

1 GALENA WEST  
Chief of Enforcement  
2 DAVE BAINBRIDGE  
Assistant Chief of Enforcement  
3 **FAIR POLITICAL PRACTICES COMMISSION**  
428 J Street, Suite 620  
4 Sacramento, CA 95814  
Telephone: (916) 322-5660  
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant

7  
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

9 STATE OF CALIFORNIA

10  
11 In the Matter of

) FPPC No.: 15/737

12  
13 SHANNON MATLOCK,

)  
) DEFAULT DECISION AND  
) ORDER

14  
15 Respondent.

) (Government Code Sections 11506  
) and 11520)  
)

16  
17 Complainant, the Enforcement Division of the Fair Political Practices Commission, hereby  
18 submits this Default Decision and Order for consideration by the Fair Political Practices Commission at  
19 its next regularly scheduled meeting.

20 Pursuant to the California Administrative Procedure Act,<sup>1</sup> Shannon Matlock ("Matlock") has been  
21 served with all of the documents necessary to conduct an administrative hearing regarding the above-  
22 captioned matter, including the following:

- 23 1. An Order Finding Probable Cause;  
24 2. An Accusation;  
25 3. A Notice of Defense (Two Copies);  
26 4. A Statement to Respondent; and,  
27

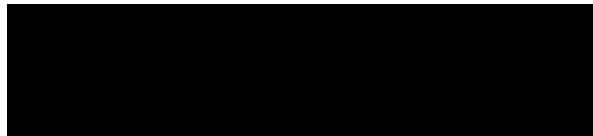
28 <sup>1</sup> The California Administrative Procedure Act, which governs administrative adjudications, is contained in sections 11370 through 11529 of the Government Code.

1           5.       Copies of Sections 11506, 11507.5, 11507.6 and 11507.7 of the Government Code.

2           Government Code section 11506 provides that failure of a respondent to file a Notice of Defense  
3 within fifteen days after being served with an Accusation shall constitute a waiver of respondent's right  
4 to a hearing on the merits of the Accusation. The Statement to Respondent, served on Matlock, explicitly  
5 stated that a Notice of Defense must be filed in order to request a hearing. Matlock failed to file a Notice  
6 of Defense within fifteen days of being served with an Accusation. Government Code Section 11520  
7 provides that, if the respondent fails to file a Notice of Defense, the Commission may take action, by way  
8 of a default, based upon the respondent's express admissions or upon other evidence, and that affidavits  
9 may be used as evidence without any notice to the respondent.

10           Matlock violated the Political Reform Act as described in Exhibit 1, which is attached hereto and  
11 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the  
12 law and evidence in this matter. This Default Decision and Order is submitted to the Commission to  
13 obtain a final disposition of this matter.

14  
15 Dated: 28 NOV 16



16 Galena West, Chief of Enforcement  
17 Fair Political Practices Commission

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

The Commission issues this Default Decision and Order and imposes an administrative penalty of \$5,000 (Five Thousand Dollars) upon Matlock, payable to the "General Fund of the State of California."

IT IS SO ORDERED, effective upon execution below by the Chair of the Fair Political Practices Commission at Sacramento, California.

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

\_\_\_\_\_  
Joann Remke, Chair  
Fair Political Practices Commission

## EXHIBIT 1

### INTRODUCTION

Respondent Shannon Matlock ("Matlock") assumed office on April 6, 1964, and is currently in office as Assistant Director of Hospital Nursing for the Ventura County Health Care Agency.

The Political Reform Act (the "Act")<sup>1</sup> requires designated officials to file an Annual Statement of Economic Interests ("SEI"). This matter arose out of a non-filer referral sent to the Fair Political Practices Commission's (the "Commission") Enforcement Division by the Ventura County Clerk of the Board of Supervisors for Matlock's failure to file a 2014 Annual SEI.

As a designated official with the Ventura County Health Care Agency, Matlock had a duty to file a 2014 Annual SEI. Matlock failed to file a 2014 Annual SEI by the April 1, 2015 deadline.

### 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.<sup>2</sup> Notice of the hearing, and the hearing itself, must be conducted in accordance with the Administrative Procedure Act (the "APA").<sup>3</sup> 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.<sup>4</sup>

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 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.<sup>5</sup>

---

<sup>1</sup> 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.

<sup>2</sup> Section 83116.

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

<sup>4</sup> Section 11503.

<sup>5</sup> Section 11506, subd. (a)(1)-(6).

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.<sup>6</sup> 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.<sup>7</sup>

## 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 starts the administrative action.<sup>8</sup>

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.<sup>9</sup> 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.<sup>10</sup>

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

Documents supporting the procedural history are included in the attached Certification of Records ("Certification") filed herewith at Exhibit 1, A-1 through A-23, and incorporated herein by reference.

