is prohibited unless the person alleged to have violated the
11 Act is 1) notified of the violation by service of process or registered mail with return receipt requested;
12 2) provided with a summary of the evidence; and 3) informed of his right to be present in person and
13 represented by counsel at any proceeding of the Fair Political Practices Commission held for the purpose
14 of considering whether probable cause exists for believing the person violated the Act.⁹ The required
15 notice to the alleged violator shall be deemed made on the date of service, the date the registered mail
16 receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office.¹⁰

17 13. Administrative action alleging a violation of the Act must be commenced within five
18 years after the date on which the violation occurred.¹¹

19 **C. Factors to be Considered by the Fair Political Practices Commission**

20 14. In framing a proposed order following a finding of a violation pursuant to Section 83116,
21 the Fair Political Practices Commission and the administrative law judge shall consider all the
22 surrounding circumstances including but not limited to: (1) The seriousness of the violation; (2) The
23 presence or absence of any intention to conceal, deceive or mislead; (3) Whether the violation was
24 deliberate, negligent or inadvertent; (4) Whether the violator demonstrated good faith by consulting the
25 Commission staff or any other government agency in a manner not constituting a complete defense

26 ⁷ Section 87300.

27 ⁸ Section 91000.5, subd. (a).

28 ⁹ Section 83115.5.

¹⁰ Section 83115.5.

¹¹ Section 91000.5.

1 under Section 83114(b); (5) Whether the violation was isolated or part of a pattern and whether the
2 violator has a prior record of violations of the Act or similar laws; and (6) Whether the violator, upon
3 learning of a reporting violation, voluntarily filed amendments to provide full disclosure.¹²

4 GENERAL FACTS

5 15. As a designated employee of the CDCR/CCHCS, Tate was required to file an Annual SEI
6 for the 2013 calendar year with the CCHCS Filing Clerk by April 1, 2014. Tate failed to file an Annual
7 SEI for the 2013 calendar year with the CCHCS Filing Clerk by April 1, 2014.

8 16. As of February 8, 2016, Tate has not filed an Annual SEI for the 2013 calendar year with
9 the CCHCS Filing Clerk.

10 PROCEDURAL HISTORY

11 17. Before referring the case to the Enforcement Division, the CCHCS Filing Clerk notified
12 Tate three times about his duty to file a 2013 Annual SEI. These notifications were sent on April 1,
13 2014, April 14, 2014, and June 5, 2014. After Tate did not respond, the CCHCS Filing Clerk referred
14 the matter to the Enforcement Division.

15 18. The Enforcement Division attempted to contact Tate by letters on September 4, 2014
16 and January 5, 2015, and by telephone three times between September 11, 2014 and February 20,
17 2015.

18 19. As of January 28, 2016, Tate has not filed a 2013 Annual SEI.

19 20. The Enforcement Division initiated the administrative action against Tate in this matter
20 by serving him with a packet containing a cover letter, a Report in Support of a Finding of Probable
21 Cause ("PC Report"), a fact sheet regarding probable cause proceedings, selected sections of the
22 Government Code regarding probable cause proceedings for the Commission, and selected regulations
23 of the Commission regarding probable cause proceedings.

24 21. Tate was served via certified mail on September 4, 2015 with the Enforcement Division's
25 Report in Support of a Finding of Probable Cause (the "Report"). The information contained in the
26 packet advised Tate that he had 21 days in which to request a probable cause conference and/or to file a
27

28 ¹² Reg. 18361.5, subd. (d).

1 written response to the PC Report. As of the date of this Accusation, Tate has not responded to the
2 Report.

3 22. By means of an Ex Parte Request for an Order Finding Probable Cause and an Order that
4 an Accusation be Prepared and Served, dated January 22, 2016, the Enforcement Division submitted the
5 matter to the Hearing Officer for a determination of Probable Cause.

6 23. On or about February 2, 2016, the Hearing Officer found, based on the Ex Parte Request
7 for an Order Finding Probable Cause and an Order that an Accusation be Prepared and Served and the
8 PC Report, that there was probable cause to believe Tate violated the Act and directed the Enforcement
9 Division to issue an accusation against Tate in accordance to its finding.

