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8
9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11
12 In the Matter of

13 DANIEL CHUN

14 Respondent.

FPPC No. 13/325

15 STIPULATION, DECISION, AND ORDER

16
17 **STIPULATION**

18 Complainant, the Fair Political Practices Commission (Commission), and respondent Daniel
19 Chun (Respondent) hereby agree that this Stipulation will be submitted for consideration by the Fair
20 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 by this
22 matter and to reach a final disposition without the necessity of holding an additional administrative
23 hearing to determine the liability of Respondent.

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

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

3 It is further stipulated and agreed that Respondent violated the Political Reform Act by acting as
4 an intermediary on a contribution without disclosing the true source of the contribution in violation of
5 Government Code section 84302, as described in Exhibit 1. Exhibit 1 is attached hereto and
6 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
7 the facts in this matter.

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

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23 Dated: _____
24 Gary S. Winuk, on behalf of the Enforcement Division
25 Fair Political Practices Commission

26 Dated: _____
27 Daniel Chun
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1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Daniel Chun,” FPPC No. 13/325,
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 Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____
9 Ann Ravel, Chair
10 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent Daniel Chun (“Respondent”) is the owner and president of a foodstuff importer and wholesaler. Hai Fu “Joey” Lo (“Mr. Lo”) does business with Respondent’s company and the two men are friends. In February of 2008, at the request of Mr. Lo, Respondent caused political contributions to be made to two candidates for Mayor of the City of Fremont on behalf of Mr. Lo. Under the Political Reform Act (the “Act”)¹ political contributions must be made in the name of the person making the contribution and any person making a contribution as an agent or intermediary for another person must disclose to the recipient his name as well as the name of the person on whose behalf he is making the contribution. In making the contributions, Respondent did not disclose that Mr. Lo was the source of the contributions, in violation of Section 84302.

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

COUNT 1: On or about February 12, 2008, Respondent, acting as an agent or intermediary for Mr. Lo, made \$500 contributions to Steve Cho for Mayor and the Committee to Elect Bob Wasserman in his own name so that the identity of the true donor, Mr. Lo, was not reported, in violation of Section 84302.

COUNT 2: On or about February 12, 2008, Respondent, acting as an agent or intermediary for Mr. Lo, made \$500 contributions to Steve Cho for Mayor and the Committee to Elect Bob Wasserman in the name of Edith Chun so that the identity of the true donor, Mr. Lo, was not reported, in violation of Section 84302.

COUNT 3: On or about February 12, 2008, Respondent, acting as an agent or intermediary for Mr. Lo, made \$500 contributions to Steve Cho for Mayor and the Committee to Elect Bob Wasserman in the name of Flora Liu so that the identity of the true donor, Mr. Lo, was not reported, in violation of Section 84302.

COUNT 4: On or about February 12, 2008, Respondent, acting as an agent or intermediary for Mr. Lo, made \$500 contributions to Steve Cho for Mayor and the Committee to Elect Bob Wasserman in the name of Lai Ping Chau so that the identity of the true donor, Mr. Lo, was not reported, in violation of Section 84302.

SUMMARY OF THE LAW

Section 81002, subdivision (a) provides that “receipts and expenditures in election campaigns shall be fully and truthfully disclosed in order that the voters may be fully informed

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.

and improper practices may be inhibited.” In order to obtain disclosure of the true source of campaign contributions, Section 84301 provides that “no contribution shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.” Section 84302 provides that no person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing both the name of the intermediary and the contributor.

SUMMARY OF THE FACTS

Mr. Lo is the president of a food wholesaler. Respondent’s company does business with Mr. Lo’s company and the two men are friends. Respondent does not live in Fremont, nor is his company located there. Mr. Lo does not live in Fremont either, but he owns commercial and residential property there.

On February 12, 2008, Mr. Lo gave Respondent money to make political contributions on Mr. Lo’s behalf to Steve Cho and Bob Wasserman, who were both running for Mayor in Fremont in 2008. At that time, Fremont had a \$500 limit on individual contributions to candidates for Mayor.