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against Matlock in this matter by serving her with a Report in Support of a Finding of Probable Cause (the "Report") (Certification, Exhibit A-1) by certified mail, return receipt requested,<sup>12</sup> on April 19, 2016. (Certification, Exhibit A-2.) The administrative action commenced on May 21, 2016, the date the certified mail receipt was signed (Certification, Exhibit A-2), and the five-year statute of limitations was effectively tolled on this date.

---

<sup>6</sup> Section 11506, subd. (c).

<sup>7</sup> Section 11520, subd. (a).

<sup>8</sup> Section 91000.5, subd. (a).

<sup>9</sup> Section 83115.5.

<sup>10</sup> Section 83115.5.

<sup>11</sup> Section 91000.5.

<sup>12</sup> Section 83115.5.

As required by Section 83115.5, the packet served on Matlock contained a cover letter and a memorandum describing probable cause proceedings, advising that Matlock had 21 days in which to request a probable cause conference and/or to file a written response to the Report. (Certification, Exhibit A-3.) Matlock neither requested a probable cause conference nor submitted a written response to the Report.

**B. Ex Parte Request for a Finding of Probable Cause**

Because Matlock 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 June 6, 2016. (Certification, Exhibit A-4.)

On June 21, 2016, Hearing Officer Jack Woodside, Senior Commission Counsel, Legal Division issued a Finding of Probable Cause and an Order to Prepare and Serve an Accusation on Matlock. (Certification, Exhibit A-5.)

**C. 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.<sup>13</sup>

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)

---

<sup>13</sup> Regulation 18361.4, subd. (e).

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.<sup>14</sup> The APA also sets forth the language required in the accompanying statement to the respondent.<sup>15</sup>

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.<sup>16</sup>

On September 23, 2016, the Commission's Chief of Enforcement, Galena West, issued an Accusation against Matlock in this matter. (Certification, Exhibit A-6.) In accordance with Section 11505, the Accusation and accompanying information, consisting of a Statement to Respondent, two copies of a Notice of Defense Form, copies of Government Code Sections 11506, 11507.5, 11507.6 and 11507.7 were personally served on October 7, 2016. (Certification, Exhibit A-8.)

Along with the Accusation, the Enforcement Division served Matlock with a "Statement to Respondent," which notified her that she 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, she would be deemed to have waived the right to a hearing. (Certification, Exhibit A-7.) Matlock did not file a Notice of Defense within the statutory time period, which ended on October 24, 2016.

As a result, on November 28, 2016, Assistant Chief of Enforcement Dave Bainbridge sent a letter to Matlock advising that this matter would be submitted for a Default Decision and Order at the Commission's public meeting scheduled for December 15, 2016. (Certification, Exhibit A-23.) A copy of the Default Decision and Order, and this accompanying Exhibit 1 with attachments, was included with the letter.

#### **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.<sup>17</sup> In furtherance of this purpose, the Act requires every state agency to adopt and promulgate a conflict of interest code, and any violation of such a code is deemed a violation of the Act.<sup>18</sup>

An agency's conflict of interest code must specifically designate the positions within the agency that are required to file SEIs that disclose reportable investments, business positions,

---

<sup>14</sup> Section 11505, subd. (a).

<sup>15</sup> Section 11505, subd. (b).

<sup>16</sup> Section 11505, subd. (c).

<sup>17</sup> Section 81002, subd. (c).

<sup>18</sup> Section 87300.



interests in real property, and sources of income.<sup>19</sup> The persons who are to be designated in an agency's conflict of interest code are the officers, employees, members, and consultants of the agency whose position with the agency entails making, or participating in making, governmental decisions that may foreseeably have a material effect on one or more of the person's economic interests.<sup>20</sup> An agency's conflict of interest code must require designated positions to file an Annual SEI.<sup>21</sup> The Ventura County Health Care Agency's Conflict of Interest Code designates Assistant Director of Hospital Nursing as a position that is required to file SEIs.

### SUMMARY OF THE EVIDENCE

Matlock assumed office on April 6, 1964 and currently serves as Assistant Director of Hospital Nursing for the Ventura County Health Care Agency. As a designated official, she had a duty to file a 2014 Annual SEI by April 1, 2015. Matlock violated the Act by failing to timely file a 2014 Annual SEI by April 1, 2015.

#### 2014 Annual Statement of Economic Interests

The Ventura County Clerk of the Board of Supervisors sent emails to Matlock on January 30, 2015, February 20, 2015, March 13, 2015, March 20, 2015, March 27, 2015, April 10, 2015, and May 11, 2015 notifying her that her 2014 Annual SEI was due April 1, 2015. (Certification, Exhibits A-9, A-10, A-11, A-12, A-13, A-14, and A-15.) The Ventura County Clerk of the Board of Supervisors also sent a letter to Matlock via U.S. Mail on May 15, 2015. (Certification, Exhibit A-16.) Matlock never filed her 2014 Annual SEI as requested, and was referred to the Enforcement Division on June 1, 2015. (Certification, Exhibit A-17.) At that time, the Ventura County Clerk of the Board of Supervisors notified Matlock via U.S. Mail and email that she had been referred to the Enforcement Division. (Certification, Exhibit A-18.)

