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

11
12 In the Matter of) FPPC No. 10/1062
13)
14 COLTON POLICE OFFICERS) STIPULATION, DECISION and
ASSOCIATION PAC,) ORDER
15 Respondent.)
16)
17)

18 Complainant, the Fair Political Practices Commission, and respondent Colton Police Officers
19 Association PAC (“Respondent”) agree that this Stipulation will be submitted for consideration by the
20 Fair Political Practices Commission at its next regularly scheduled meeting.

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

24 Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural
25 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
26 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
27 the right to personally appear at any administrative hearing held in this matter, to be represented by an
28 attorney at Respondent’s 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: failed to timely file a preelection statement
4 for the October 1, 2010, through October 16, 2010, reporting period, by October 21, 2010, in violation
5 of Government Code section 84200.5 (Count 1); failed to timely file four late independent expenditure
6 reports, in violation of Government Code section 84204 (Count 2); and failed to properly report 60
7 contributions of \$100 or more received during the July 1, 2010, through December 31, 2010, reporting
8 period, in violation of Government Code section 84211, subdivisions (c) and (f). (Count 3).

9 All counts are described in Exhibit 1, which is attached hereto and incorporated by reference as
10 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

11 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
12 Respondent also agrees to the Commission imposing upon him an administrative penalty in the amount
13 of \$7,500. A cashier's check from Respondent in said amount, made payable to the "General Fund of
14 the State of California," is submitted with this Stipulation as full payment of the administrative penalty,
15 to be held by the State of California until the Commission issues its decision and order regarding this
16 matter. The parties agree that in the event the Commission refuses to accept this Stipulation, it shall
17 become null and void, and within fifteen (15) business days after the Commission meeting at which the
18 Stipulation is rejected, all payments tendered by Respondent in connection with this Stipulation shall be
19 reimbursed to Respondent. Respondent further stipulates and agrees that in the event the Commission
20 rejects the Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither
21 any member of the Commission, nor the Executive Director, shall be disqualified because of prior
22 consideration of this Stipulation.

23
24 Dated: _____

Gary Winuk, Enforcement Chief,
On behalf of Fair Political Practices Commission

25
26
27 Dated: _____

Robert Randolph, President
On behalf of Colton Police Officers Association PAC, Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Colton Police Officers Association
3 PAC” FPPC No. 10/1026, including all attached exhibits, is hereby accepted as the final decision and
4 order of the Fair Political Practices Commission, effective upon execution below by the Chair.

5
6 IT IS SO ORDERED.

7
8 Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Colton Police Officers Association PAC (“Respondent”) was a city general purpose committee from January 19, 2010, to December 31, 2010.

This matter arose out of a sworn complaint submitted to the Fair Political Practices Commission’s (the “Commission”) Enforcement Division (“Enforcement Division”) alleging Respondent failed to file campaign statements. The subsequent investigation by the Enforcement Division revealed that Respondent failed to timely several statements and reports required by the Political Reform Act (the “Act”).¹

For the purposes of this Stipulation, Respondent’s violations of the Act are stated as follows:

COUNT 1: Respondent Colton Police Officers Association PAC failed to timely file a preelection statement with the Colton City Clerk by October 21, 2010, for the October 1, 2010, through October 16, 2010, reporting period, in violation of Government Code section 84200.5.

COUNT 2: Respondent Colton Police Officers Association PAC failed to timely file a late independent expenditure report with the Colton City Clerk within 24 hours of making an independent expenditure of \$1,000 or more four times between October 17, 2010, and November 1, 2010, in violation of Government Code section 84204.

COUNT 3: Respondent Colton Police Officers Association PAC failed to report on its campaign statements 90 contributions of \$100 or more, totaling \$24,589, received between the July 1, 2010, and December 31, 2010, in violation of Government Code section 84211, subdivisions (c) and (f).

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 violations.

Liberal Construction and Vigorous Enforcement of the Political Reform Act

When the 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

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.

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).)

Duty to File Campaign Statements

Section 82013, subdivision (a), of the Act includes within the definition of “committee” any person or combination of persons who receives contributions of \$1,000 or more during a calendar year. This type of committee is commonly referred to as a “recipient committee.” Under the Act, there are different kinds of recipient committees, defined by the type of election activity in which they engage. A recipient committee that is formed or exists primarily to support or oppose candidates or measures voted on in only one city is defined, at Section 82027.5, subdivision (d), as a “city general purpose committee.” Additionally, under Section 82048.7, a general purpose committee may be a sponsored committee.

