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7
8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**

10
11 In the Matter of

12 **ARMANDO JARAMILLO,**

13 Respondent.

FPPC Case No. 2019-00419

STIPULATION, DECISION AND ORDER

Date Submitted to Commission: November 2024

14
15 **INTRODUCTION**

16 Respondent Armando Jaramillo (“Jaramillo”) is a former Systems Integration Analyst for the
17 Imperial County Office of Education (“ICOE”). Jaramillo worked in this capacity for approximately
18 eight years, until November 2018. In addition, Jaramillo owns Pixabytes Solutions, Inc (“Pixabytes”), an
19 audio visual and projector installation business. At the same time Jaramillo worked for ICOE, Jaramillo
20 contacted their supervisor and submitted quotes for Pixabytes to enter into contracts with ICOE at least
21 six times, resulting in at least six contracts. As a result, Jaramillo participated in the planning,
22 discussions, reasoning, preparation of, and specifications of six contracts with ICOE in which Jaramillo
23 had a financial interest, in violation of Government Code Section 1090.

24 The Imperial County District Attorney provided authorization to the FPPC, in writing, to bring this
25 administrative action. In regard to this determination, this decision applies only to proceedings brought
26 by the Commission and this decision is not admissible in any proceeding other than a proceeding brought
27
28

1 by the Commission.¹

2 **SUMMARY OF THE LAW**

3 **Need for Liberal Construction and Vigorous Enforcement of Conflict-of-Interest Laws**

4 In 2013, the Legislature approved AB 1090, granting the Fair Political Practices Commission
5 (“Commission”) jurisdiction to commence administrative action against an officer or person prohibited
6 by Section 1090 from making or being interested in contracts.² The Commission shall not have
7 jurisdiction to commence such an administrative action except upon written authorization from the
8 district attorney of the county in which the alleged violation occurred.³ In regard to this determination,
9 this decision applies only to proceedings brought by the Commission and this decision is not admissible
10 in any proceeding other than a proceeding brought by the Commission.⁴ An administrative action shall be
11 commenced no more than five years after the date on which the violation occurred.⁵

12 **Prohibited Conflicts of Interest Under Section 1090**

13 Government Code section 1090 states, “Members of the Legislature, state, county, district,
14 judicial district, and city officers or employees shall not be financially interested in any contract made by
15 them in their official capacity, or by anybody or board of which they are members...” Courts have
16 interpreted Section 1090 broadly, as the purpose of this conflict of interest provision is to ensure no
17 divided loyalties by those who serve the public. “An important, prophylactic statute such as Section 1090
18 should be construed broadly to close loopholes; it should not be constricted and enfeebled.”⁶

19 The prohibition applies to various government officials, including employees. Also, the
20 prohibition applies to the making of contracts. It is not necessary for the prosecution to show that the
21 official participated personally in the execution of the questioned contract. It is enough to show that the
22 official, regardless of his job classification, had the opportunity to, and did, influence execution directly

23 ¹ Government Code Section 1097.1, subdivision (d).

24 ² Government Code Section 1097.1. See also Stats. 2013, Ch. 650, Sec. 5. (AB 1090).

25 ³ Government Code Section 1097.1, subdivision (b).

26 ⁴ Government Code Section 1097.1, subdivision (d).

27 ⁵ Government Code Section 1097.2, referencing Government Code Section 91000.5.

28 ⁶ Carson Redevelopment Agency v. Padilla, 140 Cal. App. 4th 1323, 1334 (2006); see also Stigall v. City of Taft, 58 Cal. 2d 565, 569071 (1962) (Section 1090 is “concerned with any interest, other than perhaps a remote or minimal interest, which would prevent the officials from exercising absolute loyalty and undivided allegiance to the best interests of the city.”)

