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8
9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

10 STATE OF CALIFORNIA

11
12 In the Matter of) FPPC Case No.: 19/1407
13)
14 JOSE PECH,) DEFAULT DECISION AND
15 Respondent.) ORDER
16) (Government Code Sections 11506
17) and 11520)

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, hereby
19 submits this Default Decision and Order for consideration by the Fair Political Practices Commission at
20 its next regularly scheduled meeting.

21 Pursuant to the California Administrative Procedure Act,¹ Jose Pech (“Pech”) has been served
22 with all of the documents necessary to conduct an administrative hearing regarding the above-captioned
23 matter, including the following:

- 24 1. An Order Finding Probable Cause;
25 2. An Accusation;
26 3. A Notice of Defense (Two Copies per Respondent);
27

28 ¹ The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code.

EXHIBIT 1

INTRODUCTION

Respondent Jose Pech (“Pech”) assumed office as a Housing Inspector for the City of Oxnard Housing Authority in December 1991 and left office on or around May 15, 2019. As a Housing Inspector, Pech inspected dwellings and determined their suitability to rent and fair market rental value. Additionally, some of the dwellings inspected by Pech were subsidized by the U.S. Department of Housing and Urban Development (“HUD”).

The Political Reform Act (the “Act”)¹ prohibits a public official from making, participating in making, or attempting to use their official position to influence a governmental decision in which the official knows or has reason to know they have a financial interest. Additionally, the Act 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.

As a public official, Pech violated the Act by participating in governmental decisions in which Pech had a financial interest and by failing to timely file a Leaving Office SEI.

This matter arose from a commission-initiated investigation regarding potential violations of the Act’s conflict of interest provisions.

DEFAULT PROCEEDINGS UNDER THE ADMINISTRATIVE PROCEDURE ACT

When the Commission determines that there is probable cause for believing that the Act has been violated, it may hold a hearing to determine if a violation has occurred.² Notice of the hearing, and the hearing itself, must be conducted in accordance with the Administrative Procedure Act (the “APA”).³ A hearing to determine whether the Act has been violated is initiated by the filing of an accusation, which shall be a concise written statement of the charges, specifying the statutes and rules which the respondent is alleged to have violated.⁴

Included among the rights afforded a respondent under the APA, is the right to file the Notice of Defense with the Commission within 15 days after service of the accusation, by which the respondent may (1) request a hearing; (2) object to the accusation on the ground it does not state acts or omissions upon which the agency may proceed; (3) object to the form of the

¹ The Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission (“Commission”) are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Section 83116.

³ The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code; Section 83116.

⁴ Section 11503.

accusation on the ground that it is so indefinite or certain that the respondent cannot identify the transaction or prepare a defense; (4) admit the accusation in whole or in part; (5) present new matter by way of a defense; or (6) object to the accusation on the ground that, under the circumstances, compliance with a Commission regulation would result in a material violation of another department's regulation affecting substantive rights.⁵

The APA provides that a respondent's failure to file a Notice of Defense within 15 days after service of an accusation constitutes a waiver of the respondent's right to a hearing.⁶ Moreover, when a respondent fails to file a Notice of Defense, the Commission may take action based on the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to the respondent.⁷

PROCEDURAL REQUIREMENTS AND HISTORY

A. Initiation of the Administrative Action

The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated the Act starts the administrative action.⁸

A finding of probable cause may not be made by the Commission unless the person alleged to have violated the Act is (1) notified of the violation by service of process or registered mail with return receipt requested; (2) provided with a summary of the evidence; and (3) informed of his or her right to be present in person and represented by counsel at any proceeding of the Commission held for the purpose of considering whether probable cause exists for believing the person violated the Act.⁹ Additionally, the required notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office.¹⁰

No administrative action pursuant to Chapter 3 of the Act alleging a violation of any of the provisions of the Act may be commenced more than five years after the date on which the violation occurred.¹¹

Documents supporting the procedural history are included in the attached Certification of Records ("Certification") filed herewith at Exhibit 1, A-1 through A-27, and incorporated herein by reference.

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against Pech in this matter by serving Pech with a Report in Support of a

⁵ Section 11506, subd. (a)(1)–(6).

⁶ Section 11506, subd. (c).

⁷ Section 11520, subd. (a).

⁸ Section 91000.5, subd. (a).

⁹ Section 83115.5.

