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

10 **STATE OF CALIFORNIA**

11 In the Matter of

FPPC Case No. 23/227

12 **STIPULATION, DECISION AND ORDER**

13 DONNA FEINER,

Date Submitted to Commission: May 2025

14 Respondent.  
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17 **INTRODUCTION**

18 Respondent Donna Feiner (“Feiner”) has served as a member of the Board of Directors for  
19 Mendocino City Community Services District (“MCCSD”) since being appointed on August 8, 2022.  
20 Additionally, Feiner is the sole proprietor of Feiner Fixings, where Feiner works as a water treatment  
21 operator.

22 This case arose from several anonymous complaints.

23 The Political Reform Act (the “Act”)<sup>1</sup> prohibits public officials from making, participating in  
24 making, or attempting to influence governmental decisions in which the official knows or has reason to  
25 know they have a financial interest. Feiner, as a member of the Board of Directors for MCCSD,  
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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 violated the Act by making governmental decisions involving Mendocino Unified School District  
2 (“MUSD”) at a time when Feiner had a financial interest in Feiner Fixings and MUSD.

### 3 **SUMMARY OF THE LAW**

4 The Act and its regulations are amended from time to time. The violations in this case occurred  
5 on August 29, 2022 and October 3, 2022. For this reason, all legal references and discussions of law  
6 pertain to the Act’s provisions as they existed at that time.

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

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

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

#### 17 **Conflict of Interest**

18 A public official at any level of state or local government shall not make, participate in making,  
19 or in any way attempt to use their official position to influence a governmental decision<sup>6</sup> in which the  
20 official knows or has reason to know the official has a financial interest.<sup>7</sup> A public official has a  
21 financial interest in a decision if it is reasonably foreseeable that the decision will have a material  
22 financial effect, distinguishable from its effect on the public generally, on: any business entity in which  
23 the public official has a direct or indirect investment worth at least \$2,000;<sup>8</sup> or any source of income<sup>9</sup>

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

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

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

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

28 <sup>6</sup> “Governmental decision” means any action taken by a government agency that has a financial effect on any person  
other than the governmental agency making the decision. (Regulation 18700, subd. (c)(4).)

<sup>7</sup> Section 87100.

<sup>8</sup> Section 87103, subd. (a); Regulation 18700, subd. (c)(6)(A).

<sup>9</sup> Income of an individual also includes a pro rata share of any income of any business entity in which the individual

amounting to a total of at least \$500 received by the public official within 12 months before the decision is made.<sup>10</sup>

In 2022, there were four steps to determine whether a public official had a conflict of interest in a governmental decision under the Act.<sup>11</sup>

First, for a conflict to exist, it must have been reasonably foreseeable that the governmental decision would have a financial effect<sup>12</sup> on the public official's financial interests.<sup>13</sup> For a financial interest explicitly involved in a decision, a financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official's agency.<sup>14</sup> A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest.<sup>15</sup>

Second, the reasonably foreseeable financial effect must be material.<sup>16</sup> The reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a business entity or in a source of income is presumed material if the entity or source is a named party in, or the subject of, the decision.<sup>17</sup> Where a government entity qualifies as a source of income, including where a public official is paid by the entity as a consultant or contractor, Regulation 18702.3 does not apply.<sup>18</sup> Under Regulation 18703, subdivision (e)(7), an official with an interest in a governmental entity is disqualified from taking part in a decision only if there is a unique effect on the official.<sup>19</sup> A unique effect on a public official's financial interest includes a disproportionate effect on: the income

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owns a 10% interest or greater. (Section 82030.)

<sup>10</sup> Section 87103, subd. (c); Regulation 18700, subd. (c)(6)(C).

<sup>11</sup> Regulation 18700, subd. (d).

<sup>12</sup> "Financial effect" means an effect that provides a benefit of monetary value or provides, prevents, or avoids a detriment of monetary value. (Regulation 18700, subd. (c)(5).)

<sup>13</sup> Regulation 18700, subd. (d)(1).

<sup>14</sup> Regulation 18701, subd. (a).

<sup>15</sup> *Id.*

<sup>16</sup> Regulation 18700, subd. (d)(2).

<sup>17</sup> Regulation 18702.1, subd. (a)(1); Regulation 18702.3, subd. (a)(1).

<sup>18</sup> Regulation 18702.3, subd. (d).