10 VIOLATION

11 24. Complainant incorporates paragraphs 1 – 23 of this Accusation, as though completely set
12 forth herein.

13 25. Tate, as a designated employee of the CDCR/CCHCS, had a duty under the Act and the
14 CDCR/CCHCS Conflict of Interest Code to file an Annual SEI with the CCHCS Filing Clerk by April 1,
15 2014 for the January 1 through December 31, 2013, period. Tate failed to file an Annual SEI with the
16 CCHCS Filing Clerk by April 1, 2014, in violation of Section 87300.

17 MITIGATING OR EXCULPATORY FACTORS

18 26. Tate contends he filed the 2013 Annual SEI but he does not have a copy and his filing
19 clerk does not have a record of him filing the SEI.

20 AGGRAVATING FACTORS AND OTHER RELEVANT MATERIALS

21 27. Tate's filing officer states that Tate has a history of filing late and has been late two out
22 of three years.

23 28. Tate failed to respond to notifications from the CCHCS Filing Clerk, as well as several
24 contact attempts by the Enforcement Division.

PRAYER

WHEREFORE, Complainant prays as follows:

1. That the Fair Political Practices Commission hold a hearing pursuant to Section 83116 and Regulation 18361.5, and at such hearing find that Tate violated the Act as alleged herein;
2. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c), order Tate to pay a monetary penalty of at least One Thousand Dollars (\$1,000) and not more than Five Thousand Dollars (\$5,000) for the violation of the Political Reform Act alleged herein;
3. That the Fair Political Practices Commission, pursuant to Regulation 18361.5, subdivision (d), consider the following factors in framing a proposed order following a finding of a violation pursuant to Section 83116: (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 Section 83114, subdivision (b); (5) whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Act or similar laws; and (6) whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.
4. That the Fair Political Practices Commission grant such other and further relief as it deems just and proper.

Dated: 22 Feb 16


Galen West
Chief of Enforcement
Fair Political Practices Commission



Before the Fair Political Practices Commission

State of California

In the Matter of

HAROLD TATE

Respondent.

) NOTICE OF DEFENSE
) (Pursuant to Gov. Code § 11506)
)
) FPPC Case No. 14/900
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)

Harold Tate, a respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.



Before the Fair Political Practices Commission

State of California

In the Matter of)	NOTICE OF DEFENSE
)	(Pursuant to Gov. Code § 11506)
)	
HAROLD TATE)	FPPC Case No. 14/900
)	
)	
Respondent.)	
)	
)	
)	

Harold Tate, a respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

GROUNDS FOR NOTICE OF DEFENSE

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
 - a) I admit the Accusation in whole.
 - b) I admit the Accusation in part as indicated below:

- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: _____

Respondent

Print Name

Mailing Address

City, State, Zip

California Government Code sections 11506 through 11508

§ 11506. Filing of notice of defense or notice of participation; Contents; Right to hearing on the merits

(a) Within 15 days after service of the accusation or District Statement of Reduction in Force the respondent may file with the agency a notice of defense, or, as applicable, notice of participation, in which the respondent may:

(1) Request a hearing.

(2) Object to the accusation or District Statement of Reduction in Force upon the ground that it does not state acts or omissions upon which the agency may proceed.

(3) Object to the form of the accusation or District Statement of Reduction in Force on the ground that it is so indefinite or uncertain that the respondent cannot identify the transaction or prepare a defense.

(4) Admit the accusation or District Statement of Reduction in Force in whole or in part.

(5) Present new matter by way of defense.

(6) Object to the accusation or District Statement of Reduction in Force upon the ground that, under the circumstances, compliance with the requirements of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights.

(b) Within the time specified the respondent may file one or more notices of defense, or, as applicable, notices of participation, upon any or all of these grounds but all of these notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense or notice of participation, and the notice shall be deemed a specific denial of all parts of the accusation or District Statement of Reduction in Force not expressly admitted. Failure to file a notice of defense or notice of participation shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in paragraph (3) of subdivision (a), all objections to the form of the accusation or District Statement of Reduction in Force shall be deemed waived.

(d) The notice of defense or notice of participation shall be in writing signed by or on behalf of the respondent and shall state the respondent's mailing address. It need not be verified or follow any particular form.

