

1 GARY S. WINUK
Chief of Enforcement
2 ANGELA J. BRERETON
Senior Commission Counsel
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. 12/103
12)
13)
14 STONEWALL DEMOCRATIC CLUB) STIPULATION, DECISION and ORDER
OF GREATER SACRAMENTO,)
15 WILLIAM GUY CROUCH, AND)
CHRISTOPHER WELTON,)
16 Respondent(s).)

17 **STIPULATION**

18 Complainant, the Fair Political Practices Commission, and Respondents Stonewall Democratic
19 Club of Greater Sacramento, William Guy Crouch, and Christopher Welton, hereby agree that this
20 Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next
21 regularly scheduled meeting.

22 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by
23 this matter and to reach a final disposition without the necessity of holding an additional administrative
24 hearing to determine the liability of Respondents.

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

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

4 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing
5 to maintain the detailed accounts, records, bills, and receipts necessary to prepare campaign statements
6 for reporting periods in calendar year 2008 in violation of Government Code Section 84104, and
7 Regulation 18401 (1 count); failing to file a pre-election campaign statement in violation of
8 Government Code Sections 84200.5, subdivision (d), and 84200.7, subdivision (b) (1 count); and
9 failing to file a ballot measure contribution report within 10 business days of making a contribution
10 totaling five thousand dollars (\$5,000) or more to support or oppose the qualification or passage of a
11 single state ballot measure, in violation of Government Code Section 84204.5 (1 count); as described in
12 Exhibit 1. Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein.
13 Exhibit 1 is a true and accurate summary of the facts in this matter.

14 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
15 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
16 Five Thousand Dollars (\$5,000). A cashier's check from Respondents in said amount, made payable to
17 the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
18 administrative penalty, and shall be held by the State of California until the Commission issues its
19 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to
20 accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
21 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
22 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
23 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
24 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
25 shall be disqualified because of prior consideration of this Stipulation.

26
27
28 ///

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

Dated: _____

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

Dated: _____

Jann Dorothy, on behalf of Stonewall Democratic Club of
Greater Sacramento, Respondent

Dated: _____

William Guy Crouch, Respondent

Dated: _____

Christopher Welton, Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Stonewall Democratic Club of Greater Sacramento, William Guy Crouch, and Christopher Welton,” FPPC No. 12/103, including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chairman.

IT IS SO ORDERED.

Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

Intentionally left blank

EXHIBIT 1

INTRODUCTION

Respondent Stonewall Democratic Club of Greater Sacramento (Respondent Committee) qualified as a county general purpose committee in 2002, and in 2003 qualified as a state general purpose committee. From July 17, 2006 through July 22, 2008, Respondent William Guy Crouch was treasurer of Respondent Committee, and from July 23, 2008 through July 12, 2011, Christopher Welton was treasurer of Respondent Committee.

This matter arose out of an audit performed by the Political Reform Audit Program of the Franchise Tax Board (FTB) for the period of January 1, 2007 through December 31, 2008. During the period covered by the audit, Respondent Committee reported receiving total contributions of approximately \$188,454, and making total expenditures of approximately \$180,349. The Audit Report was submitted to the Enforcement Division on February 29, 2012.

The Political Reform Act (the "Act"),¹ requires committees, and the treasurers of those committees, to file campaign statements and reports at specific times disclosing information regarding contributions received and expenditures made by the committee. Additionally, committees and treasurers are required to maintain adequate records.

In this matter, Respondents failed to maintain sufficient campaign records, failed to timely file a pre-election campaign statement, and failed to timely file a report disclosing a contribution made of \$5,000 or more in connection with a state ballot measure.

For the purposes of this Stipulation, Respondents' violations of the Act are stated as follows:

COUNT 1: Respondents Stonewall Democratic Club of Greater Sacramento, William Guy Crouch, and Christopher Welton, failed to maintain the detailed accounts, records, bills, and receipts necessary to prepare campaign statements for reporting periods in calendar year 2008, in violation of Government Code Section 84104, and Regulation 18401.