<sup>19</sup> *Id.*

1 producing potential of the official's business entity;<sup>20</sup> or on a person's<sup>21</sup> income, investments, assets or  
2 liabilities, or real property if the person is a source of income to the official.<sup>22</sup>

3 Third, the material financial effect on the public official's financial interest must not be  
4 indistinguishable from its effect on the public generally.<sup>23</sup> The financial effect on a public official's  
5 financial interest is deemed indistinguishable from that of the public generally where there is no unique  
6 effect on the official's interest if the official establishes that the decision affects a federal, state, or local  
7 governmental entity in which the official has an interest.<sup>24</sup>

8 Fourth, the public official must have made, participated in making, or attempted to use their  
9 official position to influence a governmental decision.<sup>25</sup> A public official makes a governmental  
10 decision if the official authorizes or directs any action, votes, appoints a person, obligates or commits  
11 the official's agency to any course of action, or enters into any contractual agreement on behalf of the  
12 official's agency.<sup>26</sup>

### 13 SUMMARY OF THE FACTS

14 On August 8, 2022, Feiner assumed office as a member of the Board of Directors for MCCSD  
15 and remains in that position to date.

#### 16 *Financial Interests*

17 As a member of the Board of Directors with the MCCSD, Feiner is a public official who is  
18 required to file a Statement of Economic Interests ("SEI") at various times pursuant to the Act. On  
19 August 11, 2022, Feiner timely filed the Assuming Office SEI and failed to disclose Feiner Fixings<sup>27</sup> as  
20 a business entity in which Feiner held an ownership interest of 10% or more. However, Feiner timely  
21 disclosed sources of income to Feiner Fixings, including a source of income financial interest in MUSD  
22 of \$10,000 - \$100,000. Additionally, Feiner's interest in MUSD was timely disclosed on Feiner's 2022,  
23 2023, and 2024 Annual SEIs. Feiner's 2022, 2023, and 2024 Annual SEIs properly disclosed Feiner

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24 <sup>20</sup> Regulation 18703, subd. (c)(1).

25 <sup>21</sup> Under the Act, "person" includes an company, corporation, limited liability company, association, or any other  
26 organization or group of persons acting in concert. (Section 82047.)

27 <sup>22</sup> Regulation 18703, subd. (c)(5).

<sup>23</sup> Regulation 18700, subd. (d)(3).

<sup>24</sup> Regulation 18703, subd. (e)(7).

<sup>25</sup> Regulation 18700, subd. (d)(4).

<sup>26</sup> Regulation 18704, subd. (a).

<sup>27</sup> In 2002, Feiner registered Feiner Fixings as a fictitious business name with the County of Mendocino.

1 Fixings as a business entity in which Feiner held an ownership interest of 10% or more but failed to  
2 disclose the sources of income to Feiner Fixings of \$10,000 or more. However, the sources of income  
3 to Feiner Fixings were timely disclosed on each SEI as sources of income to Feiner directly. Corrective  
4 amendments have been filed for the purposes of settlement.

5 Feiner Fixings currently has a contract with MUSD, which commenced on February 20, 2008,  
6 to “provide monitoring, testing and application of materials and chemicals as may be necessary and  
7 required by State and local mandates and; as outlined in Feiner Fixings response to the MUSD Request  
8 for Proposals.”

### 9 ***Governmental Decisions***

10 The governmental decisions at issue here occurred on August 29, 2022 and October 3, 2022 at  
11 MCCSD meetings when the Board of Directors, including Feiner, discussed and ultimately voted to  
12 approve a Memorandum of Understanding (“MOU”) between MCCSD and MUSD.

13 The MOU was first presented to, and approved by, the Board of Directors on August 29, 2022,  
14 at a special meeting of the MCCSD. The MOU was in regards to “a project involving the planning,  
15 design and construction of new potable water wells, a water storage tank and water system  
16 interconnection on MUSD property for the benefit of the village of Mendocino and in support of each  
17 agency’s respective missions.<sup>28</sup>” The MOU further stated, “MUSD owns, operates, and maintains two  
18 wells, 115,000 gallons of potable water storage in two tanks, a water treatment system, and a water  
19 distribution main. MUSD has a project planned for construction in 2023 to replace the two existing  
20 tanks, replace the water treatment system and bring an additional well online.<sup>29</sup>”

21 The MOU between MCCSD and MUSD was discussed again by the Board of Directors on  
22 October 3, 2022, at a special meeting of the MCCSD. There, the Board of Directors voted to rescind the  
23 MOU that was previously adopted by MCCSD on August 29, 2022. Additionally, at the October 3,  
24 2022 MCCSD meeting, the Board of Directors voted to approve the MOU as previously adopted by  
25 MCCSD on August 29, 2022.

