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

10
11 In the Matter of) FPPC Case No. 14/876
12)
13)
14 KEVORK N. "GEORGE") **STIPULATION, DECISION AND ORDER**
15 ASHKHARIAN,)
16)
17 Respondents.)

18 **INTRODUCTION**

19 Respondent Kevork N. "George" Ashkharian was employed by the State Compensation
20 Insurance Fund (SCIF) from February 5, 2001 to April 13, 2014, as a Workers' Compensation Insurance
21 Supervisor II, commonly referred to as an Assistant Claims Manager (ACM), at SCIF's Los Angeles
22 Claims Services.

23 The Political Reform Act (the "Act")¹ prohibits a public official from making, participating in
24 making, or attempting to use his official position to influence a governmental decision in which the
25 official knows or has reason to know he has a financial interest. Ashkharian violated the Act by

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 Practices Commission are contained in §§ 18110 through 18997 of Title
28 2 of the California Code of Regulations, and all regulatory references are to this source.

1 negotiating and settling lien claims with Global Holdings, a source of income to him of \$500 or more in
2 the 12 months preceding each settlement because Global Holdings was his wife’s employer.

3 **SUMMARY OF THE LAW**

4 All legal references and discussions of law pertain to the Act’s provisions as they existed at the
5 time of the applicable violations.

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

7 When enacting the Political Reform Act, the people of the state of California found and declared
8 that previous laws regulating political practices suffered from inadequate enforcement by state and local
9 authorities.² To that end, the Act must be liberally construed to achieve its purposes.³

10 There are many purposes of the Act. One purpose is to ensure that the assets and income of public
11 officials be disclosed and public officials are disqualified from certain matters in order that conflicts of
12 interest may be avoided.⁴ Another is to provide adequate enforcement mechanisms so that the Act will
13 be “vigorously enforced.”⁵

14 Conflicts of Interest

15 A public official may not make, participate in making or attempt to use his official position to
16 influence a governmental decision in which he knows, or has reason to know, he has a financial interest.⁶
17 A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will
18 have a material financial effect on any source of income aggregating \$500 or more in value provided or
19 promised to, received by, the public official within 12 months prior to the time when the decision is
20 made.⁷

21 In 2013, there were six steps to determine whether an individual had a conflict of interest in a
22 governmental decision.⁸

24 ² § 81001, subd. (h).

25 ³ § 81003.

26 ⁴ § 81002, subd. (c).

27 ⁵ § 81002, subd. (f).

28 ⁶ § 87100.

⁷ § 87103, subd. (a).

⁸ Reg. 18700, subd. (b).

1 First, the individual must have been a public official.⁹ An employee of a state government agency
2 was a public official.¹⁰

3 Second, the public official must have made, participated in making, or attempted to use his or her
4 official position to influence a governmental decision.¹¹ A public official made a governmental decision
5 when the official, acting within the authority of his office or position, obligated or committed his agency
6 to any course of action, or entered into any contractual agreement on behalf of his agency.¹²

7 Third, the public official must have had an economic interest.¹³ Such interests included any person
8 from whom the official has received income aggregating \$500 or more within 12 months prior to the time
9 when the relevant governmental decision was made.¹⁴ A public official's income included any
10 community property interest in the income of his spouse.¹⁵

11 Fourth, it must be determined whether the economic interest of the public official was directly or
12 indirectly involved in the governmental decision.¹⁶ A source of income was directly involved in a
13 governmental decision when the source of income was a named party in the decision.¹⁷

14 Fifth, the applicable materiality standard must be determined.¹⁸ When the source of income was
15 a business entity, and the business entity was directly involved in the governmental decision, the financial
16 effect was presumed to be material.¹⁹

17 Sixth, at the time of the governmental decision, it must have been reasonably foreseeable that the
18 decision would have a material financial effect.²⁰ A material financial effect on an economic interest was
19 reasonably foreseeable if it was substantially likely that one or more of the materiality standards
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21 ⁹ Reg. 18700, subd. (b)(1).

22 ¹⁰ § 82048, subd. (a).

23 ¹¹ Reg. 18700, subd. (b)(2).

24 ¹² Reg. 18702.1, subd. (a).

