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7
8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**

10
11 In the Matter of) FPPC No. 11/187
12)
13 SARES-REGIS GROUP,) STIPULATION, DECISION and
14 Respondent.) ORDER
15)
16)

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
18 Respondent Sares-Regis Group, hereby agree that this Stipulation will be submitted for consideration by
19 the Fair Political Practices Commission at its next regularly scheduled meeting.

20 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
21 matter and to reach a final disposition without the necessity of holding an administrative hearing to
22 determine the liability of Respondent, pursuant to Section 83116 of the Government Code.

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

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

3 It is further stipulated and agreed that Respondent Sares-Regis Group violated the Political
4 Reform Act by failing to disclose making a contribution of \$520 to Barbara Delgleize, a member of the
5 Huntington Beach Planning Commission, on the record of the proceeding in which Respondent was a
6 party before that agency, in violation of Government Code Section 84308, subdivision (d) (1 count). All
7 counts are described in Exhibit 1, which is attached hereto and incorporated by reference as though fully
8 set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

9 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
10 Respondent also agrees to the Commission imposing upon it an administrative penalty in the amount of
11 Three Thousand Five Hundred Dollars (\$3,500). A check from Respondent in said amount, made
12 payable to the "General Fund of the State of California," is submitted with this Stipulation as full
13 payment of the administrative penalty, to be held by the State of California until the Commission issues
14 its Decision and Order regarding this matter. The parties agree that in the event the Commission refuses
15 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
16 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondent in
17 connection with this Stipulation shall be reimbursed to Respondent. Respondent further stipulates and
18 agrees that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
19 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
20 shall be disqualified because of prior consideration of this Stipulation.

21
22
23 Dated: _____

Gary S. Winuk, Chief of Enforcement, on behalf of the
Fair Political Practices Commission

24
25
26 Dated: _____

Michael J. Winter, on behalf of Sares-Regis Group,
Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Sares-Regis Group, FPPC No. 11/187,”
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 Chairman.

5
6 IT IS SO ORDERED.

7
8 Dated: _____
9 Ann Ravel, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Sares-Regis Group is a developer and provider of comprehensive commercial and residential real estate services throughout the western United States, which is based in Irvine CA.

On October 28, 2010, Respondent Sares-Regis Group made a contribution in the amount of \$520 to Barbara Delgleize, an unsuccessful candidate for Huntington Beach City Council in the November 2, 2010 election. At all relevant times, Barbara Delgleize was also an appointed member of the Huntington Beach Planning Commission.

As a party to a proceeding before an agency involving a license, permit, or other entitlement for use, Respondent Sares-Regis Group was subject to the provisions of Section 84308 of the Political Reform Act (the "Act")¹. This section imposes limitations on the receipt of campaign contributions, and prescribes disclosure requirements for parties to proceedings before an agency involving licenses, permits, or other entitlements for use who have made contributions to appointed officials of that agency.

This matter arose out of a sworn complaint. In this matter, Respondent Sares-Regis Group violated Section 84308, subdivision (d) by failing to disclose making a campaign contribution to Barbara Delgleize on the record of the proceedings before her agency, in which Respondent Sares-Regis Group was a party.

For the purposes of this Stipulation, Respondent's violation of the Act is stated as follows:

COUNT 1: Respondent Sares-Regis Group, on February 8, 2011, as a party to a proceeding before an agency involving a license, permit, or other entitlement for use, failed to disclose making a contribution of \$520 on October 28, 2010 to Barbara Delgleize, a member of the Huntington Beach Planning Commission, on the record of the proceeding before that agency involving the approval of Site Plan Review No. 10-004, the applicant for which was Sares-Regis Group, in violation of Government Code Section 84308, subdivision (d).

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.

SUMMARY OF THE LAW

The primary purpose for the conflict of interest provisions of the Act is to ensure that “public officials, whether elected or appointed, 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.” (Section 81001, subd. (b).)

The following reflects the Act as it was in effect at the time of the relevant violations.

Section 84308 deals specifically with members of appointed boards or commissions who make decisions in proceedings that involve licenses, permits, or other entitlements for use, and the receipt of campaign contributions from persons involved in those proceedings. Although the receipt of campaign contributions is not a basis for disqualification under the conflict-of-interest provisions found in Section 87100 et seq., under Section 84308 there are restrictions in the amount and timing of contributions, which can trigger disclosure and disqualification requirements.

Section 84308, subdivision (d) requires the public disclosure of campaign contributions, as follows:

A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party, or his or her agent, to any officer of the agency.

Section 84308, subdivision (a) sets forth various definitions of specific terms used in the prohibitory statute. A *party* is any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use. *Agency* means any state or local government agency, as defined in section 82003, excluding the courts or any agency in the judicial branch of government, local government agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. An *officer* is defined in Section 84308, subdivision (a) as any elected or appointed officer of an agency, and any candidate for elective office. A *license, permit, or other entitlement for use* is defined as “all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use....”

