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8  
9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11 In the Matter of

FPPC Case No. 20/730

12  
13 SHAWN FARMER,

**STIPULATION, DECISION AND ORDER**

Date Submitted to Commission: March 2024

14 Respondent.  
15

16  
17 **INTRODUCTION**

18 Respondent Shawn Farmer (“Farmer”) has served as a member of the Galt City Council since  
19 assuming office on December 5, 2018.

20 This case arose from an anonymous complaint.

21 The Political Reform Act (the “Act”)<sup>1</sup> prohibits public officials from making, participating in  
22 making, or attempting to influence governmental decisions in which the official knows or has reason to  
23 know they have a financial interest. Farmer violated the Act by making a governmental decision  
24 involving real property located within 500 feet of Farmer’s real property financial interest.

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28 <sup>1</sup> 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 Practice Commission are contained in §§ 18104 through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violation in this case occurred  
3 on March 19, 2019. For this reason, all legal references and discussions of law pertain to the Act’s  
4 provisions as they existed at that time.

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

6 When enacting the Act, California voters specifically found and declared that previous laws  
7 regulating political practices had suffered from inadequate enforcement, and it was their purpose to  
8 ensure that the Act be vigorously enforced.<sup>2</sup> For this reason, the Act is to be construed liberally to  
9 accomplish its purposes.<sup>3</sup>

10 A central purpose of the Act is to ensure that public officials perform their duties in an impartial  
11 manner, free from bias caused by their own financial interests.<sup>4</sup> Along these lines, the Act requires  
12 public officials to disclose their assets and income which may be materially affected by their official  
13 actions and in appropriate circumstances disqualify themselves from acting so that conflicts of interest  
14 may be avoided.<sup>5</sup>

15 **Conflict of Interest**

16 No public official at any level of state or local government shall make, participate in making or  
17 in any way attempt to use their official position to influence a governmental decision in which they  
18 know or have reason to know they have a financial interest.<sup>6</sup> A public official has a financial interest in  
19 a decision if it is reasonably foreseeable that the decision will have a material financial effect,  
20 distinguishable from its effect on the public generally, on any real property in which the public official  
21 has a direct or indirect interest of at least \$2,000.<sup>7</sup> The Act defines “financial effect” as an effect that  
22 provides a benefit of monetary value or provides, prevents, or avoids a detriment of monetary value.<sup>8</sup>

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26 <sup>2</sup> Sections 81001, subd. (h), and 81002, subd. (f).

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

28 <sup>4</sup> Section 81001, subd. (b).

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

<sup>6</sup> Section 87100.

<sup>7</sup> Section 87103, subd. (b).

<sup>8</sup> Regulation 18700, subd. (c)(5).

1 In 2019, there were four steps to determine whether a public official had a conflict of interest in  
2 a governmental decision under the Act.<sup>9</sup>

3 First, for a conflict to exist, it must have been reasonably foreseeable that the governmental  
4 decision would have a financial effect on the public official's financial interests.<sup>10</sup> For a financial  
5 interest not explicitly involved in a decision, a financial effect need not be likely to be considered  
6 reasonably foreseeable.<sup>11</sup> In general, if the financial effect can be recognized as a realistic possibility  
7 and more than hypothetical or theoretical, it is reasonably foreseeable.<sup>12</sup> For example, a financial effect  
8 is reasonably foreseeable when a reasonable inference can be made that the financial effects of the  
9 governmental decision on the public official's financial interest might compromise a public official's  
10 ability to act in a manner consistent with their duty to act in the best interests of the public.<sup>13</sup>

11 Second, the reasonably foreseeable financial effect must be material.<sup>14</sup> The reasonably  
12 foreseeable financial effect of a governmental decision on a parcel of real property in which an official  
13 has a financial interest is material whenever the governmental decision involves property located 500  
14 feet or less from the property line of the parcel unless there is clear and convincing evidence that the  
15 decision will not have any measurable impact on the official's property.<sup>15</sup>

16 Third, the material financial effect on the public official's financial interest must not be  
17 indistinguishable from its effect on the public generally.<sup>16</sup> A governmental decision's financial effect  
18 on a public official's financial interest is indistinguishable from its effect on the public generally if the  
19 official establishes that a significant segment of the public is affected and the effect on their financial  
20 interest is not unique compared to the effect on the significant segment.<sup>17</sup> The burden of proof is on the  
21 official to prove this affirmative defense.