25 ¹³ Reg. 18700, subd. (b)(3).

26 ¹⁴ § 87103, subd. (c), and Reg. 18703.1, subd. (a).

27 ¹⁵ § 82030, subd. (a).

28 ¹⁶ Reg. 18700, subd. (b)(4).

¹⁷ Reg. 18704.1, subd. (a)(2).

¹⁸ Reg. 18700, subd. (b)(5).

¹⁹ Reg. 18705.1, subd. (b)(1).

²⁰ Reg. 18700, subd. (b)(6).

1 applicable to the economic interest would have been met as a result of the governmental decision.²¹
2 Whether the financial consequences of a decision are “reasonably foreseeable” at the time of a
3 governmental decision depends upon the facts of each particular case.²²

4 **SUMMARY OF THE FACTS**

5 Conflicts of Interests

6 Ashkharian’s Employment

7 Ashkharian was employed by the State Compensation Insurance Fund (SCIF) from February 5,
8 2001 to April 13, 2014, as a Workers’ Compensation Insurance Supervisor II, commonly referred to as
9 an Assistant Claims Manager (ACM), at SCIF’s Los Angeles Claims Services. SCIF is California’s
10 largest provider of workers’ compensation insurance. SCIF’s conflict of interest code required ACM’s to
11 disclose, among other interests, sources of income from entities that provide health care services,
12 insurance related services, and financial services including holding companies and collection agencies.

13 Ashkharian’s Interest in his Wife’s Income

14 In August 2011, Sonia Ashkharian, Ashkharian’s wife, began working for Global Holdings, Inc.
15 – a business entity involved in radiology, pharmaceuticals, and medical billing and collections – as a
16 Supervisor in the Verifications Department. At that time, she had no contact or involvement with any
17 insurance companies, including SCIF.

18 In 2012, Global Holdings downsized its Verifications Department, and offered Mrs. Ashkharian
19 a position as a Medical Lien Representative in the Collection Department. Medical Lien Representatives
20 negotiated with insurance companies, including SCIF, for payment of unpaid medical bills, called liens,
21 on behalf of Global Holdings’ medical providers. This was a lower level position, but Mrs. Ashkharian
22 was told that she could make up for the decrease in salary by earning commission income for settling lien
23 claims. Mrs. Ashkharian earned \$55,298.88, which included \$23,970.71 in commission income for lien
24 claims she settled between February and September 2013. In September 2013, Mrs. Ashkharian was laid
25 off from Global Holdings.

26 ²¹ Reg. 18706, subd. (a).

27 ²² Reg. 18706, subd. (b).

1 In February 2013, Ashkharian sought advice from his manager regarding his wife's employment
2 with Global Holdings. Ashkharian's manager checked with SCIF's Ethics and Labor Relations division
3 to determine what action Ashkharian needed to take. Ashkharian was told that he could not participate in
4 any negotiations with Global Holdings pursuant to the SCIF code of conduct and the conflicts of interests
5 provisions of the Act, and he needed to disclose Mrs. Ashkharian's income from Global Holdings on his
6 applicable Statements of Economic Interests (SEIs). Ashkharian misinterpreted these instructions to
7 mean that he could not negotiate any lien claims directly with his wife. Ashkharian timely disclosed
8 Global Holdings as source of income to him as his wife's employer in his 2013 Annual SEI.

9 Medical Lien Claim Settlements

10 In 2013, SCIF settled most claims for unpaid medical liens. When a SCIF claims adjuster reached
11 a settlement agreement with a lien claimant, the parties used a Confirmation of Settlement form to
12 memorialize the settlement agreement. After reaching an agreement verbally, the Global Holdings
13 employee generated the settlement form, included the settled amount, signed the form and sent it
14 electronically to the SCIF claims adjuster for his/her signature. The signature of the SCIF claims adjuster
15 verified that SCIF would pay the agreed amount to settle the lien.

16 In 2013, Radstar, Inc., one of Global Holdings' radiology providers, had a backlog of unpaid
17 medical liens related to workers' compensation claims with SCIF. Global Holdings employees
18 negotiated, settled and collected unpaid Radstar medical liens with SCIF, and those employees earned
19 commission income related to each Radstar lien they settled with SCIF. Significantly, Mrs. Ashkharian's
20 Global Holdings commission income records show that she negotiated, settled and collected unpaid
21 medical liens for Radstar, and she earned commission income related to the Radstar liens she settled.