§ 11507.5. Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

HISTORY: Added Stats 1968 ch 808 § 3.

§ 11507.6. Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

HISTORY: Added Stats 1968 ch 808 § 5. Amended Stats 1971 ch 1303 § 8; Stats 1980 ch 548 § 2; Stats 1995 ch 938 § 32 (SB 523), operative July 1, 1997.

§ 11508. Time and place of hearing

(a) The agency shall consult the office, and subject to the availability of its staff, shall determine the time and place of the hearing. The hearing shall be held at a hearing facility maintained by the office in Sacramento, Oakland, Los Angeles, or San Diego and shall be held at the facility that is closest to the location where the transaction occurred or the respondent resides.

(b) Notwithstanding subdivision (a), the hearing may be held at either of the following places:

(1) A place selected by the agency that is closer to the location where the transaction occurred or the respondent resides.

(2) A place within the state selected by agreement of the parties.

(c) The respondent may move for, and the administrative law judge has discretion to grant or deny, a change in the place of the hearing. A motion for a change in the place of the hearing shall be made within 10 days after service of the notice of hearing on the respondent.

Unless good cause is identified in writing by the administrative law judge, hearings shall be held in a facility maintained by the office.

HISTORY: Added Stats 1945 ch 867 § 1. Amended Stats 1963 ch 710 § 1; Stats 1967 ch 17 § 39; Stats 1987 ch 50 § 1; Stats 1995 ch 938 § 33 (SB 523), operative July 1, 1997; Stats 2005 ch 674 § 22 (SB 231), effective January 1, 2006.

Exhibit A-7

DEFAULT DECISION AND ORDER FPPC NO. 14/0900

1 GALENA WEST
Chief of Enforcement
2 TANYA SMITH
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
Sacramento, CA 95814
4 Telephone: (916) 322-5021
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant

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

10 In the Matter of) FPPC No. 14/900
11)
12 HAROLD TATE,)
13) DECLARATION OF DAVID BAINBRIDGE
Respondent.) IN SUPPORT OF DEFAULT DECISION
14) AND ORDER
15) (Gov. Code §§ 11506 and 11520)

16 I, David Bainbridge, declare as follows:

- 17 1. I am over the age of 18 years and not a party to the within action. My business address is
18 428 J Street, Suite 620, Sacramento, California.
- 19 2. I am the Assistant Chief of the Enforcement Division of the Fair Political Practices Commission
20 (the "Commission"), and have worked for the Commission since 2012.
- 21 3. After Political Reform Consultant Teri Rindahl was unsuccessful in contacting Harold Tate, she
22 gave me his file. Enforcement staff confirmed that Mr. Tate had not filed his 2013 Annual Statement of
23 Economic Interests, and I oversaw the drafting of his Probable Cause Report.
- 24 4. Enforcement Staff served Mr. Tate's Probable Cause Report by certified mail, return receipt
25 requested, to his mail drop box in Tehachapi, California. His agent signed for the Probable Cause Report
26 on September 4, 2015. Mr. Tate did not respond to the Probable Cause Report.

1 5. On January 22, 2016, I signed an ex parte request to FPPC's Hearing Officer requesting that an
2 order for accusation be issued against Mr. Tate. He did not respond.

3 6. I oversaw several attempts to personally serve Mr. Tate with his Accusation after it was issued.
4 My staff could find no home address listed for Mr. Tate. Also, since Mr. Tate works in a state prison, he
5 could not be personally served at his job since a process server would not be permitted to locate Mr. Tate
6 inside the prison.

7 7. My staff hired a process server who made an appointment with the prison litigation coordinator at
8 Mr. Tate's work site in Tehachapi on May 26, 2016.

9 8. The litigation coordinator is assigned to accept service of process for the prison and those inside
10 the prison, including the employees.

11 8. The litigation coordinator, Ada Miles, agreed to accept substituted service for Mr. Tate, and she
12 was substitute served with his Accusation on May 26, 2016.

13
14 I declare under penalty of perjury under the laws of the State of California, that the foregoing is
15 true and correct.

16 Dated: June 27, 2016

17 
18 David Bainbridge
19 Assistant Chief of Enforcement
20 Fair Political Practices Commission
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Exhibit A-8

05/26/2016

Harold Tate

v.