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24 <sup>9</sup> Regulation 18700, subd. (d).

25 <sup>10</sup> Regulation 18700, subd. (d)(1).

26 <sup>11</sup> Regulation 18701, subd. (b).

27 <sup>12</sup> *Id.*

28 <sup>13</sup> Regulation 18701, subd. (b)(4).

<sup>14</sup> Regulation 18700, subd. (d)(2).

<sup>15</sup> Regulation 18702.2, subd. (a).

<sup>16</sup> Regulation 18700, subd. (d)(3).

<sup>17</sup> Regulation 18703, subd. (a).

1 Fourth, the public official must have made, participated in making, or attempted to use their  
2 official position to influence a governmental decision.<sup>18</sup> A public official makes a governmental  
3 decision if the official authorizes or directs any action, votes, appoints a person, obligates or commits  
4 their agency to any course of action, or enters into any contractual agreement on behalf of their  
5 agency.<sup>19</sup>

#### 6 **SUMMARY OF THE FACTS**

7 As a member of the Galt City Council, Farmer is a public official who is required to file a  
8 Statement of Economic Interests (“SEI”) at various times pursuant to the Act. On December 20, 2018,  
9 Farmer timely filed the Assuming Office SEI and disclosed, among other interests, a direct financial  
10 interest in real property located at 830 Southdale Court, Galt, CA 95632 (APN 150-0333-008) (the  
11 “Farmer Property”).

12 On March 19, 2019, at a regular meeting of the Galt City Council, an item on the agenda  
13 concerned the “Purchase and Sale Agreement with Arcadia Development Co for the sale of City owned  
14 property.” (Hereafter, Arcadia Development Co. will be referred to as “Arcadia Development” and the  
15 City-owned property will be referred to as the “City Property.”) The City Property for sale was  
16 identified as APN 150-0101-050 and consisted of approximately 5.7 acres of undeveloped land located  
17 along the northern line of Cornell Road, approximately 800 feet east of lower Sacramento Road in the  
18 City of Galt. According to the Purchase and Sale Agreement with Arcadia Development, the City  
19 Property was zoned as intermediate density single-family residential and Arcadia Development  
20 “intends to undertake, or cause to be undertaken, a residential development project” on the 5.7 acres of  
21 undeveloped land.

22 The Enforcement Division confirmed the Farmer Property is located approximately 260 feet  
23 from the property line of the City Property. Additionally, the Enforcement Division confirmed Farmer  
24 voted to approve the sale of the City Property to Arcadia Development during the Galt City Council  
25 meeting held on March 19, 2019. Ultimately, this item was approved with four council members voting  
26 for approval while one member was absent from the meeting.

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28 <sup>18</sup> Regulation 18700, subd. (d)(4).

<sup>19</sup> Regulation 18704, subd. (a).

1 Under the Act, there is a violation of the conflict of interest provisions when a public official  
2 makes a governmental decision in which it is reasonably foreseeable that the decision would have a  
3 material financial effect on any of the official's financial interests that is not indistinguishable from its  
4 effect on the public generally.

5 First, it was reasonably foreseeable that the approval of the sale of the City Property to Arcadia  
6 Development would have a material financial effect on the properties in the area, including the Farmer  
7 Property. It is reasonably foreseeable that the sale of undeveloped property to a developer would have a  
8 financial effect on the surrounding properties such as raising property values or changing the character  
9 of the neighborhood. Additionally, Farmer provided a comment to a local online newspaper, The Galt  
10 Herald, regarding the decision at issue here and stated, "What we're getting is fair. I look at this as  
11 infill. It will help property values in the area and money to our Parks and Rec. For these reasons, I  
12 support it."<sup>20</sup> Farmer did not present evidence to demonstrate that the governmental decision would not  
13 have any measurable impact on the Farmer Property.

14 Based on the foregoing, there is a realistic possibility that the new development will have a  
15 financial effect on the properties in the area and the occurrence of these effects are not contingent upon  
16 other intervening events. Therefore, it was reasonably foreseeable that the March 19, 2019  
17 governmental decision involving the City Property would have a financial effect on the Farmer  
18 Property.

19 Second, the reasonably foreseeable financial effect on the Farmer Property is presumed to be  
20 material under the Act since the City Property is located approximately 260 feet from the Farmer  
21 Property.