COUNT 2: Respondents Stonewall Democratic Club of Greater Sacramento, and Christopher Welton, failed to file a pre-election campaign statement by the October 23, 2008 due date, for the reporting period of October 1 through October 18, 2008, in violation of Government Code Sections 84200.5, subdivision (d), and 84200.7, subdivision (b).

¹The 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.

COUNT 3: Respondents Stonewall Democratic Club of Greater Sacramento, and Christopher Welton, failed to file a ballot measure contribution report within 10 business days of making a contribution on October 8, 2008, totaling five thousand dollars (\$5,000) or more to support or oppose the qualification or passage of a single state ballot measure, in violation of Government Code Section 84204.5.

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.

An express purpose of the Act is to ensure that contributions and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. (Section 81002, subd. (a).) The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure. Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced." (Section 81002, subd. (f).)

State General Purpose Committees

A committee includes any person or combination of persons who receive contributions totaling \$1,000 or more in a calendar year. (Section 82013, subd. (a).) This type of committee is commonly referred to as a recipient committee.

A state general purpose committee includes a recipient committee that supports or opposes candidates or measures voted on in a state election, or in more than one county. (Section 82027.5, subs. (a) and (b).)

Duty to Maintain and Retain Campaign Records

To ensure accurate campaign reporting, Section 84104 imposes a mandatory duty on each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills and receipts that are necessary to prepare campaign statements, to establish that campaign statements were properly filed and to comply with the campaign reporting provisions of the Act. This requirement, as further stated by Regulation 18401, includes a duty to maintain detailed information and original source documentation for all contributions and expenditures.

Regulation 18401, subdivision (b)(2), requires the filer of the committee campaign statements to retain the above described campaign records for four years following the date that the campaign statement to which they relate is filed.

Duty to File Pre-election Campaign Statements

Section 84200.5, subdivision (e) requires all state general purpose committees to file pre-election campaign statements as specified in Section 84200.7 when they make contributions or independent expenditures totaling \$500 or more during the period covered by the pre-election statement.

Section 84200.7, subdivision (b) provides for the filing of two pre-election campaign statements covering two reporting periods prior to elections held in November of an even-numbered year. The reporting period for the first pre-election campaign statement ends September 30. This first pre-election campaign statement must be filed no later than October 5. (Section 84200.7, subd. (b)(1).) The reporting period for the second pre-election campaign statement runs from October 1 through 17 days before the election. This second pre-election campaign statement must be filed no later than 12 days before the election. (Section 84200.7, subd. (b)(2).) For the November 4, 2008 election, 17 days before the election was October 18, 2008, and 12 days before the election was October 23, 2008.

Duty to File Reports Online

In order to maximize the availability of information regarding campaign disclosure to the public, the Act requires any candidate, officeholder, committee, or other person who is required to file statements, reports, or other documents in connection with a state elective office to file them *online* or *electronically* when the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is \$50,000 or more. (Section 84605, subd. (a).) Once a person or entity is required to file online or electronically, the person or entity is required to file all subsequent reports online or electronically as well. (Section 84605, subd. (g).) Persons filing online or electronically are also required to continue to file required disclosure statements and reports in paper format, which continue to be the official filing for audit and other legal purposes until the Secretary of State determines the online or electronic disclosure system is operating securely and effectively. (Section 84605, subd. (i).)

Duty to File Ballot Measure Contribution Reports

Pursuant to Section 84204.5 and Regulation 18466 subdivision (a)(1), a recipient committee that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State each time it makes contributions totaling five thousand dollars (\$5,000) or more to a committee primarily formed, as defined in Government Code Section 82047.5, to support or oppose the qualification or passage of a single state ballot measure. The report shall be filed within 10 business days of making the contributions or independent expenditures. (Section 84204.5.) Additionally, the report shall contain (1) The full name, street address, and identification number of the committee; (2) The number or letter of the measure if the measure has qualified for the ballot and has been assigned a number or letter; (3)

In the case of a contribution, the date and amount of the contribution and the name, address, and identification number of the committee to whom the contribution was made. (Section 84204.5, subd. (a)(1-3).)

Treasurer Liability

Under Sections 81004, subdivision (b), 84100, and 84213, and Regulation 18427, subdivisions (a), it is the duty of a committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee under Sections 83116.5 and 91006, and Regulation 18316.6.

