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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA

10  
11 In the Matter of:

12 Ronald Davis,  
13 Respondent.

FPPC Case No. 16/19819

STIPULATION, DECISION AND ORDER

14  
15 **INTRODUCTION**

16 Ronald Davis (“Davis”) has served as the warden at San Quentin State Prison since 2014. As  
17 warden, Davis is required to annually report his interests in real property, investments, business  
18 positions, and sources of income, including gifts, on a statement of economic interests (“SEI”). In 2015,  
19 Davis failed to report the full value of certain gifts received in conjunction with a trip to Las Vegas, in  
20 violation of Section 87300 of the Political Reform Act (the “Act”).<sup>1</sup> Further, those same gifts exceeded  
21 the prescribed annual gift limit; therefore, Davis’ acceptance of the gifts violated Section 89503 of the  
22 Act.

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27 <sup>1</sup> The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the  
28 Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in  
Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2,  
Division 6 of the California Code of Regulations, unless otherwise indicated.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred  
3 in 2015. For this reason, all legal references and discussions of law pertain to the Act’s provisions as  
4 they existed at that time.

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

6 When enacting the Act, the people of California found and declared that previous laws regulating  
7 political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup> For this reason,  
8 the Act is to be construed liberally to accomplish its purposes.<sup>3</sup> Further, the Act provides adequate  
9 enforcement mechanisms so that the Act will be “vigorously enforced.”<sup>4</sup>

10 Required Filing of Statements of Economic Interests

11 One of the express purposes of the Act is to ensure that the assets and income of public officials,  
12 which may be materially affected by their official actions, be disclosed, so that conflicts of interest may  
13 be avoided.<sup>5</sup> The Act therefore establishes an economic interest reporting system designed to accomplish  
14 this purpose of disclosure.

15 In furtherance of this purpose, every state and local agency must adopt and promulgate a Conflict  
16 of Interest Code. The requirements of an agency’s Conflict of Interest Code have the force of law, and  
17 any violation of those requirements is deemed a violation of the Act.<sup>6</sup>

18 An agency’s Conflict of Interest Code must specifically designate the positions within the agency  
19 that are required to file SEIs, disclosing reportable investments, business positions, interests in real  
20 property, and/or sources of income.<sup>7</sup> The persons who are to be designated in an agency’s Conflict of  
21 Interest Code are the officers, employees, members, and consultants of the agency whose position with  
22 the agency entails making, or participating in making, governmental decisions that may foreseeably have  
23 a material effect on one or more of the person’s economic interests.<sup>8</sup>

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25 <sup>2</sup> Section 81001, subd. (h).

26 <sup>3</sup> Section 81003.

27 <sup>4</sup> Section 81002, subd. (f).

28 <sup>5</sup> Section 81002, subd. (c).

<sup>6</sup> Section 87300.

<sup>7</sup> Section 87302, subd. (a).

<sup>8</sup> Sections 82019, subd. (a); and 87302.

1 An agency's Conflict of Interest Code must require, among other things, every designated  
2 employee of the agency to file an annual SEI, at a time specified in the agency's Conflict of Interest  
3 Code, for each year that the employee remains in office, disclosing his or her reportable economic  
4 interests during the preceding calendar year.<sup>9</sup>

5 The applicable Conflict of Interest Code for the California Department of Corrections and  
6 Rehabilitation ("CDCR") requires that each designated employee file annual SEIs disclosing the person's  
7 reportable economic interests. Pursuant to the CDCR Conflict of Interest Code, a warden is a designated  
8 position required to report interests in real property, investments, business positions and sources of  
9 income, including gifts, loans, and travel payments.

