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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of:

FPPC Case No. 19/1099

CARL SCHUSTER,

STIPULATION, DECISION AND ORDER

Respondent.

INTRODUCTION

Respondent, Carl Schuster (“Schuster”), was appointed to Commissioner for the California Travel and Tourism Commission (“Visit California”) on October 8, 2012. To date, Schuster continues to hold his position with Visit California.

The Political Reform Act (the “Act”)¹ requires designated officials to disclose their reportable economic interests on a Statement of Economic Interests (“SEI”) at various times pursuant to their agency’s Conflict of Interest Code. Schuster, a designated official, violated the Act by failing to timely file his 2018 Annual SEI by the April 1, 2019 due date for his position with Visit California.

SUMMARY OF THE LAW

The violation in this case occurred in 2019. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they existed at that time.

¹ The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections 81000 through 91014. All statutory references are to this code. 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 this source.

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

2 When enacting the Act, the people of California found and declared that previous laws regulating
3 political practices suffered from inadequate enforcement by state and local authorities.² Thus, it was
4 decreed the Act should be liberally construed to accomplish its purposes.³

5 One central purpose of the Act is to increase transparency and decrease conflicts of interest in the
6 actions of public officials by requiring disclosure of their economic interests.⁴ Another is to provide
7 adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁵

8 **Conflict of Interest Codes**

9 The Act requires every state agency to develop a Conflict of Interest Code.⁶ These codes must
10 designate those officials who participate in making decisions which may foreseeably have a material
11 financial effect on any financial interest belonging to that official and require those designated officials
12 to disclose all reportable interests on SEIs.⁷ The requirements of an agency’s Conflict of Interest Code
13 have the force of law, and any violations of those requirements is deemed a violation of the Act.⁸

14 **Conflict of Interest Code for Visit California**

15 Visit California’s Conflict of Interest Code designated Commissioners as a position required to
16 disclose interests in: (1) real property located within the jurisdiction or within two miles of any land
17 owned or used by the agency; (2) investments, business positions in, and sources of income, including
18 gifts, loans and travel payments, from entities of the type which: (a) supply materials, commodities,
19 supplies, books, machinery, vehicles or equipment utilized by Visit California; (b) provide services
20 utilized by Visit California, including but not limited to market research, public relations, or media
21 services; or (c) participate in programs administered by Visit California; and (3) investments, business
22 positions in business entities, and sources of income, including gifts, loans and travel payments, from

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26 ² Section 81001, subdivision (h).
27 ³ Section 81003.
28 ⁴ Section 81002, subdivision (c).
⁵ Section 81002, subdivision (f).
⁶ Section 87300.
⁷ Section 87302, subdivision (a).
⁸ Section 87300.

1 tourism related business, including but not limited to, airlines, amusement parks, travel agencies, rental
2 car companies, hotels and motels.⁹

3 **Regulation 18730**

4 Visit California incorporated by reference Regulation 18730 into its Conflict of Interest Code.¹⁰
5 Regulation 18730 outlines the timing for disclosing the designated employees' economic interests as
6 follows: all designated employees shall annually file statements no later than April 1.¹¹

7 **Liability for Violations**

8 Any person who violates any provision of the Act is liable for administrative penalties up to
9 \$5,000 per violation.¹²

10 **SUMMARY OF THE FACTS**

11 Schuster served as a Commissioner for Visit California from October 8, 2012 to present. For his
12 position with Visit California, Schuster filed six SEIs including his Assuming Office, 2013 Annual,
13 2014 Annual, 2015 Annual, 2016 Annual, and 2017 Annual SEIs. Schuster failed to timely file his 2018
14 annual SEI by the April 1, 2019 due date.

15 The Fair Political Practices Commission's SEI Unit ("SEI Unit") contacted Schuster five times
16 in writing between January 8, 2019 and September 16, 2019 to remind him of his 2018 Annual SEI
17 filing obligation. After not receiving compliance from Schuster regarding his outstanding SEI, the SEI
18 Unit referred the matter to the Enforcement Division.

19 The Enforcement Division contacted Schuster three times in writing and four times via telephone
20 between February 13, 2020 and March 2, 2020 to remind him of his 2018 Annual SEI filing obligation.
21 On March 2, 2020, Schuster completed and filed his 2018 Annual SEI with the SEI Unit. On March 4,
22 2020, Schuster completed and filed his 2019 Annual SEI with the SEI Unit.

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27 ⁹ Conflict of Interest Code for the California Travel and Tourism Commission.

28 ¹⁰ Conflict of Interest Code for the California Travel and Tourism Commission.