Using the money provided by Mr. Lo, Respondent made four contributions in the amount of \$500 each to Steve Cho for Mayor. He also made four contributions in the amount of \$500 each to the Committee to Elect Bob Wasserman. Of these contributions, Respondent made one contribution to each campaign in his name, and one to each campaign in the name of his wife, Edith Chun. He then asked Flora Liu and Lai Ping Chau, who were employees of Respondent’s company, to send checks drawn from their personal accounts to the Steve Cho and Bob Wasserman campaign committees in the amount of \$500 each. Ms. Liu and Ms. Chau obliged and Mr. Chun reimbursed them for the \$1,000 in contributions each woman sent.

Neither Respondent nor Mr. Lo disclosed that Mr. Lo was the true source of the contributions. The Fair Political Practices Commission (“Commission”) found no evidence that Bob Wasserman or Steve Cho knew that the contributions they received in the names of Daniel Chun, Edith Chun, Flora Liu, and Lai Ping Chau were actually from Mr. Lo.

Therefore, Respondent committed the following violations of the Act:

Count 1

On or about February 12, 2008, Respondent, acting as an agent or intermediary for Mr. Lo, made \$500 contributions to Steve Cho for Mayor and the Committee to Elect Bob Wasserman in his own name so that the identity of the true donor, Mr. Lo, was not reported, in violation of Section 84302.

Count 2

On or about February 12, 2008, Respondent, acting as an agent or intermediary for Mr. Lo, made \$500 contributions to Steve Cho for Mayor and the Committee to Elect Bob Wasserman in the name of Edith Chun so that the identity of the true donor, Mr. Lo, was not reported, in violation of Section 84302.

Count 3

On or about February 12, 2008, Respondent, acting as an agent or intermediary for Mr. Lo, made \$500 contributions to Steve Cho for Mayor and the Committee to Elect Bob Wasserman in the name of Flora Liu so that the identity of the true donor, Mr. Lo, was not reported, in violation of Section 84302.

Count 4

On or about February 12, 2008, Respondent, acting as an agent or intermediary for Mr. Lo, made \$500 contributions to Steve Cho for Mayor and the Committee to Elect Bob Wasserman in the name of Lai Ping Chau so that the identity of the true donor, Mr. Lo, was not reported, in violation of Section 84302.

CONCLUSION

This matter consists of four counts, which carry a maximum administrative penalty of \$5,000 per count and \$20,000 total.

In determining the appropriate penalty for a particular violation of the Act, the Commission 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 the Respondent, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

A central purpose of the Act is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that the voters may be fully informed, and improper practices may be inhibited. (Section 81002, subdivision (a).) Making campaign contributions in the name of another person is one of the most serious violations of the Act as it denies the public of information about the true source of a candidate's financial support. This is particularly true where, as here, the total contributions by Mr. Lo, in which Respondent acted as the intermediary, exceeded the local contribution limits. Exceeding contribution limits provides unfair advantages to candidates who receive these contributions and could result in undue influence by contributors over elected officials who receive the contributions.

The typical administrative penalties for violations similar to those committed by Respondent have been at or near the maximum penalty of \$5,000 per violation. Recent cases approved by the Commission involving similar violations include:

- *In the Matter of GO Lorrie's Airport Shuttle*, FPPC No. 11/920. The respondent, a transportation company, made a total of 23 campaign contributions of \$500 each, which was the contribution limit, to the campaign of the interim Mayor of San Francisco. Employees of the company wrote personal checks for the contributions and the company reimbursed them in cash. On March 15, 2012, the Commission approved a stipulation consisting of 11 counts against respondent for making contributions in the name of others in violation of Sections 84301 and 84300, subdivision (c), and approved a penalty of \$4,500 per violation for a total penalty of \$49,500.
- *In the Matter of Glen Gerson and Malibu Conference Center, Inc.*, FPPC No. 11/803. The respondents made five campaign contributions, each in the amount of \$1,000, to a candidate for Simi Valley city council in a name other than their own. Simi Valley had a \$1,000 contribution limit. In a default decision on May 17, 2012, the Commission imposed a penalty of \$5,000 per count for five counts of violating Section 84301.

In mitigation, the Commission has not previously brought an enforcement action against Respondent for violating the Act. Also, Respondent cooperated with the Commission in reaching this stipulated decision prior to a probable cause conference. Respondent stated that he did not understand that his conduct was a violation of the Act at the time he acted as an intermediary for Mr. Lo.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, including the seriousness of the violations, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of \$4,500 per count for a total penalty of \$18,000 is recommended.