

1 ANGELA J. BRERETON  
Chief of Enforcement  
2 BRIDGETTE CASTILLO  
Senior Commission Counsel  
3 Fair Political Practices Commission  
1102 Q Street, Suite 3000  
4 Sacramento, CA 95811  
Telephone: (916) 324-8787  
5 Email: [bcastillo@fppc.ca.gov](mailto:bcastillo@fppc.ca.gov)

6 Attorneys for Complainant  
Enforcement Division of the Fair Political Practices Commission  
7

8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

9 **STATE OF CALIFORNIA**

10  
11 In the Matter of:

12 **DEVON MATHIS,**

13 Respondent.

FPPC Case No. 18/365

14 **STIPULATION, DECISION AND ORDER**

15 **INTRODUCTION**

16 Respondent Devon Mathis (“Mathis”) is a current member of the California State Assembly  
17 (“Assembly”), representing District 26. He was a successful candidate for re-election in the November 3,  
18 2020 General Election. Mathis has been a member of the California State Assembly since December 1,  
19 2014.

20 The Political Reform Act (“Act”)<sup>1</sup> requires public officials to timely file statements of economic  
21 interests (“SEI”), reporting gifts of a certain amount received by the official. In 2016, the Act prohibited a  
22 public official from accepting a gift in excess of \$460 from a single source during the calendar year. Mathis  
23 violated the Act by accepting a gift over the 2016 gift limit of \$460 and failing to timely disclose this gift  
24 on his 2016 Annual SEI.

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28 <sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014, and all statutory  
references are to this code. The regulations of the Fair Political Practice Commission are contained in Sections 18110 through  
18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 In this matter, a Probable Cause Report was issued, thus effectively tolling the relevant statute of  
2 limitations.

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

4 All legal references and discussions of law are intended to be citations to statutes and regulations  
5 as they existed at the time of the violations.

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

7 When enacting the Political Reform Act, the people of California found and declared that previous  
8 laws regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup>  
9 For this reason, the Act is to be construed liberally to accomplish its purposes.<sup>3</sup>

#### 10 Reporting on Annual SEI

11 An express purpose of the Act is to ensure the assets and income of public officials which may be  
12 materially affected by their official actions be disclosed, so that conflicts of interest may be avoided.<sup>4</sup> In  
13 furtherance of this purpose, members of the Legislature are required to file an SEI disclosing reportable  
14 investments, business positions, interests in real property and sources of income/gifts received in the  
15 previous calendar year.<sup>5</sup>

16 The Act requires that elected state officers file an Annual SEI for the years that they hold such  
17 office.<sup>6</sup> This SEI is required to disclose investments, interests in real property and income.<sup>7</sup> This includes  
18 disclosure of a gift received, the amount of the gift and date the gift was received.<sup>8</sup> A gift includes any  
19 payment to the extent that consideration of equal or greater value is not received.<sup>9</sup> Payment includes the  
20 rendering of money, property, services or anything else of value.<sup>10</sup> A gift is valued at the fair market value  
21 as of the date of receipt.<sup>11</sup>

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24 <sup>2</sup> Section 81001, subd. (h).

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

26 <sup>4</sup> Section 81002, subd. (c).

27 <sup>5</sup> Section 87203.

28 <sup>6</sup> Sections 87200 and 87203.

<sup>7</sup> Section 87203.

<sup>8</sup> Section 87207, subd. (a)(4).

<sup>9</sup> Section 82028.

<sup>10</sup> Section 82044.

<sup>11</sup> Regulation 18946, subd. (a).

1 Gift Limits

2 In 2016, the Act held that elected state officials should not accept gifts from a single source in a  
3 calendar year that aggregates to more than \$460.<sup>12</sup>

4 **SUMMARY OF THE FACTS**

5 Mathis is a member of the Assembly, representing the Visalia area. Mathis accepted a gift of  
6 lodging over-the-limit from his former Chief of Staff, Sean Doherty and failed to timely disclose this gift  
7 on his 2016 Annual SEI.

8 More specifically, at least from March 2016, through August 2016, Mathis was required to attend  
9 Legislative Sessions in Sacramento. Mathis routinely stayed at the home of his former employee – his  
10 Chief of Staff – on an ongoing basis without paying any compensation for the lodging during the  
11 Legislative Session. As such, Mathis was able to avoid the cost of an apartment or hotel that he would  
12 otherwise have been required to pay. According to Mathis, he stayed at Doherty’s home for 62 nights from  
13 March 2016 through August 2016. According to the realtor who sold Doherty’s home, the fair market value  
14 of the lodging in 2016 would be equivalent, at a minimum, to approximately \$37 per night, or  
15 approximately \$2,294 for the nights Mathis stayed in Doherty’s home. In 2016, the annual gift limit was  
16 \$460. As such, Mathis accepted a gift from a single source that aggregated to approximately \$1,834 over  
17 the annual gift limit.

18 Further, Mathis failed to disclose the receipt of the gift of lodging on his Annual 2016 SEI, as  
19 required.

20 **VIOLATIONS**

21 Count 1: Failure to Timely Report a Gift on Statement of Economic Interests

22 Mathis failed to disclose a gift of lodging on his 2016 Annual SEI, in violation of Sections 87203  
23 and 87207, subdivision (a)(4).