Notice of Defense

Case Number:

FPPC case No. 14/1900

PROOF OF SERVICE

_____ /

I hereby certify that on May 26, 2016, I served a copy of the attached 1. Statement to Respondent 2. FPPC Case No. 14/1900: Accusation 3. Notice of Defense (two copies) 4. selected sections of the California Government Code, Administrative Procedure Act by placing a copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the United States Mail at

[Redacted]

(List Name and Address of Each Defendant or Attorney Served)

Harold Tate
CCI litigation office

[Redacted]

Also personally served: Ada Mites
litigation technician
@CCI California Correctional Inst.
on May 26, 2016 @ 11:30 A.M.

I declare under penalty of perjury that the foregoing is true and correct.

[Redacted]

Diane Renee Fernandez

(Signature of Person Completing Service)

Kern County #656

Exhibit A-9

DEFAULT DECISION AND ORDER FPPC NO. 14/0900



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

June 29, 2016

FIRST CLASS U.S. MAIL and via email to [REDACTED]

Mr. Harold Tate
[REDACTED]

NOTICE OF INTENT TO ENTER DEFAULT DECISION AND ORDER

**Re: In the Matter of Harold Tate
FPPC No. 14/900**

Dear Mr. Tate:

Enclosed please find a courtesy copy of the Default Decision and Order, and accompanying Exhibit and attachments, in the above matter. The Fair Political Practices Commission ("Commission") will consider these papers at its public meeting on **July 21, 2016**, and decide whether to impose an administrative penalty in the amount of **\$3,000** or more against you.

You were previously served a Report in Support of a Finding of Probable Cause, commonly known as a probable cause report, advising you of your right to request a probable cause conference or submit a written response to the probable cause report. You did not request a probable cause conference, nor did you submit anything in writing for the Commission's Executive Director to consider in his determination of probable cause.

Following the issuance of a Report in Support of a Finding of Probable Cause, the Commission's Executive Director found probable cause that you committed one violation of the Political Reform Act's campaign reporting provisions. Thereafter, the Hearing Officer issued an Accusation against you on the same violation. The Accusation was served by substitution by being left at your workplace with the litigation coordinator on May 26, 2016. A duplicate copy was mailed to your workplace's litigation coordinator on the same date. Under the law, you have therefore received adequate notice of these proceedings and the action filed against you. Under the Administrative Procedure Act, you were required to file a Notice of Defense within 15 days after service of the Accusation. You failed to file the Notice of Defense form within that time. As such,

your right to an administrative hearing on this matter has been forfeited, and you are in a default position.

At its public meeting on **July 21, 2016**, the Commission may impose an administrative penalty against you in the amount of **\$3,000**. However, the Commission may impose up to a maximum penalty of **\$5,000** against you for this violation.

Following the issuance of the default order and imposition of the administrative penalty, we will commence legal proceedings to collect this fine, which may include converting the Commission's order to a court judgment. Please be advised that administrative penalties for violations of the Political Reform Act cannot be discharged in bankruptcy proceedings.

This letter is your **last opportunity** to resolve this matter informally by way of a stipulated settlement, before the default proceedings are commenced. If we do not reach a resolution, the enclosed documents will be placed on the Commission's agenda for the **July 21, 2016** meeting. Please contact me immediately if you wish to enter into a negotiated settlement.

You may contact me directly at (916) 322-5021.

Sincerely,



Tanya Smith
Commission Counsel
Enforcement Division

Enclosures

Exhibit A-10

1 GALENA WEST
Chief of Enforcement
2 TANYA SMITH
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
Sacramento, CA 95814
4 Telephone: (916) 322-5021
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) FPPC No. 14/900
12 HAROLD TATE,)
13 Respondent.) DECLARATION OF TERI RINDAHL IN
14) SUPPORT OF DEFAULT DECISION AND
15) ORDER
) (Gov. Code §§ 11506 and 11520)