### 10 **Required Reporting of Gifts and Travel Payments**

11 Among other things, SEIs must disclose certain information about gifts of \$50 or more in value,  
12 including the following: the name, address, and a general description of the business activity (if any) of  
13 each donor; the value of the gift; and the date of receipt.<sup>10</sup> Also, certain travel-related payments from  
14 third parties, including advances and reimbursements, must be reported.<sup>11</sup> Gifts received by a public  
15 official's family members, including his or her spouse, are considered gifts to the official.<sup>12</sup>

### 16 **Gift Limits**

17 Certain public officials, including designated employees of state government agencies, are  
18 prohibited from accepting gifts from any single source in any calendar year with a total value of more  
19 than \$460.<sup>13</sup>

### 20 **SUMMARY OF THE FACTS**

21 In September 2016, the Enforcement Division received a letter from Davis self-reporting certain  
22 violations of the Act. The letter conceded that Davis improperly accepted gifts over the limit in 2015,  
23 and also failed to timely report the accurate amount of those gifts on his 2015 SEI.  
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26 <sup>9</sup> Section 87302, subd. (b).

27 <sup>10</sup> Section 87207, subs. (a)(1) and (4).

28 <sup>11</sup> Section 87207, subd. (c).

<sup>12</sup> Regulation 18943.

<sup>13</sup> Section 89503, subs. (a) and (f); Regulation 18940.2.

1 In March 2015, representatives of the Mexican consulate toured San Quentin prison, including the  
2 Consulate General in San Francisco at the time, Andres Roemer (“Roemer”). Thereafter, in September  
3 2015, Davis was invited by Roemer to attend a dinner party at Roemer’s home. Davis and his wife  
4 attended the event, at which food and drinks were provided. At the party, Roemer and his wife invited  
5 Davis and his wife to attend a boxing match in Las Vegas with them on September 12, 2015, just days  
6 later. Davis and his wife accepted the invitation.

7 Davis and his wife later booked their own flights to Las Vegas for the boxing match. They also  
8 booked their own hotel room, initially; however, Roemer’s girlfriend later suggested to Davis’ wife that  
9 they both stay at the same hotel, the Wynn, and that Roemer book a room there for Davis and his wife.  
10 As a result, Davis cancelled his original hotel reservation and stayed at the Wynn room provided by  
11 Roemer. While in Las Vegas, Roemer also paid the check at a post-event dinner that Davis and his wife  
12 attended. The boxing match tickets, lodging, food, and beverage given to Davis and his wife by Roemer  
13 totaled approximately \$3,300.

14 In April 2016, Davis timely reported the value of his ticket, his portion of the meal, and the entire  
15 value of the hotel room on his original 2015 SEI, which totaled \$1,750; however, he failed to report any  
16 gifts received from his wife. On or about September 21, 2016, Davis filed an amended SEI for 2015  
17 reporting the full amount of the gifts, including the portions provided to his wife.

## 18 VIOLATIONS

### 19 Count 1: Failure to Timely Report Gifts on Annual Statement of Economic Interests

20 Davis failed to timely disclose gifts amounting to \$1,550 in value that he received on September  
21 12, 2015 on his 2015 annual SEI, in violation of Section 87300.

### 22 Count 2: Acceptance of Over-the-Limit Gifts

23 Davis accepted gifts in excess of the annual gift limit by \$2,840 from Dr. Andres Roemer in  
24 2015, in violation of Section 89503, subdivision (c).

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1 **PROPOSED PENALTY**

2 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per  
3 count. Thus, the maximum penalty that may be imposed is \$10,000.<sup>14</sup>

4 In determining the appropriate penalty for a particular violation of the Act, the Commission  
5 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the  
6 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
7 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
8 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
9 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
10 record of violations.<sup>15</sup>

11 In this case, the Enforcement Division found no evidence that Davis intended to conceal, deceive,  
12 or mislead the public, nor did the violations appear to be deliberate; in fact, Davis self-reported the  
13 violations and filed corrective amendments voluntarily. Instead, the violations appear to have resulted  
14 due to Davis' inexperience with the Act. Further, Davis does not have a prior history of violating the  
15 Act, nor did the violations contained herein constitute part of a pattern.