¹⁰ Section 83115.5.

¹¹ Section 91000.5.

Finding of Probable Cause (the “Report”) (Certification, Exhibit A-1) by certified mail.¹² Pech was served with the Report on November 30, 2020, (Certification, Exhibit A-2.) The administrative action commenced on November 30, 2020, and the five-year statute of limitations was effectively tolled on this date.

As required by Section 83115.5, the packet served on Pech contained a cover letter and a memorandum describing probable cause proceedings, advising that Pech had 21 days in which to (1) request discovery of the evidence in possession of, and relied upon by, the Enforcement Division, (2) request a probable cause conference and/or (3) file a written response to the Report. On December 1, 2020, Pech requested records of the evidence. (Certification, Exhibit A-3.)

B. Service of Records

In accordance with Regulation 18361.4, subdivision (d)(3)(A), the Enforcement Division provided Pech with copies of the requested records by serving Pech with the Response to Respondent’s Request for Records After Service of Probable Cause Report (“Records Response”). Pech was served with the Records Response on October 4, 2021. (Certification, Exhibit A-4.)

The packet served on Pech contained a cover letter advising that Pech had the right to file a written response to the Report and/or request a probable cause conference within 21 days of receipt of the Records Response. (Certification, Exhibit A-5.) The Enforcement Division granted two requests for extensions from Pech and agreed to allow extra time for Pech to submit a written response to the Report and/or request a probable cause conference. Ultimately, Pech did not file a written response to the Report or request a probable cause conference.

C. Ex Parte Request for a Finding of Probable Cause

Because Pech failed to request a probable cause conference or submit a written response to the Report by the statutory deadline, the Enforcement Division submitted an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served to the Hearing Officer of the Commission on or around February 10, 2022. (Certification, Exhibit A-6.)

On or around March 1, 2022, the Hearing Officer, Legal Division, Jack Woodside, issued a Finding of Probable Cause and an Order to Prepare and Serve an Accusation on Pech. (Certification, Exhibit A-7.)

D. The Issuance and Service of the Accusation

Under the Act, if the Hearing Officer makes a finding of probable cause, the Enforcement Division must prepare an accusation pursuant to Section 11503 of the APA, and have it served on the persons who are the subject of the probable cause finding.¹³

¹² Section 83115.5.

¹³ Regulation 18361.4, subd. (e).

Section 11503 states:

A hearing to determine whether a right, authority, license, or privilege should be revoked, suspended, limited, or conditioned shall be initiated by filing an accusation or District Statement of Reduction in Force. The accusation or District Statement of Reduction in Force shall be a written statement of charges that shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his or her defense. It shall specify the statutes and rules that the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of those statutes and rules. The accusation or District Statement of Reduction in Force shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

Upon the filing of the accusation, the agency must (1) serve a copy thereof on the respondent as provided in Section 11505, subdivision (c); (2) include a post card or other form entitled Notice of Defense that, when signed by or on behalf of the respondent and returned to the agency, will acknowledge service of the accusation and constitute a notice of defense under Section 11506; (3) include (i) a statement that respondent may request a hearing by filing a notice of defense as provided in Section 11506 within 15 days after service upon the respondent of the accusation, and that failure to do so will constitute a waiver of the respondent's right to a hearing, and (ii) copies of Sections 11507.5, 11507.6, and 11507.7.¹⁴ The APA also sets forth the language required in the accompanying statement to the respondent.¹⁵

The Accusation and accompanying information may be sent to the respondent by any means selected by the agency, but no order adversely affecting the rights of the respondent may be made by the agency in any case unless the respondent has been served personally or by registered mail as set forth in the APA.¹⁶

On or around October 20, 2022, the Commission's Chief of Enforcement, Angela J. Brereton, issued an Accusation against Pech. (Certification, Exhibit A-8.) In accordance with Section 11505, the Accusation and accompanying information, consisting of a Statement to Respondent, two copies of a Notice of Defense Form, and copies of Government Code Sections 11506, 11507.5, 11507.6, and 11507.7, were served upon Pech by personal service on November 5, 2022. (Certification, Exhibit A-9.)

Along with the Accusation, the Enforcement Division served Pech with a "Statement to Respondent," which notified Pech that Pech could request a hearing on the merits and warned that, unless a Notice of Defense was filed within 15 days of service of the Accusation, Pech would be deemed to have waived the right to a hearing. (Certification, Exhibit A-10.) Pech did

¹⁴ Section 11505, subd. (a).