16 I, Teri Rindahl, declare as follows:

- 17 1. I am over the age of 18 years and not a party to the within action. My business address is
18 428 J Street, Suite 620, Sacramento, California.
- 19 2. I am a Political Reform Consultant for the Enforcement Division of the Fair Political Practices
20 Commission (the "Commission"), and have worked for the Commission since 1988.
- 21 3. On July 14, 2014, I received a referral for Harold Tate from the filing officer for the California
22 Correctional Health Care Services. I contacted the filing officer, Donna Pinkard, and confirmed that Mr.
23 Tate was still employed in a designated position.
- 24 4. Ms. Pinkard confirmed that Mr. Tate had failed to file his 2013 Annual Statement of Economic
25 Interests.
- 26 5. I reviewed Ms. Pinkard's written notifications to Mr. Tate regarding his unfiled 2013 Annual
27 Statement of Economic Interests, dated April 4, 2014 and June 5, 2014.

1 5. On September 4, 2014, I wrote to Mr. Tate regarding his unfiled 2013 Annual Statement of
2 Economic Interests, which included an offer to settle this case if he filed. He did not respond.

3 6. On September 11, 2014, Mr. Tate left a voicemail message for me which stated that he had filed
4 his 2013 Annual Statement of Economic Interests, but had failed to keep a copy. He stated that we were
5 harassing him because he is African American and over 65.

6 7. I returned his phone call the same day. He did not answer his phone. I left a voice mail message
7 stating that he was required to file his 2013 Annual Statement of Economic Interests under the Political
8 Reform Act and his agency's conflict of interest code.

9 8. On January 5, 2015, I wrote to Mr. Tate regarding his unfiled 2013 Annual Statement of Economic
10 Interests, which included an offer to settle this case if he filed. He did not respond.

11 9. On February 23, 2015, I left Mr. Tate another voice mail message regarding his unfiled 2013
12 Annual Statement of Economic Interests. He did not respond.

13
14 I declare under penalty of perjury under the laws of the State of California, that the foregoing is
15 true and correct.

16
17 Dated: 9/28/14


18 Teri Rindahl
19 Political Reform Consultant, Enforcement Division
20 Fair Political Practices Commission
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Exhibit A-11

DEFAULT DECISION AND ORDER FPPC NO. 14/0900



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* This document is current through Register 2016, No. 21, May 20 2016 *

TITLE 15. CRIME PREVENTION AND CORRECTIONS
 DIVISION 7. DEPARTMENT OF CORRECTIONS AND REHABILITATION
 CHAPTER 1. CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION--CONFLICT-OF-INTEREST CODE

15 CCR 7001 (2016)

§ 7001. General Provisions

The Political Reform Act (*Government Code Sections 81000*, et seq.) requires each state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (*2 Cal. Code of Regs. Sec. 18730*) that contains the terms of a standard conflict-of-interest, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of *2 California Code of Regulations Section 18730* and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of California Department of Corrections and Rehabilitation (Department," which also includes California Prison Health Care Services).

Individuals holding designated positions shall file their statements of economic interests with the Department, which will make the statements available for public inspection and reproduction. (*Gov. Code Sec. 81008*.) Upon receipt of the statements for the Secretary, all board and commission members, designees (alternates) and ex-officio members, and the Receiver's Office, the Department shall make and retain copies and forward the originals to the Fair Political Practices Commission. All other statements will be retained by the Department.

Appendix A

DESIGNATED POSITIONS -- CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

Designated Position (Statutory or Working Title)	Assigned Disclosure Categories
Offices of the Secretary Includes the following areas: Office of the Secretary Office of Research Office of Public & Employee Communications Office of Legislation Office of Legal Affairs Office of Audits and Compliance Office of Internal Affairs Office of the Ombudsman Office of Civil Rights	

