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3 **FAIR POLITICAL PRACTICES COMMISSION**
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5 Attorneys for Complainant
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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
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12 In the Matter of) FPPC No. 13/083
13)
14 SHARON RUNNER, SHARON RUNNER) STIPULATION, DECISION and
FOR SENATE 2011, SHARON RUNNER FOR) ORDER
15 SENATE 2012, and KELLY LAWLER,
TREASURER,)
16 Respondents.)

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18 Complainant, the Fair Political Practices Commission, and respondents Sharon Runner, Sharon
19 Runner for Senate 2011, Sharon Runner for Senate 2012, and Kelly Lawler, Treasurer (collectively
20 “Respondents”), agree that this Stipulation will be submitted for consideration by the Fair Political
21 Practices Commission at its next regularly scheduled meeting.

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

25 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
26 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
27 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
28 the right to personally appear at any administrative hearing held in this matter, to be represented by an

1 attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the
2 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
3 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

4 It is further stipulated and agreed that respondents Sharon Runner, Sharon Runner for Senate
5 2011, and Kelly Lawler impermissibly made contributions in excess of the contribution limit, in
6 violation of Government Code section 85305 (Count 1), and that respondents Sharon Runner, Sharon
7 Runner for Senate 2012, and Kelly Lawler impermissibly made contributions in excess of the
8 contribution limit, in violation of Government Code section 85305 (Count 2).

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.

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1 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
2 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount
3 of \$8,000. A cashier's check from Respondents in said amount, made payable to the "General Fund of
4 the State of California," is submitted with this Stipulation as full payment of the administrative penalty,
5 to be held by the State of California until the Commission issues its decision and order regarding this
6 matter. The parties agree that in the event the Commission refuses to accept this Stipulation, it shall
7 become null and void, and within fifteen (15) business days after the Commission meeting at which the
8 Stipulation is rejected, all payments tendered by Respondents in connection with this Stipulation shall be
9 reimbursed to Respondents. Respondents further stipulate and agree that in the event the Commission
10 rejects the Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither
11 any member of the Commission, nor the Executive Director, shall be disqualified because of prior
12 consideration of this Stipulation.

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15 Dated: _____
16 Gary Winuk, Enforcement Chief,
17 On behalf of
18 Fair Political Practices Commission

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20 Dated: _____
21 Sharon Runner
22 Individually, and on behalf of
23 Sharon Runner for Senate 2011, and Sharon Runner for Senate 2012,
24 Respondents

25 Dated: _____
26 Kelly Lawler, Treasurer
27 Individually, and on behalf of
28 Sharon Runner for Senate 2011, and Sharon Runner for Senate 2012,
Respondents

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Sharon Runner, Sharon Runner for
3 Senate 2011, Sharon Runner for Senate 2012, and Kelly Lawler, Treasurer” FPPC No. 13/083, including
4 all attached exhibits, is hereby accepted as the final decision and order of the Fair Political Practices
5 Commission, effective upon execution below by the Chair.

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7 IT IS SO ORDERED.

8 Dated: _____

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10 Ann Ravel, Chair
11 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent Sharon Runner (“Respondent Runner”) was a successful candidate for California State Senator in the February 15, 2011, special election, and Respondent Sharon Runner for Senate 2011 (“Respondent Committee 2011”) was her candidate controlled committee for that election. Respondent Runner was also a candidate for California State Senator in the November 6, 2012, general election, and her candidate controlled committee for that election was Respondent Sharon Runner for Senate 2012 (“Respondent Committee 2012”). Respondent Kelly Lawler (“Respondent Lawler”) served as treasurer of both committees at all relevant times. This case arose from a Franchise Tax Board (“FTB”) audit of Respondent Committee 2011 for the January 1, 2010, through June 30, 2011, period.

As a candidate, her controlled committees, and the committees’ treasurer, Respondent Runner, Respondent Committee 2011, Respondent Committee 2012, and Respondent Lawler (collectively “Respondents”) had a duty to abide by the Political Reform Act’s (the Act”) contribution limits.¹ Respondents failed to abide by the Act’s contribution limit by making \$142,000 in contributions to Take Back our Neighborhood, a ballot measure committee supporting Proposition 6 that was controlled by George Runner, who, at the time Respondents made the contributions, was a candidate for elective state office.

For the purposes of this Stipulation, Respondents committed the following violations of the Act:

COUNT 1: Respondent Sharon Runner, a successful candidate for California State Senator in the February 15, 2011, special election, her candidate controlled committee Respondent Sharon Runner for Senate 2011, and its treasurer Respondent Kelly Lawler, impermissibly made contributions in excess of the \$3,900 contribution limit to Take Back our Neighborhoods, a ballot measure committee controlled by George Runner, a candidate for elective state office, in violation of Government Code section 85305.

COUNT 2: Respondent Sharon Runner, an incumbent candidate for California State Senator in the November 6, 2012, general election, her candidate controlled committee Respondent Sharon Runner for Senate 2012, and its treasurer Respondent Kelly Lawler, impermissibly made contributions in excess of the \$3,900 contribution limit to Take Back our Neighborhoods, a ballot measure committee controlled by George Runner, a candidate for

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.

elective state office, in violation of Government Code section 85305.