Every city general purpose committee is required to file semiannual statements 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 84200, subd. (a).) All filing obligations continue until the committee is terminated by filing a statement of termination (Form 410) with the Secretary of State (the “SOS”) and a copy with the local filing officer receiving the committee’s original campaign statements. (Section 84214; Regulation 18404.)

Every city general purpose committee must also file a preelection statement for each period in which it makes contributions or independent expenditures totaling \$500 or more. (Section 84200.5, subd. (i).) For the period ending September 30, a preelection statement must be filed no later than October 5.² (Section 84200.7, subd. (b)(1).) Subsequently, another preelection statement for the reporting period ending 17 days before the November election must be filed no later than 12 days before the election. (Section 84200.7, subd. (b)(2).)

A city general purpose committee must file an original and a copy of all required campaign statements with the clerk of the city. (Section 84215, subd. (d).)

Required Reporting of Contributions Received

Section 84211, subdivision (c), requires committees to disclose on each campaign statement the total amount of contributions received during the period covered by the campaign

² Under Regulation 18116, whenever the Act requires that a statement or report (other than late contribution reports required by Section 84203, late independent expenditure reports required by Section 84204, or notice by the contributor of a late in-kind contribution required by Section 84203.3) be filed prior to or not later than a specified date or during or within a specified period, and the deadline falls on a Saturday, Sunday or official state holiday, the filing deadline for such a statement or report shall be extended to the next regular business day.

statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more. Section 84211, subdivision (f), further requires that certain identifying information be provided for each person from whom a cumulative amount of contributions of \$100 or more has been received during the current calendar year and who has made a contribution during the period covered by the campaign statement, including the following: (1) the person's full name; (2) his or her street address; (3) his or her occupation; (4) the name of his or her employer, or if self-employed, the name of the business; (5) the date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan; and (6) the cumulative amount of contributions.

A contribution is a payment of any kind made for political purposes for which full and adequate consideration is not made to the donor. (Sections 82015, subd. (a), and 82044; Regulation 18215, subd. (a).) A payment is made for a political purpose if, for instance, it is: (1) for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate; or (2) it is received by or made at the behest of a candidate or controlled committee. (See Regulation 18215, subs. (a)(1) and (2).)

Duty to File Late Independent Expenditure Reports

Section 82031 defines an "independent expenditure" as an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole in context, unambiguously urges a particular result in an election, but which is not made to or at the behest of the affected candidate or committee.

A committee that makes an independent expenditures of \$1,000 or more to support or oppose a candidate or ballot measure during the 16 days immediately prior to the election in which the candidate or ballot measure is being voted upon, must report the expenditure by filing a late independent expenditure report within 24 hours of making the expenditure. (Sections 82036.5, 84200.7, 84200.8, and 84204, subd. (a).)

SUMMARY OF THE FACTS

Respondent qualified as a city general purpose committee on January 19, 2010, and terminated on December 31, 2010.

COUNT 1

Failure to Timely File a Preelection Statement

As a city general purpose committee that made contributions and independent expenditures totaling \$23,892 during the October 1, 2010, through October 16, 2010, reporting period, Respondent had a duty to file a preelection statement with the Colton City Clerk by October 21, 2010. By failing to file a preelection statement for the October 1, 2010, through October 16, 2010, reporting period, with the Colton City Clerk by October 21, 2010, Respondent violated Section 84200.5.

COUNT 2
Failure to Timely File Late Independent Expenditure Reports

As a city general purpose committee, Respondent had a duty to file a late independent expenditure report with the Colton City Clerk within 24 hours of making an independent expenditure of \$1,000 or more between October 17, 2010, and November 1, 2010. On October 17, 2010, Respondent made four independent expenditures, totaling \$14,392. By failing to file four late independent expenditure reports with the Colton City Clerk by October 18, 2010, Respondent violated Section 84204.

COUNT 3
Failure to Report Contributions Received of \$100 or More

As a general purpose committee, Respondent had a duty to itemize all contributions of \$100 or more received. During the July 1, 2010, through December 31, 2010, reporting period, Respondent received 90 contributions of \$100 or more, totaling \$24,589. However, on the semiannual statement filed with the Colton City Clerk on January 24, 2011, Respondent reported receiving zero contributions of \$100 or more. By failing to report all contributions of \$100 or more received during the July 1, 2010, through December 31, 2010, reporting period, on the semiannual statement filed with the Colton City Clerk on January 24, 2011, Respondent violated Section 84211, subdivisions (c) and (f).