24 Count 2: Accepting a Gift Over-The-Limit

25 Mathis accepted a gift of lodging totaling at least \$2,294 from Sean Doherty, his employee and  
26 Chief of Staff in 2016, exceeding the annual gift limit by \$1,834, in violation of Section 89503.

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<sup>12</sup> Section 89503, subd. (a), and Former Regulation 18940.2, subd. (a), “...For purposes of Section 89503, the adjusted annual gift limit amount in effect for the period of January 1, 2015, to December 31, 2016, is \$460.”

1 **PROPOSED PENALTY**

2 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per  
3 count.<sup>13</sup> Thus, the maximum penalty that may be imposed here is \$10,000.

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

17 This case does not qualify for the Streamline Program as the gift was more than \$1,000 over the  
18 annual gift limit and was not reported on the 2016 Annual SEI.

19 An express purpose of the Act is to ensure the assets and income of public officials which may be  
20 materially affected by their official actions be disclosed, so that conflicts of interest may be avoided. Mathis  
21 impermissibly accepted a gift over the relevant gift limit and failed to report the receipt of the gift. In this  
22 case, the public harm is aggravated because the gift over the limit that he received was not reported, failing  
23 to provide the public the nature of Mathis' personal relationship to his Chief of Staff at the time of the  
24 violation. Mathis contends that at the time, Mathis did not understand that he was accepting a reportable  
25 gift, as he thought the gift fell within an exception, he followed the advice of his staff and consultants and  
26 did not intend to mislead the public. When considering whether the violations were deliberate, negligent  
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28 <sup>13</sup> See Section 83116, subd. (c).

<sup>14</sup> Regulation 18361.5, subd. (e).

1 or inadvertent, Mathis contends that he did not realize his ongoing sleeping arrangements would result in  
2 a gift and contends his failure to disclose the gift was unintentional. When considering the presence or  
3 absence of any intention to conceal, deceive or mislead, Mathis has filed an amendment to disclose this  
4 gift of lodging in connection with this settlement and contends he did not realize he had received a gift that  
5 required disclosure. While Mathis had been a member of the Assembly since November 2014, this  
6 violation occurred in 2016. Prior to November 2014, Mathis had not served in elected public office.

7 Mathis previously received a Warning Letter in FPPC Case No. 16/393, for failing to report a  
8 property that was converted into a rental property in 2015 on his SEI. Additionally, the Enforcement  
9 Division investigation in this case determined that Mathis misreported a behested payment as a gift and  
10 misreported the name of a 501(c)(3) that permissibly provided a gift of travel on his 2019 Annual SEI.  
11 Mathis demonstrated good faith by consulting with Commission staff, amending his 2019 Annual SEI and  
12 filing a Behested Payment Report, and contends that he made an honest mistake. These 2019 Annual SEI  
13 reporting violations were not charged in contemplation of settlement. As a result of this Stipulation, Mathis  
14 has amended his 2016 Annual SEI, disclosing the gift of lodging.

15 The Commission considers penalties in prior cases involving similar violations.

16 Failure to Timely Report the Receipt of a Gift and Accepting a Gift Over-The-Limit

17 A recent case involving a failure to timely report an economic interest on an SEI was addressed in  
18 the following matter:

19 *In the Matter of Timothy Simon*; FPPC No. 15/189: the Respondent, an appointee to the California  
20 Public Utilities Commission, failed to disclose gifts and travel-related payments that he received from  
21 approximately 40 sources, totaling roughly \$21,000, on his leaving office SEI, in violation of Section  
22 87207, subdivisions (a) and (c); and accepted a gift over the prescribed limit by \$1,180, in violation of  
23 Section 89503, subdivision (a). In June 2017, the Commission approved a fine of \$2,000 on the SEI non-  
24 reporting count, and \$3,500 on the over-the-limit gift count.

25 Regarding Count 1, Mathis was an elected state official who failed to timely report a gift of lodging  
26 that he received for a period of at least seven months. Further, the gift was from an employee whose  
27 position he had some authority over. Also, Mathis had previously received a Warning Letter for failing to  
28 disclose a rental property on his 2015 Annual SEI. In mitigation, the value of the gift received by Mathis



1           5.       Respondent agrees to the issuance of the decision and order set forth below. Also,  
2 Respondent agrees to the Commission imposing against him an administrative penalty in the amount of  
3 \$5,500. One or more payments totaling said amount—to be paid to the General Fund of the State of  
4 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
5 above, and same shall be held by the State of California until the Commission issues its decision and order  
6 regarding this matter.

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

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

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

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

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

\_\_\_\_\_  
Devon Mathis

1 **DECISION AND ORDER**

2 The foregoing stipulation of the parties “In the Matter of Devon Mathis,” FPPC Case No. 18/365  
3 is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon  
4 execution below by the Chair.

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6 IT IS SO ORDERED.

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

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Richard C. Miadich, Chair  
Fair Political Practices Commission