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27 <sup>28</sup> Memorandum of Understanding Between the Mendocino Unified School District and Mendocino City  
28 Community Services District, effective September 8, 2022, at page 1, ¶ 1.

<sup>29</sup> Memorandum of Understanding Between the Mendocino Unified School District and Mendocino City  
Community Services District, effective September 8, 2022, at page 1, ¶ 4, to page 2, ¶ 1.

1 The Enforcement Division confirmed that, at the time of these decisions, Feiner had a source of  
2 income financial interest in MUSD. Additionally, the Enforcement Division confirmed Feiner voted to  
3 approve the MOU at the MCCSD meetings held on August 29, 2022 and October 3, 2022. Ultimately,  
4 the MOU was approved each time with five Board of Directors voting for approval. A revised MOU  
5 was approved by the Board of Directors on April 19, 2023 and November 25, 2024. Feiner was not  
6 present for the April 19, 2023 meeting and recused from voting on the item at the November 25, 2024  
7 meeting.

### 8 ***Conflict of Interest Analysis***

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

13 First, it was reasonably foreseeable that the approval of an MOU with MUSD would have a  
14 financial effect on MUSD. Since MUSD was a named party in the governmental decisions at issue  
15 here, there is a presumption that the financial effect on MUSD is reasonably foreseeable. The MOU  
16 was for a project involving the planning, design, and construction of new potable water wells, a water  
17 storage tank and water system interconnection on MUSD property and Feiner Fixings was contracted as  
18 the water treatment operator for MUSD.

19 Second, since Feiner's financial interest, MUSD, is a governmental entity, Feiner was only  
20 disqualified from taking part in the decisions for the MOU if there was a unique effect on Feiner. Since  
21 Feiner, through Feiner Fixings, has a long-standing and current contractual relationship with MUSD for  
22 consulting services, it has been determined that there will be a unique effect on Feiner, disproportionate  
23 to the effect on the public generally. Feiner's existing contract with MUSD states Feiner will "provide  
24 monitoring, testing and application of materials and chemicals as may be necessary and required by  
25 State and local mandates and; as outlined in Feiner Fixings response to the MUSD Request for  
26 Proposals." As discussed above, the MOU executed between MUSD and MCCSD is for a project  
27 involving the planning, design, and construction of new potable water wells, a water storage tank and  
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1 water system interconnection on MUSD property. As a water treatment operator, Feiner, through Feiner  
2 Fixings, will be responsible for monitoring and testing the additional water provided for in the MOU.<sup>30</sup>

3       Additionally, as shown in the contracts between Feiner Fixings and MUSD, the decision to  
4 execute the MOU had a unique effect on the income producing potential of Feiner Fixings,  
5 disproportionate to the effect on the public generally. The contract between Feiner Fixings and MUSD,  
6 dated February 20, 2008, stated, “Feiner Fixings will receive a sum that shall not exceed \$18,000 per  
7 year or \$1,500 per month, unless expressly approved in writing by the Superintendent.” After the  
8 execution of the October 3, 2022 MOU, Feiner executed another contract with MUSD, dated  
9 November 7, 2022, which stated, “Feiner Fixings will receive a sum that shall not exceed \$24,000 per  
10 year or \$2,000 per month, unless expressly approved in writing by the Superintendent.”

11       Next, as shown in the MOU, the decision to execute the MOU had a unique effect on MUSD’s  
12 income, investments, assets or liabilities, or real property, disproportionate to the effect on the public  
13 generally. The MOU specifically contemplates for the addition of new potable water wells and a water  
14 storage tank on MUSD property.

15       Third, as discussed above, the Enforcement Division obtained evidence to support that the  
16 effect of the decisions at issue here on Feiner Fixings and MUSD was disproportionate to the effect on  
17 the public generally. Accordingly, Feiner was disqualified from making the August 29, 2022 and  
18 October 3, 2022 governmental decisions involving the MOU between MCCSD and MUSD and the  
19 public generally exception does not apply.