SUMMARY OF THE FACTS

Respondent Stonewall Democratic Club of Greater Sacramento (Respondent Committee) qualified as a county general purpose committee in 2002, and in 2003 qualified as a state general purpose committee. From July 17, 2006 through July 22, 2008, Respondent William Guy Crouch was treasurer of Respondent Committee, and from July 23, 2008 through July 12, 2011, Christopher Welton was treasurer of Respondent Committee. Respondent Committee is controlled by a volunteer board of directors, and its primary sources of income are membership dues and contributions received in conjunction with an annual fundraiser awards dinner.

During the 24-month audit period, Respondent Committee reported receiving total contributions of approximately \$188,454, and making total expenditures of approximately \$180,349. Relevant to this matter, Respondents filed the following campaign statements:

| Filing Method | Filing Date | Reporting Period | Original/Amendment | Signature |
|----------------------|--------------------|-------------------------|---------------------------|--------------------|
| Electronic | 07/17/2008 | 05/18 – 06/30/08 | Original | William Guy Crouch |
| Paper | 07/21/2008 | 05/18 – 06/30/08 | Original | William Guy Crouch |
| Electronic | 09/19/2008 | 05/18 – 06/30/08 | Amendment | William Guy Crouch |
| Paper | 09/23/2008 | 05/18 – 06/30/08 | Amendment | William Guy Crouch |
| Electronic | 10/01/2008 | 05/18 – 06/30/08 | Amendment | William Guy Crouch |
| Electronic | 10/03/2008 | 07/01 – 09/30/08 | Original | Christopher Welton |
| Paper | 10/06/2008 | 07/01 – 09/30/08 | Original | Christopher Welton |
| Electronic | 01/28/2009 | 10/01 – 12/31/08 | Original | Christopher Welton |
| Paper | 01/30/2009 | 10/01 – 12/31/08 | Original | Christopher Welton |

The evidence obtained during the audit and investigation of this matter shows that Respondents committed three violations of the Act, as follows:

///

Count 1

(Failure to Maintain Campaign Records)

Respondents had a duty to maintain detailed accounts, records, bills and receipts that are necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to comply with the campaign reporting provisions of the Act. During the FTB audit, FTB staff requested all campaign records for the audit period. Respondents did not provide complete records. Respondent Committee provided bank statements and the check register. The audit revealed the following:

| Count | Reporting Period | Contributions (Monetary and Non-Monetary) | | Expenditures | |
|-------------------------------------------------------------|------------------------------------------------|----------------------------------------------|-------------------------------------------------------|---------------------------------------|-------------------------------------------------------|
| | | Contributions Received (Approximate) | Amount Not Supported by Source Documentation | Expenditures Made (Approximate) | Amount Not Supported by Source Documentation |
| 1 | 05/18 – 06/30/2008 | \$66,155 | \$53,005.50 | \$26,491 | \$10,889.64 |
| 2 | 07/01 – 09/30/2008 | \$15,579 | \$4,558.94 | \$28,134 | \$18,309.22 |
| 4 (see below) | 10/01 – 10/18/2008 ² (not filed) | \$1,256 | \$0.00 | \$10,602 | \$10,494.45 |
| 3 | 10/19 – 12/31/2008 | \$4,163 | \$530.48 | \$5,729 | \$66.37 |
| Totals | | \$87,153 | \$58,094.92 | \$70,956 | \$39,759.68 |
| Percentage Not supported by Source Documentation | | 67% | | 56% | |

As shown in the chart above, 67% of all contributions received and 56% of all expenditures made by Respondent Committee during the above reporting periods were not supported by source documentation as required under the Act. Without complete records, Respondents could not verify that campaign statements were properly and accurately prepared, and all campaign statements and reports necessary were filed. By failing to maintain campaign records, Respondents violated Government Code Section 84104, and Regulation 18401.