22 As an Assistant Claims Manager for SCIF, Ashkharian did not typically negotiate and settle
23 unpaid medical liens – that task was assigned to the claims adjusters he supervised. But sometime in
24 2013, Kristine Kadzhabalian, Global Holdings' Collection Department Manager, contacted Ashkharian to
25 see if he would assist her in getting the backlog of lien claims settled. Ashkharian knew Kadzhabalian was
26 Mrs. Ashkharian's direct supervisor at Global Holdings. Ashkharian contends that he talked with his
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1 supervisor and was given permission to settle these claims as a special project to provide good customer
2 service. No corroborating documentary evidence or witness testimony of this arrangement exists.

3 Between May 13, 2013 and September 9, 2013, Ashkharian directly negotiated and settled 25
4 unpaid medical liens with Global Holdings for Radstar liens, as confirmed by 25 Confirmation of
5 Settlement forms. Although no evidence was obtained showing that Ashkharian directly negotiated with
6 Mrs. Ashkharian to settle these liens, Global Holdings records show that Mrs. Ashkharian received
7 commission income directly related to 24 of the 25 lien settlements, totaling approximately \$2,674, even
8 though other Global Holdings employees, including Mrs. Ashkharian's supervisor, signed these lien
9 claims settlements on behalf of Global Holdings.

10 SCIF investigators found that the 25 liens Ashkharian settled were not assigned to him or to any
11 adjusters in his unit, and no documentation existed explaining why Ashkharian negotiated and settled
12 these liens.

13 VIOLATION

14 Count 1: Conflict of Interest

15 In May through September 2013, as an Assistant Claims Manager for SCIF, Ashkharian made
16 governmental decisions when he negotiated and settled 25 lien claims with Global Holdings, and those
17 settlements would have had a reasonably foreseeable material financial effect on Global Holdings, which
18 was a source of income to him as his wife's employer, violating Government Code section 87100.

19 PROPOSED PENALTY

20 This matter consists of one count of violating the Act, which carries a maximum administrative
21 penalty of \$5,000.²³

22 In determining the appropriate penalty for a particular violation of the Act, the Commission
23 considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis
24 on serving the purposes and intent of the Act. Additionally, the Commission considers the facts and
25 circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d):
26 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public;

27 ²³ § 83116, subd. (c).

1 3) whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent
2 demonstrated good faith in consulting with Commission staff; 5) whether there was a pattern of violations
3 and whether the violator has a prior record of violations of the Act or similar laws; and 6) whether, upon
4 learning of the violation, the violator voluntarily provided amendments to provide full disclosure.²⁴

5 Applying the factors to this case, making governmental decisions in which an official has a
6 financial interest undermines public trust in government by creating the appearance that the decisions
7 were the product of a conflict of interest. The evidence in this matter suggests that the violations were
8 negligent – Ashkharian was generally aware of the Act’s conflict of interest provisions and disclosure
9 requirements, requesting, and misinterpreting, conflict of interest guidance from his supervisor when
10 Mrs. Ashkharian began settling lien claims for Global Holdings. There also appears to be no apparent
11 attempt to conceal because he timely disclosed her income from Global Holdings in his 2013 Annual
12 SEI. The evidence shows a pattern of violations – 25 decisions over a four-month period – but Ashkharian
13 does not have a prior record of violations of the Act.

14 The Commission also considers penalties in prior cases involving similar violations. Recent cases
15 with similar violations include:

16 Conflict of Interest

17 *In the Matter of Kendra Okonkwo*, FPPC No. 12/334 – Okonkwo, the executive director of a
18 charter school, influenced members of the school’s board, to enter into a lease on behalf of the school for
19 two properties Okonkwo owned. Okonkwo simultaneously received from WAYS a six-figure salary for
20 her duties as Executive Director and monthly rent payments of over \$11,000 for the leasing of her real
21 property. In total, the school paid her rent of \$302,805 to lease the two properties. She also signed
22 contracts for improvements to those properties on behalf of the school. The contracts were for \$4,080
23 and \$57,900. At its April, 2016 meeting, the Commission approved a settlement where Okonkwo
24 admitted four conflict of interest counts and paid a penalty of \$16,000.