Designated Position (Statutory or Working Title)	Assigned Disclosure Categories
Correctional Health Care Services	
. Div. of Correctional Health Care Services	
Administrative Assistant to the Director	3
Assistant Chief Counsel	1
Assistant Deputy Director	1
Assistant Director	1
Assistant Secretary	1
Associate Director	1
Associate Governmental Program Analyst(s) (Contract, Business/Fiscal, Facility, Telecommunications)	3
CEA I, II, III, IV	1
Chief	1
Chief Counsel	1
Chief Dentist	3
Chief Deputy Administrator	3
Chief Deputy General Counsel	1
Chief Deputy Secretary	1
Chief Information Officer	1
Chief of Staff	1
Chief Medical Officer	3
Chief Physician and Surgeon	3
Chief Ombudsman	1
Chief Psychiatrist	3
Chief Psychologist	3
Clinical Program & Policy Coordination Manager	3
Clinical Program Support & Evaluation Manager	3
Correctional Administrator	1
Correctional Captain (headquarters)	3
Correctional Health Services Administrators	3
Correctional Lieutenant (headquarters)	3
Data Processing Manager II, III, IV	3
Dental Director	1
Deputy Chief of Staff	1
Deputy Director	1
Deputy Press Secretary	1
Deputy Statewide Dental Director	1
Director	1
General Counsel	1
Grants Administrator	1
Health Program Manager I, II, III	3
Nursing Consultant, Program Review	3
Ombudsman	1
Pharmacists	3
Pharmacy Service Manager	3
Press Secretary	1
Receiver's Medical Executive	1
Regional Administrator	1
Regional Medical Directors	1
Secretary/Chief Executive Officer	1
Senior Information Systems Analyst (Supervisor)	3
Senior Policy Advisor	1
Senior Programmer Analyst (Supervisor)	3

15 CCR 7001

Designated Position (Statutory or Working Title)	Assigned Disclosure Categories
Juvenile Parole Board	
Associate Chief Deputy Commissioner	3
Chief Deputy Commissioner	3
Commissioner	1
Deputy Commissioner/Board Representative	3
Executive Officer	1
Consultant(s)	*
Prison Industry Board	
Board Members(s) **	1
Consultant(s)	*
State Commission on Juvenile Justice	
Member, Juvenile Justice Commission**	1
Consultant(s)	*
Sex Offender Management Board	
Board Member(s)**	1
Consultant(s)	*
* Consultants	

Consultants shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The Chief Executive Officer/Secretary of the Department may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's/Secretary of the Department's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (*Gov. Code Sec. 81008*).

** Any person holding this position who is already filing a statement with full disclosure and statewide jurisdiction and that statement is forwarded to the Fair Political Practices will not have to file an additional statement under the provisions of this conflict-of-interest code.

Appendix B

DESIGNATED POSITIONS -- CALIFORNIA PRISON HEALTH CARE SERVICES

Designated Position (Statutory or Working Title)	Assigned Disclosure Categories
Receiver's Office	
Receiver	1
Receiver Chief Deputy	1
Accountant	1
C.E.A. -- Chief of Strategic Planning/Evaluation	1
C.E.A. -- Director of Communications/Public Information Officer	1
Chief Medical Information Officer	1
Coordinator, Investigation & Discipline	1
Director, Construction Oversight and Activation	1

Designated Position (Statutory or Working Title)	Assigned Disclosure Categories
Consultant(s)	*
Medical Services	
Associate Health Program Advisor, 3rd Level Appeals	4
Associate Health Program Advisor, Controlled Correspondence & Litigation Support	4
C.E.A. - Director, Field Support	1
C.E.A. - Director, Integrated Planning & Policy	1
C.E.A. - Medical Oversight	1
C.E.A. - Medical Policy and Program Compliance	1
C.E.A. - Regional Director of Nursing Central Region	1
C.E.A. - Regional Director of Nursing Northern Region	1
C.E.A. - Regional Director of Nursing Southern Region	1
C.E.A. - Statewide Director of Nursing Services	1
CEA - Director of Clinical Operations	1
Chief Deputy, Clinical Services, CF, Regional Medical Director Northern Region	2
Chief Medical Officer, CF, Central Intake	3
Chief Medical Officer, CF, Clinical Operations Branch	3
Chief Medical Officer, CF, Clinical Services Unit (QMAT), Northern Region	3
Chief Medical Officer, CF, Clinical Services Unit (QMAT), Southern Region	3
Chief Medical Officer, CF, Out of State	3
Chief Medical Officer, CF, Public Health Unit	3
Chief Physician & Surgeon, Clinical Operations Branch	3
Correctional Administrator - Chief Operating Officer	1
Health Program Manager II, 3rd Level Appeals	3, 4
Health Program Manager II, Centralized Health Records	2
Health Program Manager II, Credentialing & Privileging	3
Health Program Manager II, Policy Development	2
Health Program Manager II, Program Compliance Central	2
Health Program Manager II, Program Compliance North Southern	2
Health Program Manager II, Program Compliance	2
Health Program Manager III, Controlled Correspondence & Litigation Management	2
Health Program Specialist I, 3rd Level Appeals	4
Health Program Specialist I, Controlled Correspondence & Litigation Support	4
Nurse Consultant, Program Review, 3rd Level Appeals	3, 4
Nursing Consultant, Program Review, Telemedicine Services	3
Physician & Surgeon, CF, Internal Medicine/Family Practice, 3rd Level Appeals	3, 4
Physician & Surgeon, IM/FP, Northern Region	3
Physician & Surgeon, IM/FP, Southern Region	3
Physician & Surgeon, Telemedicine	3