¹⁵ Section 11505, subd. (b).

¹⁶ Section 11505, subd. (c).

not file a Notice of Defense within the statutory time period, which ended on November 21, 2022.

As a result, on May 4, 2023, the Enforcement Division sent a letter to Pech advising that this matter would be submitted for a Default Decision and Order at the Commission’s public meeting scheduled for June 15, 2023. (Certification, Exhibit A-26.)

On June 22, 2023, the Enforcement Division sent another letter to Pech advising that this matter would be submitted for a Default Decision and Order at the Commission’s public meeting scheduled for August 17, 2023. (Certification, Exhibit A-27.) A copy of the Default Decision and Order, and this accompanying Exhibit 1 with attachments, was included with the letter.

SUMMARY OF THE LAW

The Act and its regulations are amended from time to time. The violations in this case occurred between 2015 and 2019. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they existed at that time.

An express purpose of the Act is to ensure that the assets and income of public officials be disclosed and public officials are disqualified from certain matters in order that conflicts of interest may be avoided.¹⁷ The primary purpose of the conflict of interest provisions of the Act is to ensure that public officials perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.¹⁸

In furtherance of this goal, the Act prohibits a public official, at any level of state or local government, from making, participate in making, or in any way attempt to use their official position to influence a governmental decision in which the official knows, or has reason to know, that they have a financial interest.¹⁹

“Public Official” means every member, officer, employee, or consultant of a state or local government agency.²⁰ An employee of a department within a city government agency is a public official.²¹

“Government 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.²²

“Financial interest” includes any source of income amounting to a total of at least \$500 received by the public official within 12 months before the decision is made.²³

¹⁷ Section 81002, subd. (c).

¹⁸ Section 81001, subd. (b).

¹⁹ Section 87100, subd. (a).

²⁰ Regulation 18700, subd. (c)(1).

²¹ Sections 82048 and 82041.

²² Regulation 18700, subd. (c)(4).

²³ Regulation 18700, subd. (c)(6)(C).

In 2015 and 2016, there were four steps to determine whether an individual had a conflict of interest in a governmental decision.²⁴

First, it must have been reasonably foreseeable that the governmental decision would have a financial effect on the public official's financial interests.²⁵ A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in a governmental decision before the public official or the public official's agency.²⁶

Second, the reasonably foreseeable financial effect must be material.²⁷ For income received by the official for services provided in the ordinary course of business, including salary, the financial effect was material if the source of income was a named party in the decision.²⁸

Third, the material financial effect on the public official's financial interest must not be indistinguishable from its effect on the public generally.²⁹ A governmental decision's financial effect on a public official's financial interest is indistinguishable from its effect on the public generally if the official establishes that a significant segment of the public is affected and the effect on his or her financial interest is not unique compared to the effect on the significant segment.³⁰ A unique effect on a public official's financial interest includes a disproportionate effect on a person's income, investments, assets or liabilities, or real property if the person is a source of income to the official.³¹ The burden of proof is on the official to prove this affirmative defense.

Fourth, the public official must have made, participated in making, or attempted to use their official position to influence a governmental decision.³² A public official participates in a governmental decision if the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review.³³

The Act requires every state and local agency to develop a Conflict of Interest Code.³⁴ These codes must designate those officials who participate in making decisions which may foreseeably have a material financial effect on any financial interest belonging to that official and require those designated officials to disclose all reportable interests on SEIs.³⁵ The requirements

²⁴ Regulation 18700, subds. (b) and (d).

²⁵ Regulation 18700, subd. (d)(1).

²⁶ Regulation 18701, subd. (a).

²⁷ Regulation 18700, subd. (d)(2).

²⁸ Regulation 18702.3, subd. (a)(1).

²⁹ Regulation 18700, subd. (d)(3).

³⁰ Regulation 18703, subd. (c)(5).

³¹ Regulation 18703, subd. (c)(5).

³² Regulation 18700, subd. (b).

³³ Regulation 18704, subd. (b).

³⁴ Section 87300.