25 A central purpose of the Act is to ensure public officials disqualify themselves from acting on
26 matters affecting their sources of income in order to avoid conflicts of interest. In this case, Ashkharian

27 ²⁴ Reg. 18361.5, subd. (d).

1 made governmental decisions involving Global Holdings, a source of income to him as his wife's
2 employer. Ashkharian knew his wife worked for Global Holdings, and that Global Holdings would be
3 paid for the lien settlements he negotiated. He also knew that his wife's job involved settling medical
4 liens with SCIF, and that she received commission income for all liens she settled. And in addition to
5 Global Holdings receiving over \$45,000 for these lien settlements, Mrs. Ashkharian received commission
6 income totaling approximately \$2,674 for the lien settlements Ashkharian negotiated. So Ashkharian's
7 conduct not only financially impacted Global Holdings, but financially benefited Ashkharian personally
8 because his wife received commission income for those settlements.

9 Ashkharian and Mrs. Ashkharian contend that they did not know Mrs. Ashkharian would and did
10 receive commission for these lien settlements. And no evidence was obtained during this investigation
11 which explained why Mrs. Ashkharian received commission income for these lien settlements.

12 While this case involves 25 lien settlements benefitting both Ashkharian's wife directly and her
13 employer, several mitigating factors also impact this case. Ashkharian was generally aware of the Act's
14 conflict of interest provisions and disclosure requirements, so he requested conflict of interest guidance
15 from his supervisor when Mrs. Ashkharian began settling lien claims for Global Holdings. Although he
16 misinterpreted the advice to mean he could negotiate with Global Holdings as long as his wife was not
17 involved, his conduct showed a good faith effort to comply with the Act. Additionally, Ashkharian's
18 conduct resulted in a much lower financial effect and personal benefit than in *Okonkwo*. In the *Okonkwo*
19 case, Okonkwo received over \$300,000 in rent payments as the result of the negotiated leases for her real
20 property, in contrast to this case in which Global Holdings received approximately \$45,000 and Mrs.
21 Ashkharian received approximately \$2,674. These mitigating factors justify combining the violations
22 into one count.

23 For the foregoing reasons, a penalty of \$5,000 for Count 1 is recommended.
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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, Respondent,
3 Kevork N. “George” Ashkharian, hereby agree as follows:

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

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

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

11 4. Respondent understands, and hereby knowingly and voluntarily waives, any and all
12 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
13 This includes, but is not limited to the right to appear personally at any administrative hearing held in
14 this matter, to be represented by an attorney at Respondent’s own expense, to confront and cross-examine
15 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
16 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
17 reviewed.

18 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
19 Respondent agrees to the Commission imposing against him an administrative penalty in the amount of
20 \$5,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General
21 Fund of the State of California—is/are submitted with this Stipulation as full payment of the
22 administrative penalty described above, and same shall be held by the State of California until the
23 Commission issues its decision and order regarding this matter.

24 6. If the Commission refuses to approve this Stipulation, this Stipulation shall become null
25 and void, and within fifteen business days after the Commission meeting at which the Stipulation is
26 rejected, all payments tendered by Respondent in connection with this Stipulation shall be reimbursed to
27 Respondent. If this Stipulation is not approved by the Commission, and if a full evidentiary hearing before
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1 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
2 shall be disqualified because of prior consideration of this Stipulation.

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

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7 Dated: _____
8 Galena West, Chief, on Behalf of the Enforcement Division
9 Fair Political Practices Commission

10 Dated: _____
11 Kevork N. "George" Ashkharian, Respondent

12 The foregoing Stipulation of the parties "In the Matter of Kevork N. "George" Ashkharian," FPPC
13 Case No. 14/876 is hereby accepted as the final decision and order of the Fair Political Practices
14 Commission, effective upon execution below by the Chair.

15 IT IS SO ORDERED.

16 Dated: _____
17 Alice T. Germond, Chair
18 Fair Political Practices Commission