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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
10

11 In the Matter of:

12 CARLOS BAKER, JR.,

13 Respondent.
14

FPPC No. 15/820

STIPULATION, DECISION, AND ORDER

15
16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
18 Respondent Carlos Baker, Jr. ("Baker") hereby agree that this Stipulation will be submitted for
19 consideration by the Fair Political Practices Commission ("Commission") at its next regularly scheduled
20 meeting.

21 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this
22 matter and to reach a final disposition without the necessity of holding an additional administrative hearing
23 to determine the liability of Respondent.

24 Baker understands, and hereby knowingly and voluntarily waives, any and all procedural rights
25 set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of Regulations,
26 title 2, sections 18361.1 through 18361.9. This includes, but is not limited to, the right to personally
27 appear at any administrative hearing held in this matter, to be represented by an attorney at Baker's own
28 expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to

1 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing
2 officer, and to have the matter judicially reviewed.

3 It is further stipulated and agreed that Baker violated the Political Reform Act by failing to timely
4 file an Annual Statement of Economic Interest due by March 2, 2015, in violation of Government Code
5 section 87203 (one count), all as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by
6 reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this
7 matter.

8 Baker agrees to the issuance of the Decision and Order, which is attached hereto. Baker also agrees
9 to the Commission imposing an administrative penalty in the total amount of \$1,500. Baker submitted
10 with this Stipulation a cashier's check in said amount, made payable to the "General Fund of the State of
11 California," as full payment of the administrative penalty that shall be held by the State of California until
12 the Commission issues its Decision and Order regarding this matter. The parties agree that in the event
13 the Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen (15)
14 business days after the Commission meeting at which the Stipulation is rejected, all payments tendered by
15 Baker in connection with this Stipulation shall be reimbursed to him. Baker further stipulates and agrees
16 that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
17 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
18 shall be disqualified because of prior consideration of this Stipulation.

19
20
21 Dated: _____
22 Galena West, Chief, on behalf of the Enforcement
23 Division, Fair Political Practices Commission

24 Dated: _____
25 Carlos Baker, Jr.

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties "In the Matter of Carlos Baker, Jr.," FPPC No. 15/820,
3 including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political
4 Practices Commission, effective upon execution below by the Chair.

5
6 IT IS SO ORDERED.

7
8 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Carlos Baker, Jr. ("Baker") is a retired superior court judge who was assigned to work 30 or more days in 2014. The Political Reform Act (the "Act")¹ required Baker to file an Annual Statement of Economic Interests ("SEI") by March 2, 2015, disclosing his economic interests. Baker violated the Act by failing to timely file his 2014 Annual SEI.

SUMMARY OF THE LAW

An express purpose of the Act is to ensure that the assets and income of public officials that may be materially affected by their official actions be disclosed, so that conflicts of interests may be avoided.²

In furtherance of this purpose, the Act requires state judicial officers to file SEIs that disclose reportable investments, business positions, interests in real property, and sources of income.³ Retired judges who serve on assignment for 30 or more days per year must file an annual SEI for that calendar year.⁴ Judges are required to file annual SEIs by March 1 of each year, disclosing their economic interests from the year before.⁵

SUMMARY OF THE FACTS & VIOLATIONS

Baker is a retired judge who was assigned to work 30 or more days in 2014 by the California Judicial Council. Baker failed to file a 2014 Annual SEI by the March 2, 2015 deadline. Baker was referred to the Enforcement Division for failure to timely file his 2014 Annual SEI. He filed this delinquent statement in conjunction with this settlement.

Count 1: Failure to Timely File a Statement of Economic Interests

Baker failed to timely file a 2014 Annual SEI due by March 2, 2015, in violation of Government Code Section 87203.

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of \$5,000.

¹ The Political Reform 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 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 81002, subdivision (c).

³ Sections 87200 and 87203.

⁴ Regulation 18724, subdivision (b).

⁵ Regulation 18723, subdivision (b)(1). When the filing deadline falls on a weekend, it is moved to the next regular business day. Regulation 18116. March 1, 2015 was a Sunday.

In determining the appropriate penalty for a particular violation of the Act, the Commission 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 Commission considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the respondents demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether the violator, upon learning of the violations, voluntarily filed amendments.

In aggravation, Baker has a previous enforcement history for the same type of violation. In 2006, the Commission approved a one-count streamlined fine assessing Baker a \$100 penalty after he failed to timely file his Annual SEI for 2005. (FPPC Case No. 06/823.)

In 2010, the Commission approved a three-count stipulated settlement assessing Baker a \$3,000 penalty after he failed to timely file his Annual SEI for 2007, 2008, and 2009. (FPPC Case Nos. 07/324 and 08/452. Commission approved stipulation on May 13, 2010.)

In mitigation, Baker is no longer being assigned to serve as a retired judge by the Judicial Council, and he cooperated with the Enforcement Division.

The Commission also considers penalties in prior cases involving similar violations. Similar cases include the following:

- *In the Matter of Nidia Bautista*, FPPC No. 15/1226. (Commission approved a stipulated decision on April 21, 2016.) The respondent failed to timely file her 2013 and 2014 Annual SEIs. She did not qualify for the SEI streamline program because she had a prior enforcement action for the same type of violation. The Commission imposed a penalty of \$1,000 for each SEI not timely filed.
- *In the Matter of Jeffrey Senior*, FPPC No. 15/33. (Commission approved a stipulated decision on April 21, 2016.) The respondent failed to timely file his 2013 and 2014 Annual SEIs. He did not qualify for a streamlined fine because of a prior enforcement action for the same type of violation. The Commission imposed a penalty of \$1,000 for each SEI not timely filed.

Both cases cited above are analogous because each respondent had a prior enforcement history for the failure to timely file an annual SEI. However, unlike Baker, the respondents in the *Bautista* and *Senior* cases did not have two prior enforcement actions due to two previous failures to file their SEIs.

The failure to timely file statements of economic interest violates one of the Act's central purposes: that the assets and income of public officials that may materially affect their official decisions should be disclosed in order to avoid conflicts of interest. Baker's violations deprived the public of important and timely information regarding his economic interests. However, there is no evidence of intent to conceal, and Baker cooperated with the Enforcement Division to reach this stipulated settlement.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, the penalties imposed in prior cases, Baker's prior violations, and other relevant information, it is respectfully requested that the Commission impose a penalty of \$1,500.