1 or indirectly to promote his personal interests. This may be shown by the official’s involvement with
2 respect to one or more of the following activities, which are embodied in the making of a contract:
3 planning, discussions, reasoning, preparation of plans/specifications, solicitation of bids, negotiations,
4 compromises, give and take, etc. Such involvement is in violation of Section 1090 if the resulting
5 contract causes government business to go to an entity or person in which the official has an interest.⁷

6 Under Section 1090, after an official influences/participates with respect to the making of a
7 contract, they cannot escape liability or culpability by resigning prior to the date of execution of the
8 contract. Resignation does not cure the violation.⁸

9 The statute is more concerned with what might have happened than with what actually happened;
10 Section 1090 prohibits even the appearance of impropriety.⁹

11 Section 1090 protects the actual integrity of the public treasury – as well as the perceived
12 integrity. “As a result, liability – even criminal liability – can accrue without ‘actual fraud, dishonesty,
13 unfairness or loss to the governmental entity.’”¹⁰

14 Under Section 1090, prohibited financial interests are not limited to express agreements and need
15 not be proven by evidence. Rather, forbidden interests include indirect interests and future expectations
16 of profit (or loss) by express or implied agreement, which may be inferred from the circumstances. Any
17 financial interest not explicitly excluded by the Legislature (in Sections 1091 and 1091.5) as too “remote
18 or minimal” is sufficient to incur even criminal liability.¹¹

21 ⁷ *People v. Sobel* (1974) 40 Cal.App.3d 1046, 1051-53; *People v. Superior Court (Sahlolbei)* (2017) 3 Cal.5th 230,
239-40; and *City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191, 194-97.

22 ⁸ *City Council v. McKinley* (1978) 80 Cal.App.3d 204, 212: “If the date of final execution were the only time at
23 which a conflict might occur, a city councilman could do all the work negotiating and effecting a final contract which would
24 be available only to himself and then present the matter to the council, resigning his office immediately before the contract
25 was executed. He would reap the benefits of his work without being on the council when the final act was completed. This is
not the spirit nor the intent of the law. . . .” Also, see 81 Ops.Cal.Atty.Gen. 317 (1998) [official could not participate in the
establishment of a loan program and then leave office to apply for a loan]; and 66 Ops.Cal.Atty.Gen. 156 (1983) [county
employees could not propose agreement for consultant services, then resign, and provide such consulting services].

26 ⁹ *Thorpe v. Long Beach Cmty. College Dist.* (2000) 83 Cal.App.4th 655, 660; *City of Imperial Beach v. Bailey*, supra,
103 Cal.App.3d at p. 197.

27 ¹⁰ *People v. Superior Court (Sahlolbei)*, supra, 3 Cal.5th at p. 239 – citing *People v. Honig* (1996) 48 Cal.App.4th
289, 314.

28 ¹¹ *People v. Honig*, supra, 48 Cal.App.4th at p. 315; and *People v. Superior Court (Sahlolbei)*, supra, 3 Cal.5th at p.
239.

1 **SUMMARY OF THE FACTS**

2 This case arose as a Commission initiated complaint, resulting from a law enforcement referral. A
3 Probable Cause Report was issued in this matter, thereby tolling the statute of limitations.

4 Jaramillo began working for ICOE in about 2010 as a Systems Integration Analyst. In this
5 capacity, Jaramillo was a public employee within the meaning of Section 1090. However, the Systems
6 Integration Analyst for ICOE was not a designated position that made governmental decisions in the
7 agency’s Conflict of Interest Code. As a result, Jaramillo was not required to file Statements of
8 Economic Interests (“SEI”) and not provided any training regarding conflicts of interests.

9 In 2015, Jaramillo formed Pixabytes, with Jaramillo named as the agent. Further, the California
10 Contractor’s License was issued to Pixabytes, with Jaramillo named as the individual associated with the
11 license.

12 In early 2017, Jaramillo sent an email to Jaramillo’s supervisor, stating they found “it cheaper
13 locally” who can work on Saturday and Sunday with no overtime, with a quote attached. The attached
14 quote included a cover from Pixabytes with their Contractor’s license, but did not include Jaramillo’s
15 name or identify this was Jaramillo’s business. The supervisor responded that they had great news and
16 they would proceed with the local company.

17 After the first contract, Pixabytes submitted additional quotes for contracts with ICOE in 2017,
18 discussing work needed and amending quotes as needed. More specifically, Pixabytes submitted Quote
19 316, Quote 302, Quote 314v3, Quote 324v3, Quote 326v3, and Quote 327v3, all of which resulted in
20 contracts between ICOE and Pixabytes. In total, the contracts resulted in payments from ICOE to
21 Pixabytes in the amount of \$39,852.95.