³⁵ Section 87302, subd. (a).

of an agency's Conflict of Interest Code have the force of law, and any violation of those requirements is deemed a violation of the Act.³⁶

The City of Oxnard's Conflict of Interest Code, effective April 2, 2019, designated Housing Inspector as a position required to file SEIs.³⁷ Housing Inspectors are required to disclose all investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, from business entities that are located in, do business in, or own real property within the jurisdiction of the City; and all interests in real property which is located in whole or in part within, or not more than two miles outside, the jurisdiction of the City.³⁸

The City of Oxnard incorporated by reference Regulation 18730 into its Conflict of Interest Code.³⁹ Regulation 18730 outlines the timing and period covered for disclosing the designated employees' economic interests as follows: an initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code disclosing economic interests held on the effective date of the code and income received during the 12 months prior to the effective date of the code; and all persons who leave designated positions shall file Leaving Office statements within 30 days after leaving office disclosing the economic interests held or received during the period between the closing date of the last statement and the date of leaving office.⁴⁰

SUMMARY OF THE EVIDENCE

Between December 1991 and May 15, 2019, Pech was an employee of the Housing Authority which is a department within the City of Oxnard. (Certification, Exhibit A-11.) Because Pech was an employee of the City of Oxnard, a local government agency, Pech was a public official.

According to the Housing Program Supervisor, Patricia Magallanes ("Magallanes"), the general protocol for rental evaluations, rent increase requests, and suitability inspections of properties at the City of Oxnard Housing Authority is that housing inspectors conduct a Housing Quality Standards ("HQS") inspection for all rental units prior to initiating a new contract, annually or biennially thereafter or when an owner requests a rent increase. (Certification, Exhibit A-12.) The inspector would also conduct the rent study to determine if the rent requested by the owner was reasonable. (Certification, Exhibit A-12.) Additionally, a rental evaluation and a HQS inspection can be prompted when an owner submits a Request for Tenancy Approval to the City of Oxnard.

In 2015 and 2016, Javier Torres ("Torres") submitted a Request for Tenancy Approval to the City of Oxnard for rental units Torres owned located at 521 South K Street. According to the

³⁶ Section 87300.

³⁷ City of Oxnard Conflict of Interest Code, effective April 2, 2019. (Certification, Exhibit A-22.)

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Regulation 18730, subd. (b)(5) and (6).

City of Oxnard Housing Authority, Pech was assigned to complete multiple inspections/evaluations on rental units located at 521 South K Street.

Prior to initiating a new contract with Torres for his rental property located at 521 South K Street Unit #4, the City of Oxnard Housing Authority assigned Pech to complete the initial HQS inspection and rental evaluation. (Certification, Exhibit A-13.) On December 11, 2015, Pech completed the rental evaluation for 521 South K Street Unit #4 and submitted his recommendation and findings for the fair market rental value of the property amounting to \$1,450 per month. (Certification, Exhibit A-14.) On December 14, 2015, Pech completed and passed the initial HQS inspection for 521 South K Street Unit #4. (Certification, Exhibit A-15.)

Pech's supervisor, Magallanes, confirmed that Senior Housing Specialist Grace Navarro ("Navarro") reviewed Pech's findings and rental comps but did not complete an independent check of the results for these decisions. (Certification, Exhibit A-12.) Ultimately, this resulted in Pech's assessments being approved and on or around December 15, 2015, Torres entered into a residential lease agreement with a tenant to rent 521 South K Street Unit #4 for \$1,450 per month. (Certification, Exhibit A-16.)

The following year, on or around December 15, 2016, Torres submitted a Request for Tenancy Approval to the City of Oxnard for the rental property located at 521 South K Street Unit #1 and requested a rental value of \$2,300 per month. (Certification, Exhibit A-17.) The City of Oxnard Housing Authority assigned Pech to complete the rental evaluation. On December 21, 2016, Pech completed the rental evaluation for the property located at 521 South K Street Unit #1 and submitted his recommendation and findings for the fair market rental value of the property amounting to \$2,063 per month. (Certification, Exhibit A-18.) Again, Magallanes confirmed that Navarro reviewed Pech's findings and rental comps but did not complete an independent check of the results for this decision. This resulted in Pech's assessments being approved and on or around January 9, 2017, Torres entered into a residential lease agreement with a tenant to rent 521 South K Street Unit #1 for \$2,063 per month. (Certification, Exhibit A-19.)