16 Additionally, the Commission considers penalties in prior cases involving similar violations.  
17 Recent similar cases include the following:

18 • *In the Matter of Timothy Simon*; FPPC No. 15/189. Respondent, an appointee to the California  
19 Public Utilities Commission, failed to disclose gifts and travel-related payments that he received from  
20 approximately 40 sources, totaling roughly \$21,000, on his leaving office SEI, in violation of Section  
21 87207, subdivisions (a) and (c); and accepted a gift over the prescribed limit by \$1,180, in violation of  
22 Section 89503, subdivision (a). In June 2017, the Commission approved a fine of \$2,000 on the SEI non-  
23 reporting count, and \$3,500 on the over-the-limit gift count.

24 As to Count 1, the public harm inherent in SEI reporting violations is that the public is deprived  
25 of important information about the assets and income of public officials. These types of violations make  
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<sup>14</sup> Section 83116, subd. (c).

28 <sup>15</sup> Regulation 18361.5, subd. (d).

1 it harder to detect other violations—such as Count 2, which involves over-the-limit gifting. Despite this,  
2 a penalty lower than that imposed in *Simon* is appropriate here because the violation is less egregious in  
3 terms of the value of the gifts that went unreported, and partial disclosure was timely made so the public  
4 harm is lessened.

5 As to Count 2, although Davis accepted gifts over the limit by more than the gift at issue in  
6 *Simon*, Davis previously “paid down” the gifts by reimbursing the full amount of the gifts to Roemer  
7 without a demand from the Enforcement Division. As a result, a lower penalty is warranted.

8 Both violations charged against Davis are mitigated by the fact that Davis self-reported his  
9 violations, was disciplined by his employer, and has fully cooperated with the Enforcement Division.  
10 However, Davis likely had additional SEI reporting requirements in conjunction with the dinner party he  
11 attended in September 2015, considered as an aggravating factor but not charged in this case.

12 Based on the foregoing, a penalty in the amount of \$1,000 is recommended on Count 1; and a  
13 penalty of \$3,000 is recommended on Count 2, for a total administrative penalty of \$4,000.

#### 14 CONCLUSION

15 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
16 Respondent, Ronald Davis, hereby agree as follows:

17 1. The Respondent violated the Act as described in the foregoing pages, which are a true and  
18 accurate summary of the facts in this matter.

19 2. This stipulation will be submitted for consideration by the Fair Political Practices  
20 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

21 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose  
22 of reaching a final disposition without the necessity of holding an administrative hearing to determine the  
23 liability of the Respondent pursuant to Section 83116.

24 4. Respondent has consulted with his attorney, Patrick McKinney, and understands, and  
25 hereby knowingly and voluntarily waives, all procedural rights set forth in Sections 83115.5, 11503,  
26 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to the right to appear  
27 personally at any administrative hearing held in this matter, to be represented by an attorney at  
28 Respondent’s own expense, to confront and cross-examine all witnesses testifying at the hearing, to

1 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over  
2 the hearing as a hearing officer, and to have the matter judicially reviewed.

3 5. The Respondent agrees to the issuance of the decision and order set forth below. Also, the  
4 Respondent agrees to the Commission imposing against him an administrative penalty in the amount of  
5 \$4,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General  
6 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
7 administrative penalty described above, and same shall be held by the State of California until the  
8 Commission issues its decision and order regarding this matter.

9 6. If the Commission refuses to approve this stipulation—then this stipulation shall become  
10 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
11 rejected, all payments tendered by the Respondent in connection with this stipulation shall be reimbursed  
12 to the Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary  
13 hearing before the Commission becomes necessary, neither any member of the Commission, nor the  
14 Executive Director, shall be disqualified because of prior consideration of this Stipulation.

15 7. The parties to this agreement may execute their respective signature pages separately. A  
16 copy of any party's executed signature page including a hardcopy of a signature page transmitted via fax  
17 or as a PDF email attachment is as effective and binding as the original.

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19 Dated: \_\_\_\_\_  
20 Galena West, Chief of Enforcement  
21 Fair Political Practices Commission

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23 Dated: \_\_\_\_\_  
24 Ronald Davis

1 The foregoing stipulation of the parties “In the Matter of Ronald Davis,” FPPC Case No. 16/19819 is  
2 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon  
3 execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: \_\_\_\_\_  
8 Joann Remke, Chair  
9 Fair Political Practices Commission  
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