Count 2

(Failure to File Pre-Election Statement)

Respondents had a duty to file a pre-election campaign statement for the reporting period of October 1 through October 18, 2008, by the October 23, 2008 due date. However, Respondents did not file the pre-election campaign statement. Instead, all information from this reporting period was disclosed in Respondent Committee’s post-election semi-annual campaign

² No recordkeeping violation is presented for this pre-election campaign statement because the information which should have been reported in this unfiled statement was included in the post-election semi-annual campaign statement for which there is a recordkeeping violation in Count 3.

statement, which was filed on January 30, 2009, nearly three months after the general election, and more than three months after it was due. By failing to file the pre-election campaign statement, Respondents violated Sections 84200.5, subdivision (d), and 84200.7, subdivision (b).

Count 3

(Failure to File Ballot Measure Contribution Report)

Respondents were required to file a ballot measure contribution report within 10 business days of making a contribution totaling five thousand dollars (\$5,000) or more to a committee primarily formed to support or oppose the qualification or passage of a single state ballot measure. (Section 84204.5, and Regulation 18466.)

On October 8, 2008, Respondent committee made a contribution totaling \$8,000 to “No on 8, Equality for All,” a primarily formed ballot measure committee opposing Proposition 8 in the November 4, 2008 election. Respondents did not file a ballot measure contribution report within 10 business days, which was October 22, 2008. Respondents disclosed the contribution in Respondent Committee’s post-election semi-annual campaign statement, which was filed on January 30, 2009, nearly three months after the general election, and more than three months after it was due. The ballot measure contribution report should have been filed before the November 2008 election to allow voters and the public to know that Respondent Committee supported No on 8, Equality for All before the election. Additionally, because Respondents failed to file the pre-election statement for the reporting period during which this contribution was made (see Count 4, above), Respondents did not disclose this contribution until nearly three months after the election.

By failing to file a ballot measure contribution report disclosing this contribution, Respondents violated Government Code Section 84204.5.

CONCLUSION

This matter consists of three counts of violating the Act, which carry a maximum administrative penalty of Five Thousand Dollars (\$5,000) per count for a total of Fifteen Thousand Dollars (\$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):

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 public harm inherent in campaign reporting violations (Counts 4 and 5) is that the public is deprived of time-sensitive information regarding the sources and amounts of contributions received and expenditures made in support of a candidate(s) and/or a measure(s). Further, failing to maintain the required campaign records (Count 1) makes it difficult (and in some instances, impossible) to prepare and ascertain the accuracy of the campaign statements.

In this matter, 67% of all contributions received and 56% of all expenditures made by Respondent Committee during the above reporting periods were not supported by source documentation as required under the Act. Without complete records, Respondents could not verify that Respondent Committee's campaign statements and reports were properly and accurately prepared, and all campaign statements and reports necessary were filed. Additionally, Respondents did not disclose information which should have been reported in a pre-election campaign statement until nearly three months after the general election, giving the public no way to research Respondent Committee's campaign activity just before the election, or the sources and amounts of contributions and expenditures for Respondent Committee until well after the election. Lastly, Respondents failed to file a ballot measure contribution report which should have disclosed an \$8,000 contribution to No on 8, Equality for All before the November 2008 election. Respondents did not disclose this contribution until nearly three months after the election. These violations, taken as whole, show a pattern of negligent conduct which resulted in a significant lack of disclosure and deprived the public of information regarding Respondents' campaign activity.

In mitigation, Respondents have no prior history of violating the Act. Additionally, No on 8, Equality for All timely disclosed receiving the \$8,000 contribution from Respondent Committee in a \$1,000 online report³ filed on October 13, 2008, and in its pre-election campaign statement for the reporting period of October 1 through October 18, 2008. Thus, information regarding the contribution was available to the public before the election, lessening the public harm. In addition, this is a volunteer organization who asserts that they unintentionally violated the Act and they had no intention to conceal the information but instead were unaware of the required preelection and ballot measure campaign statements.

Recent penalties approved by the Commission concerning similar violations of the Act include:

///

³ A primarily formed ballot measure committee who is required to file reports pursuant to Section 84605 shall file online or electronically with the SOS a report disclosing receipt of a contribution of \$1,000 or more received during an election cycle. This campaign report shall disclose the same information required by subdivision (a) of Section 842033 and shall be filed within 24 hours of receipt of the contribution. (Section 85309, subd. (b).) "Election cycle" for the purposes of Section 85309 means the period of time commencing 90 days prior to an election and ending on the date of the election. (Section 85204.)