20       Fourth, on August 29, 2022 and October 3, 2022, Feiner voted to approve the MOU between  
21 MCCSD and MUSD.

22       Based on the foregoing, Feiner had a conflict of interest with respect to the August 29, 2022 and  
23 October 3, 2022 governmental decisions regarding the MOU between MCCSD and MUSD.

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27       <sup>30</sup> The executed MOU states, in part, “water will be treated by the existing MUSD treatment system. Operation and  
28 maintenance of the treatment system to ensure health and safety of the water will remain the responsibility of MUSD.” As  
cited above, Feiner’s MUSD contract reflected that Feiner Fixings was responsible for water maintenance via “materials and  
chemicals.” Accordingly, the “existing MUSD treatment system” verbiage relates to services rendered by Feiner Fixings.

1 **VIOLATION**

2 **Count 1: Conflict of Interest**

3 On August 29, 2022 and October 3, 2022, Feiner, a member of the Board of Directors for the  
4 MCCSD, had a conflict of interest when Feiner voted on governmental decisions that had a reasonably  
5 foreseeable material financial effect on Feiner's financial interests, Feiner Fixings and MUSD, in  
6 violation of Government Code Section 87100.

7 **PROPOSED PENALTY**

8 This matter consists of one proposed count. The maximum penalty that may be imposed is  
9 \$5,000 per count. Thus, the maximum penalty that may be imposed for the count charged here is  
10 \$5,000.<sup>31</sup>

11 Conflict of interest violations are not eligible for the Streamline Settlement Program.<sup>32</sup>

12 In determining the appropriate penalty for a particular violation of the Act, the Enforcement  
13 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with  
14 an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division  
15 considers the facts and circumstances of the violation in the context of the following factors set forth in  
16 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused  
17 by the specific violation; (2) The level of experience of the violator with the requirements of the  
18 Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases;  
19 (4) The presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation  
20 was deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by  
21 consulting the Commission staff or any other governmental agency in a manner not constituting  
22 complete defense under Government Code Section 83114(b); (7) Whether the violation was isolated or  
23 part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or  
24 similar laws; and (8) Whether the violator, upon learning of a reporting violation, voluntarily filed  
25 amendments to provide full disclosure.<sup>33</sup>

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28 <sup>31</sup> Section 83116, subd. (c).

<sup>32</sup> Regulations 18360.1, subd. (b), and 18360.2, subd. (b).

<sup>33</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, the public harm is somewhat mitigated as Feiner had previously  
6 disclosed the financial interest held in MUSD on the timely filed Assuming Office and 2022 Annual  
7 SEIs. Feiner contends that the rate increase, found in the November 7, 2022 contract with MUSD, was  
8 due to the fact that Feiner Fixings had not raised their rates since the execution of the contract in 2008.  
9 Feiner contends the rate increase was not done in response to the execution of the MOU at issue here.  
10 Feiner has since cancelled the contract with MUSD and is no longer working with MUSD.

11 At the time of the governmental decisions, Feiner had limited experience with the conflict of  
12 interest provisions of the Act as Feiner was only appointed to the MCCSD Board on August 8, 2022, 21  
13 days prior to the August 29, 2022 decision and 56 days prior to the October 3, 2022 decision. The  
14 violation at issue here was isolated to the MUSD MOU and Feiner does not have a prior history of  
15 violating the Act.

16 In this matter, there was no evidence to support an intent to conceal, deceive or mislead the  
17 public as to Feiner's financial interests as Feiner timely disclosed MUSD as a source of income  
18 financial interest on applicable SEIs. Instead, the evidence suggests that Feiner was negligent in failing  
19 to identify the potential conflict of interest present in the decisions at issue here. Feiner did not consult  
20 with Commission staff or any other governmental agency regarding participating in the decisions at  
21 issue here involving the MOU between MCCSD and MUSD.