SUMMARY OF THE LAW

Duty to Abide by Contribution Limits

Section 82013, subdivision (a), defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. Section 82016, subdivision (a), defines a “controlled committee” as a committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee. (Section 82016, subd. (a).)

Section 85305 and Regulation 18535 prohibit a candidate for elective state office or committee controlled by that candidate from making any contribution to any committee controlled by a candidate for elective state office in excess of the contribution limit set forth in Section 85301, subd. (a). Section 82024 defines “elective state office” to include the offices of a member of the Legislature and the Board of Equalization. Section 83124 requires the Fair Political Practices Commission (the “Commission”) to biennially adjust the contribution limit in Section 85301 to reflect changes in the Consumer Price Index. In 2011 and 2012, the contribution limit was \$3,900 per election. (Regulation 18545, subd. (a)(1).)

Liability of Committee Treasurers

As provided in Section 84100, every committee shall have a treasurer. Under Section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee’s treasurer to ensure that the committee complies with all the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under Section 8311.65 and 91006, a committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

SUMMARY OF THE FACTS

At all relevant times, Respondent Runner was a candidate for California State Senator, Respondent Committee 2011 was her controlled committee for the February 15, 2011, special election, Respondent Committee 2012 was her controlled committee for the November 6, 2012, general election, and Respondent Lawler was the treasurer of both committees. Respondent Runner withdrew from the November 6, 2012, general election, and did not appear on the ballot.

Also, at all relevant times, Take Back our Neighborhoods was a ballot measure committee formed to support Proposition 6 in the November 4, 2008, general election, and was controlled by George Runner. George Runner has been a candidate for the Board of Equalization

Board since February 28, 2008, won the November 2, 2010, general election, and has been a Board of Equalization Member since January 3, 2011.

COUNT 1

Failure to Abide by the Contribution Limit

As a candidate for elective state office and her controlled committee, Respondent Runner and Respondent Committee 2011 were prohibited from making contributions exceeding \$3,900 to a committee controlled by a candidate for elective state office.

On March 8, June 24, September 23, and December 16, 2011, Respondent Runner and Respondent Committee 2011 made a contribution of \$58,000, \$10,000, \$25,000, and \$4,500, respectively, to Take Back our Neighborhoods, a committee controlled by George Runner. By making contributions totaling \$97,500 to a committee controlled by a candidate for elective state office, Respondent Runner, Respondent Committee 2011, and Respondent Lawler violated Section 85305.

COUNT 2

Failure to Abide by the Contribution Limit

As a candidate for elective state office and her controlled committee, Respondent Runner and Respondent Committee 2012 were prohibited from making contributions exceeding \$3,900 to a committee controlled by a candidate for elective state office.

On December 16, 2011, and January 24, 2012, Respondent Runner and Respondent Committee 2012 made a contribution of \$20,500 and \$24,000, respectively, to Take Back our Neighborhoods, a committee controlled by George Runner. By making contributions totaling \$44,500 to a committee controlled by a candidate for elective state office, Respondent Runner, Respondent Committee 2012, and Respondent Lawler violated Section 85305.

CONCLUSION

This matter consists of two counts of violating the Act, which carries a maximum administrative penalty of \$10,000.

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.

Counts 1 and 2: The conduct of making contributions in excess of the contribution limit harms the integrity of the election process.

There are no recent fines approved by the Commission for violations of Section 85305. However, recent fines approved by the Commission for similar violations include:

In the Matter of Joel Anderson and Tax Fighters for Anderson 2010, FPPC No. 09/394. In December 2009, the Commission fined a California State Assembly Member and his controlled committee \$4,000 per violation of the contribution limit. In mitigation, the respondents agreed to an early resolution of the matter. In aggravation, the respondents used a central committee to launder contributions from several different donors that exceeded the contribution limit.

In the Matter of James Larry Minor, FPPC No. 11/008. In April 2011, the Commission fined a person \$5,000 for making contributions totaling \$39,000 to a candidate for California State Senator. In mitigation, the respondent agreed to an early resolution of the matter and the candidate lost in the primary. In aggravation, the respondent used other individuals to launder his contributions that were in excess of the contribution limit.

In this matter, there is no evidence that Respondents attempted to hide or launder the contributions, and Respondent Runner claims that she was not aware that there was a limit on the contributions she could make to a ballot measure committee. Additionally, Respondents were cooperative with the FTB's investigation, and have agreed to an early resolution of this matter. Also, the ballot measure that Take Back our Neighborhood was formed to support was not successful, and Respondents' contributions were made after the ballot measure failed.

However, Respondent Runner received a warning letter in 2005 for failing to adhere to the Act's contribution limit. Also, Respondents contributed a total of \$142,000 to Take Back our Neighborhoods, which is \$134,200 over the committees' combined contribution limit.

After consideration of the factors of Regulation 18361.5, and consideration of penalties in prior enforcement actions, the imposition of fines of \$4,000 each for Counts 1 and 2 is recommended.

Accordingly, the imposition of a total administrative fine of \$8,000 is recommended.

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