During an interview conducted by HUD investigators on September 19, 2017, Pech admitted he was paid \$75 per month in cash, amounting to \$900 per year, by Torres for managing the rental properties located at 521 South K Street Unit #1 and Unit #4. (Certification, Exhibit A-11.) Subpoenaed records obtained during investigation revealed that Pech and Torres exchanged checks between May 6, 2014 and November 7, 2016. Therefore, Pech had a source of income interest in Torres. Additionally, Pech admitted that Pech was involved in the rental increases for Torres' units and approved them. (Certification, Exhibit A-11.)

Pech's source of income, Torres, owned two rental units that required inspections by the City of Oxnard Housing Authority to determine the fair market rental value of the units and one unit's suitability to rent. (Certification, Exhibit A-20.) Since Torres was explicitly involved in the subject governmental decisions as the owner of the rental properties under inspection, it is presumed to be reasonably foreseeable that the decisions would have a financial effect on Torres.

Pech's approval on the initial HQS inspection for Torres' rental property located at 521 South K Street Unit #4 had a material financial effect on Torres because Torres was then able to initiate a new rental contract with the City of Oxnard or HUD and receive rental income. Also, Pech's approval of the rental amounts for each of Torres' units had a material financial effect on Torres as Torres was then able to rent the property located at 521 South K Street Unit #4 for \$1,450 per month and the property located at 521 South K Street Unit #1 for \$2,063 per month. Since Torres was the named party in these decisions as the owner of the rental properties, the materiality standard is met.

Since Pech left office on May 15, 2019, Pech was required to file a Leaving Office SEI by the June 14, 2019 due date covering the reporting period of January 1, 2019 through May 15, 2019. (Certification, Exhibit A-21.) According to the City of Oxnard's Housing Program Manager, Brenda Lopez, Pech was asked to file a Leaving Office SEI but failed to do so. (Certification, Exhibit A-22.)

Summary of Contact

Overall, the Enforcement Division contacted Pech at least 13 times throughout this case, as follows:

- October 15, 2019: We Will Investigate Letter sent via mail
- November 30, 2020: Report in Support of Probable Cause served on Pech
- December 1, 2020: Request for Records received from Pech via email
- October 4, 2021: Records Response served on Pech
- October 5, 2021: email sent
- October 26, 2021: telephone call and email sent
- December 2, 2021: telephone call and email sent
- January 14, 2022: telephone call and email sent
- January 26, 2022: email sent
- February 10, 2022: copy of Ex Parte Request for a Finding of Probable Cause and an Order than an Accusation Be Prepared and Served sent to Pech via mail and email
- November 5, 2022: Accusation personally served on Pech
- May 4, 2023: letter sent via mail to Pech informing Pech the Default Decision and Order would appear on the agenda for the May 18, 2023 Commission meeting as a pre-notice default item, and would be presented at the June 15, 2023 meeting for Commission action
- June 22, 2023: Notice of Intent to Enter Default Decision and Order sent via mail to Pech informing Pech that the Default Decision and Order would be presented at the August 17, 2023 meeting for Commission action

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VIOLATIONS

Pech committed three violations of the Act as follows:

COUNT 1

Conflicts of Interest

On December 11, 2015 and December 14, 2015, Pech, as a Housing Inspector, participated in City of Oxnard Housing Authority governmental decisions by completing an initial HQS inspection and a rental evaluation for a rental property owned by Torres, at a time when Torres was a source of income to Pech of \$500 or more within the preceding 12 months. Since Torres was explicitly involved in the governmental decisions as the owner of the rental property under inspection and evaluation, it is presumed that the decisions would have a reasonably foreseeable financial effect on Torres that is material. As such, Pech participated in governmental decisions in which Pech had a financial interest, in violation of Government Code Section 87100.

COUNT 2

Conflict of Interest

On December 21, 2016, Pech, as a Housing Inspector, participated in City of Oxnard Housing Authority governmental decision by completing a rental evaluation for a rental property owned by Torres, at a time when Torres was a source of income to Pech of \$500 or more within the preceding 12 months. Since Torres was explicitly involved in the governmental decision as the owner of the rental property under evaluation, it is presumed that the decision would have a reasonably foreseeable financial effect on Torres that is material. As such, Pech participated in a governmental decision in which Pech had a financial interest, in violation of Government Code Section 87100.

COUNT 3

Failure to Timely File Leaving Office SEI

As a public official, Pech had a duty under the Act to file a Leaving Office SEI by the June 14, 2019 due date. According to the City of Oxnard, Pech failed to timely file this Leaving Office SEI. By failing to timely file this Leaving Office SEI, Pech violated Government Code Section 87300.