SUMMARY OF THE FACTS

Respondent Sares-Regis Group is a developer and provider of comprehensive commercial and residential real estate services throughout the western United States, which is based in Irvine CA.

Barbara Delgleize is an appointed member of the Huntington Beach Planning Commission. She was also an unsuccessful candidate for Huntington Beach City Council in the November 2, 2010 election. Barbara Delgleize established a candidate controlled campaign

committee, Barbara Delgleize for City Council 2010, to accept contributions and make expenditures regarding her run for office.

On October 28, 2010, Respondent Sares-Regis Group made a contribution in the amount of \$520 to Barbara Delgleize for City Council 2010.

On or about November 18, 2010, staff for the Huntington Beach Planning Commission deemed completed and accepted for processing Application No. 2010-184, the applicant for which was Sares-Regis Group, “for development of 477 apartment homes, 10,000 SF of retail space, and all supporting facilities and parking areas” near the intersection of Edinger Avenue and Gothard Street in Huntington Beach, CA.

On January 27, 2011, Respondent Sares-Regis Group filed a semi-annual major donor statement for the reporting period of July 1 – December 31, 2010, disclosing the contribution to Barbara Delgleize for City Council 2010. During this reporting period, Respondent Sares-Regis Group reported making \$44,840 in contributions to various candidates and committees throughout California, including a \$250² contribution to another member of the Huntington Beach Planning Commission on October 28, 2010.

During its February 8, 2011 meeting, the Huntington Beach Planning Commission voted to approve Agenda Item No. B-2: Site Plan Review No. 10-004 (Boardwalk Mixed Use Project). This was the Huntington Beach Planning Commission’s initial approval for Sares-Regis Group’s Application No. 2010-184 to develop a mixed use project consisting of apartments, commercial/retail space, office space, recreation buildings and a park. The evidence shows that Respondent Sares-Regis Group did not disclose on the record that it made a contribution to Barbara Delgleize. This item was unanimously approved by the Huntington Beach Planning Commission.

Respondent Sares-Regis Group has cooperated with the investigation of this matter. Respondent Sares-Regis Group has separate divisions which are responsible for the making of campaign contributions and the filing of applications for real estate development. The evidence obtained during the investigation shows that the making of the contribution and the failure to disclose the contribution on the record of the proceedings was due to a lack of communication between these two divisions within Sares-Regis Group.

Accordingly, Respondent Sares-Regis Group committed one violation of the Act, as follows:

COUNT 1

(Failed to Disclose a Contribution on the Record)

As a party to a proceeding before an agency involving a license, permit, or other entitlement for use, Respondent Sares-Regis Group had a duty to disclose any contribution in an

² Only contributions of more than \$250 require disclosure pursuant to Section 84308.

amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by Respondent Sares-Regis Group, to any officer of the agency. In this case, Respondent Sares-Regis Group failed to disclose the contribution to Barbara Delgleize on the record of the proceeding.

By failing to disclose the \$520 campaign contribution to Barbara Delgleize on the record of the proceeding, Respondent Sares-Regis Group violated Section 84308, subdivision (d).

CONCLUSION

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

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 context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6):

1. The seriousness of the violations;
2. The presence or lack of intent to deceive the voting public;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the Respondent demonstrated good faith in consulting with Commission staff;
5. Whether there was a pattern of violations; and
6. Whether, upon learning of the violation, the violator voluntarily provided amendments to provide full disclosure.

The failure to disclose a contribution on the record of the proceeding is a serious violation of the Act as disclosure omissions create an appearance of impropriety.

In this matter, Respondent Sares-Regis Group failed to disclose making a \$520 campaign contribution to Barbara Delgleize on the record of the proceeding. Sares-Regis Group is a prominent real estate developer throughout the state of California, has a history of making campaign contributions in jurisdictions in which it is doing business, and is a sophisticated company that should have proper internal procedures in place to avoid violations of the Act.

However, in mitigation, the evidence in this case shows that Respondent Sares-Regis Group did not intend to deceive the public, and that the violation was inadvertent. Respondent timely reported the contribution in its major donor statement prior to the February 8, 2011 meeting. Additionally, the Sares-Regis Group item on the February 8, 2011 agenda was unanimously approved by the Huntington Beach Planning Commission. Further, Respondent Sares-Regis Group has no prior history of violating the Act, and has been cooperative with the Enforcement Division during its investigation.

No previous prosecutions have been approved by the Commission concerning violations of Section 84308, subdivision (d).

Because Respondent Sares-Regis Group failed to disclose the \$520 campaign contribution to Barbara Delgleize on the record of the proceeding, imposition of an administrative penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500) for Count 1 is recommended.

After consideration of the factors of Regulation 18361.5, and the aggravating and mitigating factors stated above, the imposition of a penalty of Three Thousand Five Hundred Dollars (\$3,500) is recommended.

* * * * *