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9  
10 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**  
11 **STATE OF CALIFORNIA**

12 In the Matter of:

13 JOSIE CERVANTES,

14 Respondent.

FPPC Case No. 16/478

15 STIPULATION, DECISION AND ORDER

16 **INTRODUCTION**

17 Respondent Josie Cervantes (“Cervantes”) is a member of the Orange Cove City Council. The Act  
18 prohibited a public official from accepting gifts over \$460 in 2015.<sup>1</sup> Cervantes violated the Act by  
19 accepting gifts from a single source that aggregated to more than \$460 in 2015.  
20

21 **SUMMARY OF THE LAW**

22 All legal references and discussions of law are intended to be citations to statutes and regulations  
23 as they existed at the time of the violations.

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

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

2                   When enacting the Political Reform Act, the people of California found and declared that previous  
3 laws regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup>  
4 For this reason, the Act is to be construed liberally to accomplish its purposes.<sup>3</sup>

5   **Gift Limits**

6                   The Act holds that no city councilmembers shall accept gifts from a single source in a calendar year  
7 that aggregates to more than \$460 in a calendar year.<sup>4</sup>

8   **SUMMARY OF THE FACTS**

9                   Cervantes was appointed to the Orange Cove City Council on December 10, 2014. Cervantes’  
10 current term expires in November 2020.

11                   Cervantes 2015 Annual Statement of Economic Interests (“SEI”) reported a gift of tickets in the  
12 amount of \$235 received from Townsend Public Affairs on August 30, 2015, September 13, 2015, and  
13 December 24, 2015, totaling \$705.<sup>5</sup> In 2015, the annual gift limit was \$460. Therefore, Cervantes accepted  
14 gifts from a single source that aggregated to an amount \$245 over the annual limit.

15                   Townsend Public Affairs is in the business of public affairs and has a contract with the City of  
16 Orange Cove. The contract was initially approved by the Orange Cove City Council on January 28, 2015.  
17 The contract was renewed on February 24, 2016 and again on December 14, 2016. Cervantes was absent  
18 from the meeting on February 24, 2016 to renew the contract. Cervantes voted to renew the contract with  
19 Townsend on December 14, 2016, but the tickets she accepted from Townsend Public Affairs did not  
20 aggregate to \$460 or more in the 12 months prior to her vote at this meeting.

21   **VIOLATIONS**

22                   Count 1: Accepting a Gift Over-the-Limit

23                   Cervantes accepted Raiders tickets totaling approximately \$705 from Townsend Public Affairs in  
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<sup>2</sup> Section 81001, subdivision (h).

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

27 <sup>4</sup> Section 89503, subdivision (a) and Former Regulation 18940.2, subdivision “...For purposes of Section 89503, the  
adjusted annual gift limit amount in effect for the period of January 1, 2015, to December 31, 2016, is \$460.

28 <sup>5</sup> Cervantes reported she received Raiders tickets from the “Townsend Group” but the company was actually Townsend  
Public Affairs. The Townsend Group is real estate group in San Francisco that does not appear to have any connection to  
Cervantes.

1 2015, exceeding the gift limit by \$245, in violation of Government Code Section 89503.

2 **PROPOSED PENALTY**

3 This matter consists of one count. The maximum penalty that may be imposed for one count is  
4 \$5,000.<sup>6</sup>

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

12 In the current matter, Cervantes accepted gifts over-the-limit. The acceptance of gifts over-the-limit  
13 is a serious violation of the Act because it can potentially lead to a conflict of interest. In this case,  
14 Cervantes' vote to renew the Townsend Public Affairs contract did not amount to a conflict of interest  
15 because some of the tickets she received fell outside the 12 months preceding her vote on the contract.  
16 However, Cervantes' vote after receiving the tickets created a perception of a conflict of interest. Cervantes  
17 has not previously received a penalty for violating the Act's gift limits.

18 The Commission considers penalties in prior cases with the same or similar violations and  
19 comparable facts. In the *Matter of George Dotson*; FPPC Case No. 17/575 (approved on May 16, 2019)  
20 the Commission approved a penalty of \$2,000 against the respondent for accepting a gift over-the-limit.  
21 The respondent was a member of the Inglewood City Council. In 2016, the respondent accepted a gift of  
22 tickets to the Los Angeles Rams game that was over the annual limit of \$460 by \$290.

23 Regarding Count 1, a higher penalty than the one approved in the comparable case is recommended.  
24 Cervantes accepted Raiders tickets totaling approximately \$705 from Townsend Public Affairs, exceeding  
25 the gift limit by \$245. This matter is further aggravated by the fact that Townsend Public Affairs had a  
26 contract with the City of Orange Cove. Cervantes voted to approve the renewal of this contract in December  
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28 <sup>6</sup> See Section 83116, subdivision (c).

<sup>7</sup> Regulation 18361.5, subdivision (d).

1 of 2016 after receiving tickets from the Townsend Public Affairs in the 12 months preceding the vote.  
2 Although the tickets she received prior to the vote did not create a conflict of interest under the Act, they  
3 created the perception of a conflict of interest. In addition, Enforcement discovered evidence that other  
4 tickets were provided to the respondent and not reported. She contends that these tickets were never used  
5 and therefore not required to be reported. Therefore, a penalty of \$3,000 is recommended.

## 6 CONCLUSION

7 Complainant, the Enforcement Division of the Fair Political Practices Commission, Cervantes  
8 agrees as follows:

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

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

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

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

23 5. Respondent agrees to the issuance of the decision and order set forth below. Also,  
24 Respondent agrees to the Commission imposing against it an administrative penalty in the amount of  
25 \$3,000. One or more payments totaling said amount—to be paid to the General Fund of the State of  
26 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
27 above, and same shall be held by the State of California until the Commission issues its decision and order  
28 regarding this matter.