22 Third, the Enforcement Division did not obtain any evidence to suggest that the Act's public  
23 generally exception applies here. Further, Farmer did not allege or establish that a significant segment  
24 of the public was affected by the March 19, 2019 governmental decision involving the City Property.

25 Fourth, on March 19, 2019, Farmer voted to approve the sale of the City Property to Arcadia  
26 Development.

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28 <sup>20</sup> Karen Everett Watson, *City Council approves sale of Cornell Road properties*, THE GALT HERALD, Mar. 27,  
2019, [http://www.galtheraldonline.com/news/city-council-approves-sale-of-cornell-road-properties/article\\_e67f26b4-50e7-11e9-967c-97f9012c5557.html](http://www.galtheraldonline.com/news/city-council-approves-sale-of-cornell-road-properties/article_e67f26b4-50e7-11e9-967c-97f9012c5557.html).

1 Based on the foregoing, Farmer had a conflict of interest with respect to the March 19, 2019  
2 governmental decision regarding the sale of the City Property to Arcadia Development.

### 3 VIOLATION

#### 4 **Count 1: Conflict of Interest**

5 On March 19, 2019, Farmer, a member of the Galt City Council, had a conflict of interest when  
6 Farmer voted on a governmental decision that had a reasonably foreseeable material financial effect on  
7 Farmer's financial interest, the Farmer Property, in violation of Government Code Section 87100.

### 8 PROPOSED PENALTY

9 This matter consists of one proposed count. The maximum penalty that may be imposed is  
10 \$5,000 per count. Thus, the maximum penalty that may be imposed for the count charged here is  
11 \$5,000.<sup>21</sup>

12 Conflict of interest violations are not eligible for the Streamline Settlement Program.<sup>22</sup>

13 In determining the appropriate penalty for a particular violation of the Act, the Enforcement  
14 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with  
15 an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division  
16 considers the facts and circumstances of the violation in the context of the following factors set forth in  
17 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused  
18 by the specific violation; (2) The level of experience of the violator with the requirements of the  
19 Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases;  
20 (4) The presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation  
21 was deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by  
22 consulting the Commission staff or any other governmental agency in a manner not constituting  
23 complete defense under Government Code Section 83114(b); (7) Whether the violation was isolated or  
24 part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or  
25 similar laws; and (8) Whether the violator, upon learning of a reporting violation, voluntarily filed  
26 amendments to provide full disclosure.<sup>23</sup>

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28 <sup>21</sup> Section 83116, subd. (c).

<sup>22</sup> Regulation 18360.1, subd. (a).

<sup>23</sup> Regulation 18361.5, subd. (e).

1 A conflict of interest is a serious violation of the Act with a high degree of public harm. This  
2 type of violation undermines public trust in government by creating the appearance that the decision  
3 was the product of a conflict of interest. Also, such conduct contradicts the Act’s decree that public  
4 officials should serve the needs of all citizens in an impartial manner—free from bias caused by their  
5 own financial interests. In this matter, Farmer was aware of the financial interest held in the Farmer  
6 Property as Farmer timely disclosed this financial interest on the Assuming Office SEI. Additionally, as  
7 evidenced by the comment Farmer made to the Galt Herald regarding the decision at issue here, Farmer  
8 was aware that approval of the sale of the City Property to Arcadia Development would have a  
9 reasonably foreseeable material financial effect on the surrounding properties.

10 Farmer contends that, at the time of the decision, he was not aware of the location of the City  
11 Property and so was not aware of its proximity to the Farmer Property. According to Farmer, at no time  
12 during the discussion of the sale of the City Property was an address provided. Instead, the City  
13 Property was only presented and referred to as “APN 150-0101-050.” The Enforcement Division did  
14 not obtain any evidence to contradict these statements; however, the meeting agenda also stated the  
15 City Property is “located on Cornell Road” and, according to Farmer, Farmer did not ask staff for the  
16 location of the City Property.

17 At the time of the governmental decision, Farmer had minimal experience with the conflict of  
18 interest provisions of the Act as Farmer only assumed office as a public official in December of 2018.  
19 The governmental decision at issue here occurred on March 19, 2019, less than four months after  
20 Farmer assumed office. However, the Enforcement Division found that Farmer received a Certificate of  
21 Attendance for participation in an ethics training on January 23, 2019, nearly two months prior to the  
22 governmental decision at issue here. Further, the violation at issue here was isolated and Farmer does  
23 not have a prior history of violating the Act.