Failure to Maintain Campaign Records:

- ***In the Matter of Davis Democratic Club and Elizabeth R. Weir, FPPC No. 08/390.*** Respondents, a county general purpose committee in Yolo County, and its treasurer, failed to maintain the detailed accounts, records, bills, and receipts necessary to prepare campaign statements for reporting periods in calendar years 2007, 2008, 2009, and 2010, in violation of Section 84104 (1 count). Penalty per relevant count: \$1,500. Approved by the Commission March 2012.
- ***In the Matter of Arturo Chacon and Art Chacon for Water Board 2010, FPPC No. 08/652.*** Respondents, local candidate and his candidate controlled campaign committee, failed to maintain the detailed accounts, records, bills, and receipts necessary to prepare campaign statements for reporting periods in calendar years 2006 and 2007, in violation of Section 84104 (2 counts). Penalty per relevant count: \$2,000. Approved by the Commission February 2011.

Failure to File Pre-election Campaign Statements:

- ***In the Matter of Davis Democratic Club and Elizabeth R. Weir, FPPC No. 08/390.*** Respondents, a county general purpose committee in Yolo County, and its treasurer, failed to file two pre-election campaign statements in a timely manner, in violation of Government Code Sections 84200.5, and 84200.7 (1 count). Penalty per relevant count: \$2,000. Approved by the Commission March 2012.
- ***In the Matter of Yolo County Democratic Central Committee Local Account, Bob Bockwinkel and William Julian II; FPPC No. 08/357.*** Respondents, a state general purpose, political party committee, and its treasurers, failed to file four pre-election campaign statements in a timely manner, in violation of Government Code Sections 84200.5, and 84200.7 (2 counts). Penalty per relevant count: \$2,500. Approved by Commission January 2011.

Failure to File Ballot Measure Contribution Reports:

Because Section 84204.5 is a relatively new statute, and there are no prior enforcement matters in this regard, there is no typical administrative penalty range specifically for these types of violations. However, the report required pursuant to Section 84204.5 is similar to reports required pursuant to Section 85309, subdivisions (c) and (d),⁴ which are commonly referred to as \$5,000 online reports. Recent penalties for Section 85309 violations include:

///

⁴ A candidate for elective state office or a primarily formed ballot measure committee who is required to file reports pursuant to Section 84605 shall file online or electronically with the SOS within 10 business days a report disclosing receipt of a contribution of \$5,000 or more that is received at any other time than during the election cycle. (Section 85309, subd. (c) and (d).)

- *In the Matter of Michael Glover, Michael G. Glover for Assembly, Glover for Assembly 2008, Committee to Elect Mike Glover for 70th AD, 2010, and Doris Neel, FPPC No. 09/615*, Respondent, a candidate for State Assembly (70th District), his controlled committee and the committee's treasurer, received a contribution of \$5,000 or more, in the form of a loan, and failed to disclose the contribution within 10 business days of receipt in an online campaign report, in violation of Government Code section 85309, subdivision (c). (1 count). Penalty per relevant count: \$1,500. Approved by Commission March 2012.
- *In the Matter of Abel Maldonado, Abel Maldonado for Senate, Christopher J. Raymer, and Chris Steinbruner, FPPC No. 10/070*, Respondent, a candidate for State Senate (15th District), his controlled committee and the committee's treasurers, received 19 contributions of \$5,000 or more, and failed to disclose the contributions within 10 business days of receipt in online campaign reports, in violation of Government Code section 85309, subd. (c) (4 counts). Penalty per relevant count: \$2,000. Approved by Commission April 2011.

PROPOSED PENALTY

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of an agreed upon penalty as follows:

| Count | Description | Penalty per Count |
|-------|----------------------------------------------------|-------------------|
| 1 | Failure to Maintain Campaign Records | \$1,500 |
| 2 | Failure to File Pre-election Campaign Statement | \$2,000 |
| 3 | Failure to File Ballot Measure Contribution Report | \$1,500 |
| | Total Agreed Upon Penalty | \$5,000 |

* * * * *

Intentionally left blank