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CONCLUSION

This matter consists of three counts of violating the Act, which carry a maximum total administrative penalty of \$15,000.⁴¹

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in the context of the following factors set forth in Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the specific violation; (2) The level of experience of the violator with the requirements of the Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission staff or any other governmental agency in a manner not constituting complete defense under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.⁴²

In this matter, Pech participated in governmental decisions in which Pech had a financial interest. The public harm inherent in conflict of interest violations is that it creates an appearance that a governmental decision was made on the basis of a public official's financial interest. Also, such conduct contradicts the Act's decree that government should serve the needs of all citizens equally, in an impartial manner, without regard to financial interests.⁴³ Here, the public harm was aggravated as a special inspection was completed for the rental property located at 521 South K Street Unit #4, on August 4, 2016, which resulted in the property failing the inspection for various reasons. (Certification, Exhibit A-24.) As discussed above, on December 14, 2015, Pech completed and passed the initial inspection for this rental property. (Certification, Exhibit A-15.)

Additionally, in this matter, Pech failed to timely file a Leaving Office SEI. The public harm inherent in failing to file SEIs is that it deprives the public of important information about a public official's economic interests which could lead to potential conflicts of interests regarding decisions they make in their official capacity. Here, the public harm was limited as Pech's position was not included in the City of Oxnard's Conflict of Interest Code until April 2, 2019. (Certification, Exhibit A-23.) Thus, Pech was not required to file SEIs during the periods in which Pech participated in governmental decisions in which Pech had a conflict of interest.

The Enforcement Division did not find any evidence that Pech intended to conceal, deceive, or mislead the public. The violations discussed in Counts 1 and 3 appear to have been negligent as Pech had no prior experience with the Act since Pech's position was not included in

⁴¹ Section 83116, subd. (c).

⁴² Regulation 18361.5, subd. (e).

⁴³ Section 81001, subd. (b).

the City of Oxnard's Conflict of Interest Code until April 2, 2019. (Certification, Exhibit A-23.) The violation discussed in Count 2 appears to have been deliberate as approximately three weeks prior to the December 21, 2016 governmental decision Pech attended a class on HUD's Housing Inspection Manual. (Certification, Exhibit A-25.) A key principle reviewed during the class was objectivity – the inspector must conduct the inspection free of personal, class, ethnic, or neighborhood biases.

Pech does not have a prior history of violating the Act. To date, Pech has not filed the outstanding Leaving Office SEI.

The Enforcement Division also takes into consideration previous cases that were approved by the Commission in determining penalties. In this matter, the following cases were used as guidelines.

Counts 1-2

- *In the Matter of John Martin*; FPPC Case No. 14/426. (The Commission approved a default decision on February 19, 2015). The respondent, as a Wasco City Council Member, participated in a governmental decision in which respondent had a financial interest. Respondent owned real property which was within 500 feet of the location of the governmental decision at issue. Also, the vote only passed 3 to 2, making Respondent a “swing vote.” Respondent did not have a prior enforcement history. The Commission imposed a penalty of \$4,000.

Here, Pech, as a Housing Inspector for the City of Oxnard Housing Authority, made governmental decisions in which Pech had a financial interest. Pech was paid \$75 per month to manage certain rental properties owned by Torres. At the same time, Pech, as a Housing Inspector, inspected these same properties and deemed them acceptable to rent. Additionally, Pech evaluated these same properties and recommended rental values for each. Pech is no longer in office as a Housing Inspector and does not have prior enforcement history. In consideration of the factors, a penalty of \$5,000 per count is recommended.

Count 3

- *In the Matter of Jennifer Allsup*; FPPC Case No. 16/20047. (The Commission approved a default decision on October 15, 2020.) The respondent, as a Modesto Entertainment Commissioner, among other violations, failed to timely file a Leaving Office SEI. At the time of the default, Respondent was no longer in office. Also, Respondent did not have a prior enforcement history. The Commission imposed a penalty of \$4,000.