22 Jaramillo maintains management was aware that Pixabytes was Jaramillo’s business. While there
23 is some evidence of this, as Jaramillo was listed as the owner of Pixabytes in the internal database, some
24 of the Pixabytes cover pages included Jaramillo’s name, necessary changes on some of the jobs were
25 discussed with Jaramillo, and some of the correspondence was on ICOE email, the supervisors involved
26 maintain they were not aware of Jaramillo’s ownership of Pixabytes. An ICOE internal investigation
27 occurred as a result of these contracts but it could not be established that supervisors involved were
28 aware of Jaramillo’s ownership of Pixabytes. The internal investigation resulted in Jaramillo terminating

1 employment with ICOE. Regardless, Jaramillo impermissibly participated in the planning, discussions,
2 reasoning, preparation of, and specifications of contracts between ICOE and Jaramillo's business,
3 Pixabytes, totaling \$39,852.95. As a result, Jaramillo participated in the planning, discussions, reasoning,
4 preparation of, and specifications of six contracts between Pixabytes and ICOE, in violation of Section
5 1090.

6 VIOLATIONS

7 **Count 1: Section 1090 Conflict of Interests**

8 Jaramillo, as Systems Integration Analyst for ICOE, had a conflict of interest when Jaramillo
9 participated in the planning, discussions, reasoning, preparation of, and specification of governmental
10 decisions to enter into contracts between ICOE and Pixabytes, associated with Quotes 316 and 302, in
11 violation of Government Code Section 1090.

12 **Count 2: Section 1090 Conflict of Interests**

13 Jaramillo, as Systems Integration Analyst for ICOE, had a conflict of interest when Jaramillo
14 participated in the planning, discussions, reasoning, preparation of, and specification of governmental
15 decisions to enter into contracts between ICOE and Pixabytes, associated with Quotes 314v3 and 324v3,
16 in violation of Government Code Section 1090.

17 **Count 3: Section 1090 Conflict of Interests**

18 Jaramillo, as Systems Integration Analyst for ICOE, had a conflict of interest when Jaramillo
19 participated in the planning, discussions, reasoning, preparation of, and specification of governmental
20 decisions to enter into contracts between ICOE and Pixabytes, associated with Quotes 326v3 and 327v3
21 in violation of Government Code Section 1090.

22 **STREAMLINE EXCLUSION**

23 Certain types of cases are eligible for a streamline settlement, but cases involving Section 1090
24 conflict of interests, such as the current case, are excluded from the streamline program.¹²

25 **PROPOSED PENALTY**

26 The maximum penalty that may be imposed per count is \$5,000. In this case, three counts are

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28 ¹² Title 2 of California Code of Regulations 18360.1 - 18360.3.

1 recommended, with a maximum penalty for the counts charged of \$15,000.¹³

2 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
3 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
4 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division
5 considers the facts and circumstances of the violation in the context of the following factors (which are
6 from Regulation 18361.5subd. (e)(1)-(8)):

- 7 1. the extent and gravity of the public harm caused by the specific violation;
- 8 2. the level of experience of the violator with the requirements of the Act;
- 9 3. penalties previously imposed by the Commission in comparable cases;
- 10 4. the presence or absence of any intention to conceal, deceive or mislead;
- 11 5. whether the violation was deliberate, negligent or inadvertent;
- 12 6. whether the violator demonstrated good faith by consulting Commission staff or any other
13 governmental agency in a manner not constituting a complete defense under Section 83114,
14 subdivision (b);
- 15 7. whether the violation was isolated or part of a pattern—and whether the violator has a prior
16 record of violations of the Act or similar laws; and
- 17 8. whether the violator, upon learning of a reporting violation, voluntarily filed amendments to
18 provide full disclosure.

18 A conflict of interest is a serious violation with a high degree of public harm. This type of
19 violation undermines public trust in government by creating the appearance that the decision was the
20 product of self-dealing. The expectation of public officials is that they be guided solely by the public
21 interest, rather than by personal interest. Eliminating temptation for public officials, avoiding the
22 perception of impropriety, and obtaining their undivided loyalty have been deemed extremely important
23 public policy goals.¹⁴ In this matter, while Jaramillo was not a decision maker and could not enter into
24 contracts on behalf of ICOE, Jaramillo worked for ICOE at the same time Jaramillo was the owner of
25 Pixabytes. Further, the evidence shows Jaramillo participated in the contracting decisions by providing
26 an email to their supervisor without identifying Pixabytes was Jaramillo's business, which led to

27 ¹³ Government Code Section 83116, subdivision (c).