Designated Position (Statutory or Working Title)	Assigned Disclosure Categories
Team	1
C.E.A. - Superintendent of Corrections Services	1
Chief Deputy, Clinical Services, CF, Executive Medical Advisor Program Manager	1
Correctional Administrator, DOC, Director, Custody Support Division	2
Correctional Administrator, DOC, Special Assistant Rehabilitation Services	2
Correctional Business Manager I	1
Staff Services Manager III, Population Demographics	2
Consultant(s)	*
* Consultants:	

Consultants shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The Chief Executive Officer/Secretary of the Department may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the disclosure requirements. The Chief Executive Officer's/Secretary of the Department's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (*Gov. Code Sec. 81008*).

Appendix C

DISCLOSURE CATEGORIES

Disclosure Categories

Category 1.

Interests in real property in the State of California, as well as investments, business positions and sources of income, including gifts, loans and travel payments.

Category 2.

Investments and business positions in business entities and sources of income, including gifts, loans and travel payments, from the following types of sources:

- Those that do business with California Prison Health Care Services
- Those that provide goods or services to prisons
- Those that provide any type of dental, mental, medical, or health care services or products, including prescriptions, ambulance services, and well-being programs.

Category 3.

Investments and business positions in business entities and sources of income, including gifts, loans and travel payments, that may contract with the designated position's immediate office, division or branch to provide goods, equipment, machinery or services, including training or consulting services, of the type utilized by the Department.

Category 4.

Investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, from sources, that filed a claim or appeal, or have a claim or appeal pending, against the Department during the previous two years.

AUTHORITY:

Note: Authority cited: *Sections 12838.5, 87300 and 87302, Government Code; and Section 5058, Penal Code.* Reference: *Sections 87300, 87302 and 87306, Government Code; and Section 5054, Penal Code.*

HISTORY:

1. New division 7 (chapter 1, section 7001 and Appendix) filed 4-15-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 1-12-81 (Register 81, No. 16).
2. Change without regulatory effect amending section filed 8-23-91 pursuant to *section 100, title 1, California Code of Regulations*. Submitted to OAL for printing only (Register 91, No. 51).
3. Amendment of chapter 1 heading, section and appendix filed 11-30-95; operative 12-30-95. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 10-4-95 (Register 95, No. 48).
4. Amendment of appendix filed 7-14-2000; operative 8-13-2000. Approved by Fair Political Practices Commission 2-1-2000 (Register 2000, No. 28).
5. Amendment of chapter heading and section and redesignation and amendment of appendix as appendices A (designated positions) and B (disclosure categories) filed 7-12-2006; operative 8-11-2006. Approved by Fair Political Practices Commission 5-24-2006 (Register 2006, No. 28).
6. Amendment of general provisions and Appendix A, new Appendix B and redesignation and amendment of former Appendix B as Appendix C filed 2-24-2010; operative 3-26-2010. Approved by Fair Political Practices Commission 12-23-2009 (Register 2010, No. 9).
7. Amendment of division heading filed 9-25-2013; operative 10-25-2013 pursuant to *Cal. Code Regs., tit. 2, section 18750(l)*. Approved by Fair Political Practices Commission 8-29-2013 and submitted to OAL for filing and printing only pursuant to *Cal. Code Regs., tit. 2, section 18750(k)* (Register 2013, No. 39).