¹¹ Regulation 18730, subdivision (b)(5)(C).

¹² Sections 83116 and 83116.5.

1 **VIOLATION**

2 **Count 1: Failure to Timely File 2018 Annual SEI**

3 Schuster failed to timely file his 2018 Annual SEI by the April 1, 2019 due date, in violation of
4 Government Code Section 87300.

5 **PROPOSED PENALTY**

6 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
7 count. Thus, the maximum penalty that may be imposed here is \$5,000.¹³

8 In determining the appropriate penalty for a particular violation of the Act, the Commission
9 considers the facts of the case, the public harm involved, and the purposes of the Act. Further, the
10 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
11 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
12 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
13 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
14 record of violations.¹⁴

15 Schuster was approximately 11 months late to disclose his reportable interests for calendar year
16 2018. Although, the Enforcement Division did not discover any evidence displaying any intention by
17 Schuster to conceal, deceive, or mislead the public regarding his economic interests. Schuster's prior
18 SEI filing for calendar year 2017 reported the same economic interests as his 2018 Annual SEI.

19 The violation appears to be negligent as Schuster has a prior enforcement history for the same
20 type of violation. On November 16, 2017, the Commission approved a streamline stipulated penalty of
21 \$200 for Schuster's failure to timely file his 2016 Annual SEI (FPPC Case No. 2017-00997). According
22 to Schuster's SEI filing history, this violation is part of a pattern of late filing SEIs.

23 The Commission considers penalties in prior cases with the same or similar violations and
24 comparable facts.

25 *In the Matter of Aaron F.B. Medina*; FPPC Case No. 16/19737. Respondent, a former
26 Commissioner of the California Travel and Tourism Commission, failed to timely file his 2015 Annual
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28 ¹³ Section 83116, subdivision (c).

¹⁴ Regulation 18361.5, subdivision (d).

1 and 2016 Annual SEIs by the specified deadlines. Respondent had prior enforcement history for failing
2 to timely file his Assuming Office, 2013 Annual, and 2014 Annual SEIs by the specified deadlines. On
3 May 17, 2018, the Commission approved a total penalty of \$2,000; \$1,000 per count.

4 A similar penalty than that approved in the *Medina* case is recommended. Similar to *Medina*,
5 Schuster failed to file his 2018 Annual SEI until he received contact from the Enforcement Division.
6 Also, similar to *Medina*, Schuster has prior enforcement history for failing to timely file his 2016
7 Annual SEI. Therefore, a penalty amount of \$1,000 is recommended.

8 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
9 in the amount of \$1,000 is justified.

10 CONCLUSION

11 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
12 Respondent, Carl Schuster, hereby agree as follows:

- 13 1. Respondent violated the Act as described in the foregoing pages, which are a true and accurate
14 summary of the facts in this matter.
- 15 2. This stipulation will be submitted for consideration by the Fair Political Practices
16 Commission at its next regularly scheduled meeting – or as soon thereafter as the matter may be
17 heard.
- 18 3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose
19 of reaching a final disposition without the necessity of holding an administrative hearing to
20 determine the liability of Respondent pursuant to Section 83116.
- 21 4. Respondent understands, and hereby knowingly and voluntarily waives, any and all
22 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through
23 18361.9. This includes, but is not limited to the right to appear personally at any administrative
24 hearing held in this matter, to be represented by an attorney at Respondent’s own expense, to
25 confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to
26 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a
27 hearing officer, and to have the matter judicially reviewed.

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1 5. Respondent agrees to the issuance of the decision and orders set forth below. Also,
2 Respondent agrees to the Commission imposing against them an administrative penalty in the
3 amount of \$1,000. One or more cashier's checks or money orders totaling said amount – to be
4 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
5 payment of the administrative penalty described above, and same shall be held by the State of
6 California until the Commission issues its decision and order regarding this matter.

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

14 7. The parties to this agreement may execute their respective signature pages separately. A
15 copy of any party's executed signature page, including a hardcopy of a signature page
16 transmitted via fax or as a PDF email attachment, is as effective and binding as the original.
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19 Dated: _____
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21 Galena West, Chief of Enforcement
22 Fair Political Practices Commission

23 Dated: _____
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25 Carl Schuster, Respondent
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1 The foregoing stipulation of the parties “In the Matter of Carl Schuster,” FPPC Case No.
2 19/1099, is hereby accepted as the final decision and order of the Fair Political Practices Commission,
3 effective upon execution by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: _____

Richard C. Miadich, Chair
Fair Political Practices Commission