28 ¹⁴ *Thomson v Call* (1985) 38 Cal.3d 633, 648, and 650.

1 Pixabytes obtaining the contract with ICOE. Additionally, Jaramillo provided quotes from Pixabytes,
2 discussed work needed, amended quotes as needed, and was not transparent by failing to identify
3 Jaramillo as the owner. This conduct erodes public trust.

4 Jaramillo contends the supervisors were aware Jaramillo owned Pixabytes at the time the
5 contracts were entered into. Although the Enforcement Division did not have sufficient evidence of this,
6 Jaramillo is still liable for impermissibly participating in the making of contracts that directly financially
7 benefitted Jaramillo.

8 In mitigation, Jaramillo was not required to file SEIs, had no previous conflict of interest training,
9 asserts they did not understand Section 1090 implications as a Systems Integration Analyst, ultimately
10 left employment with ICOE as a result of these contracts, had no prior Enforcement history, and is no
11 longer a public employee.

12 The Commission also considers penalties in prior cases with comparable violations. *In the Matter*
13 *of Anthony W Anderson*; FPPC Case No. 2021-00504, was approved by the Commission in April 2024.
14 In this matter, Anderson was a former Battalion Chief for the California Department of Forestry and Fire
15 Protection, whose spouse received income from a construction company owned by their in-laws. As a
16 Battalion Chief, Anderson participated in discussions and signed eight purchase orders authorizing
17 \$36,190.48 in construction work to this source of income. The Commission approved a penalty of
18 \$10,000 for two combined counts of violating both Sections 87100 and 1090 in each count. In mitigation,
19 Anderson was not required to file a SEI, the agency had previously contracted with the construction
20 company before Anderson began working for the agency, Anderson informed superiors of their financial
21 connection but was still assigned to oversee this particular project, and Anderson had never been
22 provided any conflict of interest training.

23 These cases are similar in that both respondents were employees with no SEI filing requirements
24 and no previous conflict of interest training. Additionally, although the respondent in *Anderson*
25 impermissibly entered into eight contracts and Jaramillo impermissibly entered into six contracts, the
26 total of the contracts for each were a similar amount, with a total under \$40,000. However, there was
27 evidence in *Anderson* that shows more transparency when Anderson informed superiors of their financial
28 connection to Anderson's source of income. Further, the respondent in *Anderson* entered into a

1 settlement agreement prior to the issuance of a Probable Cause Report, whereas Jaramillo disregarded
2 contacts in this case until there was a default pending.

3 In aggravation, had Jaramillo's initial email to the supervisor clarified Jaramillo's ownership of
4 Pixabytes, a conflict of interest may have been avoided. Considering the aggravation, three counts are
5 recommended. As such, a similar penalty amount is recommended in the amount of \$5,000 for three
6 counts, for a total penalty of \$15,000.

7 Under these circumstances, a total penalty of \$15,000 is recommended.

8 CONCLUSION

9 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
10 Respondent Armando Jaramillo hereby agree as follows:

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

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

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

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

25 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
26 Respondent agrees to the Commission imposing against them an administrative penalty in the amount of
27 \$15,000. One or more payments totaling this amount—to be paid to the General Fund of the State of
28 California—is/are submitted with this stipulation as full payment of the administrative penalty described

1 above, and they will be held by the State of California until the Commission issues its decision and order
2 regarding this matter.

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

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

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13 Dated: _____

James M. Lindsay, Chief of Enforcement
Fair Political Practices Commission

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16 Dated: _____

Armando Jaramillo, Respondent

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19 The foregoing stipulation of the parties “In the Matter of Armando Jaramillo,” FPPC Case No.
20 2019-00419, is hereby accepted as the final decision and order of the Fair Political Practices
21 Commission, effective upon execution below by the Chair.

22
23 IT IS SO ORDERED.

24
25 Dated: _____

Adam E. Silver, Chair
Fair Political Practices Commission