On July 15, 2015, August 21, 2015, and September 28, 2015, the Enforcement Division sent Matlock written requests by U.S. Mail to file her outstanding SEI. (Certification, Exhibits A-19, A-20, and A-21.) Enforcement Division staff spoke with Matlock via telephone on August 23, 2016 and August 26, 2016 and asked her to file her 2014 Annual SEI. The Enforcement Division also sent emails to Matlock on August 23, 2016, August 26, 2016, September 2, 2016, and September 12, 2016, and received a blank email from Matlock on September 8, 2016. (Certification, Exhibit A-22.) Matlock failed to file her 2014 Annual SEI.

As of November 15, 2016, Matlock has not filed her 2014 Annual SEI, but remains in office as Assistant Director of Hospital Nursing for the Ventura County Health Care Agency. Accordingly, Matlock committed one violation of the Act, as follows:

---

<sup>19</sup> Section 87302, subd. (a).

<sup>20</sup> Sections 82019, subd. (a) and 87302.

<sup>21</sup> Section 87302, subd. (b).



## COUNT 1

### **Failure to Timely File a 2014 Annual Statement of Economic Interests by April 1, 2015**

Matlock had a duty to file a 2014 Annual SEI by April 1, 2015. By failing to timely file this statement, Matlock violated Government Code Section 87300.

### **CONCLUSION**

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of \$5,000.<sup>22</sup>

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 (d)(1) through (6): (1) The seriousness of the violation; (2) The presence or absence of any intention to conceal, deceive or mislead; (3) Whether the violation was deliberate, negligent or inadvertent; (4) 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); (5) 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 (6) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

In this matter, Matlock failed to file a Statement of Economic Interests. The failure to comply with this obligation denied the public information about her financial activities and potential conflicts of interest.

The Ventura County Clerk of the Board of Supervisors and the Enforcement Division have made numerous requests that Matlock file the outstanding SEI, but Matlock has never complied. Matlock is fully aware of her obligation to file as she has received seven written notifications regarding the outstanding SEI at issue in this matter. Further, Matlock has filed a 2015 Annual SEI with the Ventura County Clerk of the Board of Supervisors.

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:

- *In the Matter of Aaron Medina*, FPPC No. 14/1040. (Commission approved a default decision on October 20, 2016.) The respondent, a sitting member of the California Travel and Tourism Commission, failed to timely file an

---

<sup>22</sup> Section 83116, subd. (c).

Assuming Office SEI and two annual SEIs despite 13 written notifications regarding his duty to file SEIs. The Commission imposed a penalty of \$5,000 per violation, for a total penalty of \$15,000.

- *In the Matter of Harold Tate*, FPPC No. 14/900. (Commission approved a default decision on July 21, 2016.) The respondent, a physician for the California Department of Corrections and Rehabilitation/California Correctional Health Care Services, failed to file a 2013 Annual SEI. Tate ignored multiple notifications regarding his duty to file a 2013 Annual SEI, although he did file a 2014 Annual SEI. The Commission imposed a penalty of \$5,000.

Both of these cases are similar to the instant case as Matlock was well aware of her obligation to file a 2014 Annual SEI, but did not file despite multiple requests for compliance from the Ventura County Clerk of the Board of Supervisors and the Enforcement Division. Further, like Harold Tate, Matlock has filed an Annual SEI for the year following the delinquent SEI and is currently in the position.

#### **PROPOSED PENALTY**

After considering the factors of Regulation 18361.5 and the penalties imposed in prior cases, a penalty of \$5,000 is recommended.

**Exhibit A**

---

DEFAULT DECISION AND ORDER FPPC NO. 15/737



**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 a Staff Services Analyst by the California Fair Political Practices Commission (Commission). My business address is: California Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814.
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. 15/737; Shannon Matlock*, 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 April 19, 2016

EXHIBIT A-2: Proof of Service for the Report in Support of a Finding of Probable Cause and applicable statutes and regulations, dated April 19, 2016, and Return Receipt received on May 24, 2016

EXHIBIT A-3: Cover letter to the Respondent regarding the Report in Support of a Finding of Probable Cause, memorandum describing Probable Cause Proceedings, and applicable statutes and regulations, dated April 19, 2016

EXHIBIT A-4: Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served, dated June 6, 2016

EXHIBIT A-5: Finding of Probable Cause and Order to Prepare and Serve an Accusation, dated June 21, 2016, and Proof of Service, dated June 24, 2016