CONCLUSION

This matter consists of three counts of violating the Act, which carry a maximum administrative penalty of \$5,000 per count for a total of \$15,000.

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): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the respondent(s) demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether upon learning of the violation the respondent voluntarily filed amendments to provide full disclosure. The facts are required to be considered by the Commission under Regulation 18361.5.

Count 1: Failing to timely file a preelection statement is a serious violation of the Act as it deprives the public of important information about Respondent's financial activities. In this matter, Respondent failed to timely file a preelection statement.

Recent fines approved by the Commission include:

In the Matter of Davis Democratic Club and Elizabeth R. Weir, FPPC No. 08/390. In March 2012, the Commission approved a fine of \$2,000 for the respondents' failure to timely file

a preelection statement. In mitigation, the respondents had no history of violating the Act, and agreed to an early resolution of the matter.

In the Matter of Republican Central Committee of San Luis Obispo County, FPPC No. 11/441. In May 2012, the Commission approved a fine of \$2,000 for the respondent's failure to timely file a preelection statement. In mitigation, the respondent had no history of violating the Act, and agreed to an early resolution of the matter.

In this matter, Respondent did not file the preelection statement until after the pertinent election and being contacted by the Enforcement Division. Additionally, during this period Respondent made expenditures totaling \$23,892, which accounts for all of its expenditures on the pertinent election. However, Respondent has no history of violating the Act and has cooperated with the investigation. Therefore a \$2,500 fine for Count 1 is recommended.

Count 2: Failing to timely file a late independent expenditure report is a serious violation of the Act as it deprives the public of important information about Respondent's financial activities. In this matter, Respondent failed to timely file four required late independent expenditure reports.

Recent fines approved by the Commission include:

In the Matter of Chico Democrats 08 and Michael Worley, FPPC No. 09/537. In January 2001, the Commission approved a fine of \$2,500 for the respondents' failure to timely file two late independent expenditure reports, a statement of organization, and a campaign statement. In mitigation, the respondents reported all contributions and expenditures to the FEC, had no history of violating the Act, cooperated with the investigation, and agreed to an early resolution of the matter.

In the Matter of Concerned Citizens for a Better West Covina and Dana Sykes, FPPC No. 09/832. In September 2010, the Commission approved a fine of \$2,000 for the respondents' failure to timely file a late independent expenditure report. In mitigation, the respondents had no history of violating the Act, and agreed to an early resolution of the matter.

In this matter, Respondent did not file four required late independent expenditure reports until after being contacted by Enforcement Division. Additionally, the four independent expenditures accounted for \$14,392, a majority of Respondent's expenditure on the pertinent election. However, Respondent has no history of enforcement actions and has cooperated with the investigation. Therefore a \$2,500 fine for Count 2 is recommended.

Count 3: Failing to report contributions is a serious violation of the Act as it deprives the public of important information about Respondent's financial activities. In this matter, Respondent failed to properly report receiving 60 contributions of \$100 or more, totaling \$24,589.

Recent fines approved by the Commission include:

In the Matter of Black Women Organized for Political Action State, FPPC No. 10/957. In December, 2011, the Commission approved a fine of \$2,500 for the respondent's failure to report

approximately \$13,409 in contributions received and approximately \$12,801 in expenditures made throughout the calendar year. In mitigation, the respondent had no history of violating the Act, cooperated with the investigation, and agreed to an early settlement of the matter.

In the Matter of Arturo Chacon and Art Chacon for Water Board 2010, FPPC No. 08/652. In February 2011, the Commission approved fines of \$2,000 and \$2,500 for the respondents' violation of Section 84211. In mitigation, Respondents cooperated with the investigation, and agreed to an early resolution of the matter.

In this matter, Respondent did not properly report receiving \$24,589 in contributions until contacted by the Enforcement Division. Those contributions accounted for over 93% of all the contributions Respondent received during that particular reporting period. However, Respondent has no history of violating the Act and has cooperated with the investigation. Therefore a \$2,500 fine Count 3 is recommended.

Accordingly, the imposition of a total administrative fine of \$7,500 is recommended.

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