22 The Commission considers penalties in prior cases with the same or similar violations and  
23 comparable facts. A similar case involving a local public official who made a governmental decision in  
24 which they had a conflict of interest includes *In the Matter of Steve Dallas*; FPPC Case No. 2018-  
25 00804 (approved July 21, 2022). The Commission imposed a penalty in the amount of \$4,000 for  
26 making a governmental decision in which the official had a conflict of interest. Steve Dallas, a former  
27 Mayor of Carmel-by-the-Sea, among other violations, violated the Act's conflict of interest provisions  
28 by making a governmental decision involving the source of a gift in which Dallas had a financial

1 interest. On February 6, 2018, the Carmel-by-the-Sea City Council, including Dallas, discussed and  
2 voted to authorize the closure of city streets and to allow the consumption of alcohol in public for the  
3 Monterey Winemakers' Celebration Event. This Event was hosted by the Monterey County Vintners &  
4 Growers Association (the "Association"). At the time of the decision, Dallas had a financial interest in  
5 the Association as the Association was the source of a gift, valued at \$1,000, to Dallas within the 12  
6 months preceding the date of the decision. The financial effect on the Association was reasonably  
7 foreseeable as the Association was a named party in the decision. Since the Association was a named  
8 party in the decision, the reasonably foreseeable financial effect of the decision is deemed material,  
9 resulting in a conflict of interest. In aggravation, Dallas also failed to timely disclose the receipt of the  
10 gift from the Association on Dallas' SEI. The Commission imposed a penalty of \$2,000 for failing to  
11 timely disclose receipt of the Association's gift. Further, in aggravation, Dallas was an experienced  
12 public official who had received ethics training prior to the date of the decision.

13 A similar penalty than that approved in *Dallas* is recommended. Similar to *Dallas*, Feiner voted  
14 on a governmental decision involving a source of income financial interest resulting in a conflict of  
15 interest. In aggravation, Feiner made two governmental decisions, unlike Dallas who made and  
16 participated in only one decision. However, Feiner's two decisions involved the same MOU and was  
17 ultimately the same decision voted on twice with the same outcome each time. In mitigation, unlike  
18 *Dallas*, the decisions at issue here occurred within the first three months of Feiner assuming office and  
19 Feiner did not receive any ethics training until six months after the decisions, on April 21, 2023. In  
20 aggravation, as discussed in detail above, Feiner failed to properly disclose Feiner Fixings, and the  
21 sources of income of \$10,000 or more to Feiner Fixings, on each of Feiner's SEIs. However, each SEI  
22 timely disclosed Feiner's interest in MUSD, unlike *Dallas*. These SEI disclosure violations are not  
23 being charged separately for purposes of settlement but instead will be used as aggravation as the  
24 relevant interest in MUSD was timely disclosed on each SEI. Therefore, a penalty of \$4,000 is  
25 recommended.

## 26 CONCLUSION

27 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
28 Respondent, Donna Feiner, hereby agree as follows:

- 1 1. Respondent violated the Act as described in the foregoing pages, which are a true and accurate  
2 summary of the facts in this matter.
- 3 2. This stipulation will be submitted for consideration by the Fair Political Practices Commission  
4 at its next regularly scheduled meeting – or as soon thereafter as the matter may be heard.
- 5 3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose of  
6 reaching a final disposition without the necessity of holding an administrative hearing to determine the  
7 liability of Respondent pursuant to Section 83116.
- 8 4. Respondent understands and hereby knowingly and voluntarily waives any and all procedural  
9 rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This  
10 includes, but is not limited to, the right to appear personally at any administrative hearing held in this  
11 matter, to be represented by an attorney at Respondent’s own expense, to confront and cross-examine  
12 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an  
13 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter  
14 judicially reviewed.
- 15 5. Respondent agrees to the issuance of the decision and orders set forth below. Also, Respondent  
16 agrees to the Commission imposing against them an administrative penalty in the amount of \$4,000.  
17 One or more cashier’s checks or money orders totaling said amount – to be paid to the General Fund of  
18 the State of California – is/are submitted with this stipulation as full payment of the administrative  
19 penalty described above, and same shall be held by the State of California until the Commission issues  
20 its decision and order regarding this matter.
- 21 6. If the Commission refuses to approve this stipulation – then this stipulation shall become null  
22 and void, and within fifteen business days after the Commission meeting at which the stipulation is  
23 rejected, all payments tendered by Respondent in connection with this stipulation shall be reimbursed  
24 to Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing  
25 before the Commission becomes necessary, neither any member of the Commission, nor the Executive  
26 Director, shall be disqualified because of prior consideration of this stipulation.

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
Angela J. Brereton, Assistant Chief of Enforcement  
Fair Political Practices Commission

Dated: \_\_\_\_\_

\_\_\_\_\_  
Donna Feiner, Respondent

The foregoing stipulation of the parties "In the Matter of Donna Feiner," FPPC Case No. 23/227, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution by the Chair.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

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Adam E. Silver, Chair  
Fair Political Practices Commission