24 In this matter, there was no evidence to support an intent to conceal, deceive or mislead the  
25 public as to Farmer’s financial interests as Farmer timely disclosed the ownership interest in the Farmer  
26 Property on the Assuming Office SEI. There is no evidence to suggest that Farmer knowingly voted in  
27 a governmental decision in which Farmer knew it was a prohibited conflict of interest. Instead, the  
28 evidence suggests that Farmer was inexperienced with the Act’s conflict of interest provisions as a

1 newly elected public official and negligently voted on the governmental decision at issue here. Farmer  
2 did not consult with Commission staff or any other governmental agency regarding participating in the  
3 March 19, 2019 vote involving the sale of the City Property.

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

6 *In the Matter of Brooke Ashjian*; FPPC Case No. 16/19903. Brooke Ashjian, a trustee of the  
7 Fresno Unified School District, among other violations, violated the Act's conflict of interest  
8 provisions by making governmental decisions involving real property located within 500 feet from real  
9 property in which Ashjian had a financial interest. On March 21, 2018, Ashjian, as a trustee of the  
10 Fresno Unified School District, voted for a bid for a modernization project related to Rata High School.  
11 At that time, Ashjian held a financial interest in real property located 377 feet from Rata High School.  
12 The financial effect on Ashjian's real property was reasonably foreseeable given the realistic possibility  
13 that the modernization of a nearby school would impact the value of Ashjian's real property. Since  
14 Ashjian's real property is located within 500 feet of Rata High School, the reasonably foreseeable  
15 financial effect of the decision is presumed to be material, resulting in a conflict of interest. In  
16 aggravation, at the time of the March 21, 2018 decision, Ashjian had at least three years of experience  
17 as a trustee. Further, in aggravation, Ashjian had additional violations of the conflict of interest  
18 provisions that were not charged separately for the purposes of settlement. Ashjian made five additional  
19 governmental decisions which had a reasonably foreseeable material financial effect on other real  
20 properties owned through Ashjian's business. On December 19, 2019, the Commission approved a  
21 penalty of \$4,000 for this violation.

22 A lesser penalty than that approved in *Ashjian* is recommended. Similar to *Ashjian*, Farmer  
23 made a governmental decision involving real property located approximately 260 feet from the Farmer  
24 Property, resulting in a conflict of interest. In mitigation, unlike *Ashjian*, Farmer had less than four  
25 months of experience as a City Council member at the time of the governmental decision at issue here.  
26 Further, in mitigation, unlike Ashjian who made multiple governmental decisions which had a  
27 reasonably foreseeable material financial effect on Ashjian's real property financial interests, Farmer  
28 only made one governmental decision. Therefore, a penalty of \$3,000 is recommended.



1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
3 Respondent, Shawn Farmer, hereby agree as follows:

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

6 2. This stipulation will be submitted for consideration by the Fair Political Practices Commission  
7 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 of  
9 reaching a final disposition without the necessity of holding an administrative hearing to determine the  
10 liability of Respondent pursuant to Section 83116.

11 4. Respondent understands and hereby knowingly and voluntarily waives any and all procedural  
12 rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This  
13 includes, but is not limited to, the right to appear personally at any administrative hearing held in this  
14 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  
16 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter  
17 judicially reviewed.

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

24 6. If the Commission refuses to approve this stipulation – then 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  
27 to Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing  
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1 before the Commission becomes necessary, neither any member of the Commission, nor the Executive  
2 Director, 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 copy of  
4 any party's executed signature page, including a hardcopy of a signature page transmitted via fax or as  
5 a PDF email attachment, is as effective and binding as the original.

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8 Dated: \_\_\_\_\_  
9 James M. Lindsay, Chief of Enforcement  
10 Fair Political Practices Commission

11  
12 Dated: \_\_\_\_\_  
13 Shawn Farmer, Respondent

14  
15 The foregoing stipulation of the parties "In the Matter of Shawn Farmer," FPPC Case No.  
16 20/730, is hereby accepted as the final decision and order of the Fair Political Practices Commission,  
17 effective upon execution by the Chair.

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19 IT IS SO ORDERED.

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21 Dated: \_\_\_\_\_  
22 Richard C. Miadich, Chair  
23 Fair Political Practices Commission