NOTES:

Exhibit A-12

DEFAULT DECISION AND ORDER FPPC NO. 14/0900

Recipient

Delivery

[REDACTED]@CDGR	Delivered: 1/29/2014 3:59 PM
[REDACTED]@CDCR	Delivered: 1/29/2014 3:58 PM
[REDACTED]@CDGR	Delivered: 1/29/2014 4:00 PM
[REDACTED]@CDCR	Delivered: 1/29/2014 3:59 PM
[REDACTED]@CDCR	Delivered: 1/29/2014 3:59 PM
[REDACTED]@CDCR	Delivered: 1/29/2014 3:59 PM
[REDACTED]@CDCR	Delivered: 1/29/2014 3:59 PM
Tate, Harold@CDGR	Delivered: 1/29/2014 3:59 PM
[REDACTED]@CDCR	Delivered: 1/29/2014 3:59 PM
[REDACTED]@CDCR	Delivered: 1/29/2014 3:59 PM
[REDACTED]@CDCR	Delivered: 1/29/2014 4:00 PM
[REDACTED]@CDCR	Delivered: 1/29/2014 4:00 PM
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[REDACTED]@CDCR	Delivered: 1/29/2014 3:59 PM
[REDACTED]@CDCR	Delivered: 1/29/2014 3:59 PM
[REDACTED]@CDCR	Delivered: 1/29/2014 4:00 PM

Sanchez, JoLynn@CDCR

From: Sanchez, JoLynn@CDCR on behalf of Pinkard, Donna@CDCR
Sent: Thursday, June 05, 2014 10:35 AM
Subject: Annual Statement of Economic Interests (Form 700) for Calendar Year 2013 - FINAL Notification
Attachments: Form 700 2013-2014.pdf

Importance: High

Tracking:

Recipient

Delivery

Table with 2 columns: Recipient and Delivery. Recipient names are redacted with black bars. Delivery status includes 'Delivered: 6/5/2014 10:36 AM' and 'Failed: 6/5/2014 10:35 AM'.

As a final courtesy, the deadline to file will be extended to **June 13, 2014**. If the Form 700 is not received by this date, the Department is required to refer you as a non-filer to the FPPC.

Please review and complete the attached Form 700 immediately, and forward it to the address below:

CCHCS Human Resources, Building D
Attn: Donna Pinkard
PO Box 588500
Elk Grove, CA 95758

Assistance and information regarding Form 700 filing is available toll-free from the FPPC at (866) 275-3772, by e-mail at advice@fppc.ca.gov, or on their website at www.fppc.ca.gov.

Should you have any questions regarding the submittal process, please contact Donna Pinkard, Program Support, Human Resources, CCHCS, at (916) 691-6051 or via e-mail at CCHCSCOIFiling@cdcr.ca.gov

Thank you.

JoLynn Sanchez, Office Technician
Classification & Pay/Program Support Unit
916.691.2729



CALIFORNIA CORRECTIONAL
HEALTH CARE SERVICES

Exhibit A-13

DEFAULT DECISION AND ORDER FPPC NO. 14/0900

1 GALENAWEST
Chief of Enforcement
2 TANYASMITH
Commission Counsel
3 FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5021
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) FPPC No. 14/900
12)
13 HAROLD TATE,) DECLARATION OF TANYA
14) SMITH IN SUPPORT OF
Respondent.) DEFAULT DECISION AND
ORDER
15) (Gov. Code §§ 11506 and 11520)

16 I, Tanya Smith, declare as follows:

- 17 1. I am a Commission Counsel for the Enforcement Division of the Fair Political Practices
18 Commission (the "Commission").
19 2. On June 28, 2016, I contacted the local filing officer for the California Correctional
20 Center.
21 3. The filing officer confirmed that, as of June 28, 2016, Harold Tate had not filed his 2013
22 Annual Statement of Economic Interests.
23 4. As of June 28, 2016, Mr. Tate has not responded to the Accusation I served on him for
24 his failure to file his 2013 Annual Statement of Economic Interests.

25 I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and
26 correct, and that this declaration was executed in Sacramento County on June 28, 2016.

27 Dated: June 28, 2016.

28 
Tanya Smith
Commission Counsel, Enforcement Division
Fair Political Practices Commission