Here, Pech, as a Housing Inspector for the City of Oxnard Housing Authority, failed to timely file a Leaving Office SEI. In consideration of the factors, a penalty of \$4,000 is recommended.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5 and the penalties imposed in prior cases, the following penalties are proposed:

Counts	Violations	Proposed Penalty
1	Conflict of Interests	\$5,000
2	Conflict of Interest	\$5,000
3	Failure to Timely File Leaving Office SEI	\$4,000
	Total:	\$14,000



**DECLARATION OF CUSTODIAN OF RECORDS
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
Enforcement Division**

CERTIFICATION OF RECORDS

The undersigned declares and certifies as follows:

1. I am employed as an Associate Governmental Program Analyst by the California Fair Political Practices Commission (Commission). My business address is: California Fair Political Practices Commission, 1102 Q St, Ste 3050, Sacramento, CA 95811.
2. I am a duly authorized custodian of the records maintained by the Commission in the Enforcement Division. As such, I am authorized to certify copies of those records as being true and correct copies of the original business records which are in the custody of the Commission.
3. I have reviewed documents maintained in *FPPC Case No. 19/1407; Jose Pech* and have caused copies to be made of documents contained therein. I certify that the copies attached hereto are true and correct copies of the documents prepared in the normal course of business and which are contained in files maintained by the Commission. The attached documents are as follows:

EXHIBIT A-1: Report in Support of a Finding of Probable Cause, dated November 18, 2020

EXHIBIT A-2: Proof of Service for the Report in Support of a Finding of Probable Cause and applicable statutes and regulations, dated November 19, 2020, and accompanying certified mail receipt and USPS tracking

EXHIBIT A-3: Respondent's request for Discovery, dated December 1, 2020

EXHIBIT A-4: Proof of Service for Response to Respondent's Request for Records After Service of Probable Cause Report, dated October 4, 2021

EXHIBIT A-5: Cover letter to Respondent regarding Response to Respondent's Request for Records After Service of Probable Cause Report, dated October 4, 2021

- EXHIBIT A-6: Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served, dated February 8, 2022
- EXHIBIT A-7: Finding of Probable Cause and Order to Prepare and Serve an Accusation, dated February 22, 2022
- EXHIBIT A-8: Accusation, dated October 20, 2022
- EXHIBIT A-9: Proof of Service for Accusation and accompanying documents from process server, dated November 13, 2022
- EXHIBIT A-10: Statement to Respondent, Notices of Defense, applicable statutes, and Proof of Service for Accusation and accompanying documents, dated October 20, 2022
- EXHIBIT A-11: U.S. Department of Housing and Urban Development Interview Summary of Jose Pech, dated October 3, 2017
- EXHIBIT A-12: Email Response from Patricia Magallanes, Housing Program Supervisor, dated July 28, 2020
- EXHIBIT A-13: Oxnard Housing Authority Inspection Schedule, dated December 11, 2015
- EXHIBIT A-14: Rental Evaluation for 521 South K Street Unit #4, dated December 11, 2015
- EXHIBIT A-15: Housing Quality Standards Inspection for 521 South K Street Unit #4, Inspection date December 14, 2015
- EXHIBIT A-16: Residential Lease for 521 South K Street Unit #4, dated December 6, 2015
- EXHIBIT A-17: Request for Tenancy Approval for 521 South K Street Unit #1, dated December 14, 2016
- EXHIBIT A-18: Rental Evaluation for 521 South K Street Unit #1, dated December 21, 2016
- EXHIBIT A-19: Residential Lease for 521 South K Street Unit #1, dated January 9, 2017
- EXHIBIT A-20: Grant Deed for 521 South K Street, recorded August 14, 2003
- EXHIBIT A-21: City of Oxnard Conflict of Interest Code, effective April 2, 2019
- EXHIBIT A-22: Email Response from Brenda Lopez, City of Oxnard's Housing Program Manager, dated March 25, 2020
- EXHIBIT A-23: City of Oxnard Conflict of Interest Code, effective April 17, 2018

EXHIBIT A-24: Housing Quality Standards Special Inspection for 521 South K Street Unit #4, Inspection date August 4, 2016

EXHIBIT A-25: Housing Quality Standards Inspection Overview event, dated October 31, 2016, and relevant section of Housing Inspection Manual

EXHIBIT A-26: Notice of Default Decision and Order, dated May 4, 2023

EXHIBIT A-27: Notice of Intent to Enter Default Decision and Order, dated June 22, 2023

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 19, 2023, at Sacramento, California.



Shaina Elkin,
Associate Governmental Program Analyst
Enforcement Division
Fair Political Practices Commission