EXHIBIT 1

INTRODUCTION

Respondent Voter Information Guide (“Respondent VIG”) is a slate mailer organization. At all relevant times, Respondent Tracey Pomerance-Poirier (“Respondent Poirier”) was Respondent VIG’s treasurer.

In 2010, Respondent VIG produced and sent slate mailers supporting various candidates and ballot measures being voted on in the 2010 primary and general elections. However, on campaign statements filed for the periods ending June 30 and December 31, 2010, Respondents failed to report required information about disbursements made to subvendors as described more fully below.

For purposes of this stipulation, Respondents’ violation of the Political Reform Act (the “Act”) is set forth as follows:


SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act’s provisions as they existed at the time of the violation in question.

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

When the Political Reform Act was enacted, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities. (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

One of the purposes of the Act is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited. (Section 81002, subd. (a).) Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.” (Section 81002, subd. (f).)

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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 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.
Required Filing of Campaign Statements and Reports

Slate mailer organizations are required to file campaign statements and reports, including semi-annual campaign statements. (Section 84218.) For example, semi-annual campaign statements must be filed each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31. (Section 84218, subd. (a).)

Required Reporting of Disbursements, Including Subvendor Information

Section 84219, subdivisions (b) and (f), requires slate mailer organizations to disclose on each campaign statement: (1) the total amount of disbursements made during the period covered by the campaign statement; and (2) the total amount of disbursements made during the period covered by the campaign statement to persons who have received $100 or more.

Also, pursuant to Section 84219, subdivision (h), for each person to whom a disbursement of $100 or more has been made during the period covered by the campaign statement, the following information must be disclosed on the campaign statement: (1) the recipient’s full name; (2) the recipient’s street address; (3) the amount of each disbursement; and (4) the description of the consideration for which each disbursement was made. Additionally, this same information must be reported for each person, if different from the payee, who has provided consideration for a disbursement of $500 or more during the period covered by the campaign statement. Such persons commonly are referred to as “subvendors” and the information pertaining to them commonly is referred to as “subvendor information.”

Joint and Several Liability of Treasurer

The treasurer of a slate mailer organization is charged with the duty to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements are properly filed, and to otherwise comply with the provisions of the Act. (See Sections 81004, 84100, 84104, and 84108, subd. (a).) The treasurer may be held jointly and severally liable, along with the slate mailer organization, for reporting violations. (Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

As stated above, Respondent VIG is a slate mailer organization. It has been in existence since approximately 1993. At all relevant times, Respondent Tracey Pomerance-Poirier was Respondent’s VIG’s treasurer.

In 2010, Respondent VIG produced and sent slate mailers supporting various candidates and ballot measures being voted on in the 2010 primary and general elections.
Count 1

In 2010, Respondent VIG paid Lakeside Communications to produce slate mailers. In turn, Lakeside paid Advanced Image Direct to print and deliver the mailers to the post office. During the reporting period ending June 30, 2010, the amount paid to Advanced Image Direct on behalf of Respondent VIG totaled approximately $226,719. During the reporting period ending December 31, 2010, the amount paid to Advanced Image Direct on behalf of Respondent VIG totaled approximately $180,681. (The approximate total for the two reporting periods was $407,400, which is approximately 20% of all reported payments made by Respondent VIG in 2010.) Although Respondents filed the required campaign statements for these reporting periods, and although Respondents reported making payments to Lakeside Communications (the vendor), Respondents failed to report the payments made to Advanced Image Direct (the subvendor).

In acting as described above, Respondents committed one violation of Section 84219, subdivision (h)(5).

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of $5,000. (Section 83116, subd. (c).)

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 government agency in a manner not constituting a 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.
Regarding Count 1, there are no recent stipulations involving a violation of Section 84219, subdivision (h)(5). However, this sort of violation is very similar to the failure of a candidate or committee to report subvendor information, and a few of the more recent stipulations involving such a violation show that the penalty has been in the mid-range. (See In the Matter of Stuart Waldman, Friends of Stuart Waldman, and Kinde Durkee, FPPC No. 10/643, approved Sep. 22, 2011 [$2,500 penalty imposed for failure to report subvendor information by California State Assembly candidate, committee and treasurer]; In the Matter of Bryan Batey, Committee to Elect Bryan Batey, and Lisa King, FPPC No. 10/53, approved Jun. 10, 2010 [$2,500 penalty per count imposed for two counts of failure to report subvendor information by school board candidate, committee and treasurer]; and In the Matter of Mary Ann Andreas, Andreas for Assembly, Marta Baca, and Phyllis Nelson, FPPC No. 06/77, approved Jun. 10, 2010 [$2,250 - $2,750 penalty per count imposed for multiple counts of failure to report subvendor information].)

The public harm inherent in campaign reporting violations is that the public is deprived of important information such as the amounts expended, the identities of the recipients of such payments, and the reasons for such payments. In this case, the amount in question was significant, comprising approximately 20% of reported disbursements for that year. Also, Respondent Poirier admitted that she was aware of the subvendor reporting requirement.

Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty in the amount of $2,000 is justified. A higher penalty is not being sought because Respondents cooperated with the Enforcement Division of the Fair Political Practices Commission by agreeing to an early settlement of this matter well in advance of the Probable Cause Conference that otherwise would have been held. Also, the failure to report the subvendor information appears to have been unintentional. Respondent Poirier maintains that she was not aware that the vendor made payments to a subvendor at the time of reporting. It appears that there was no intention to withhold information from the public, and the public was informed as to the payments to the vendor (Lakeside Communications)—albeit not as to the payments to the subvendor (Advanced Image Direct). Also, there is no history of prior violations of the Act by Respondents.