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

10
11 In the Matter of

FPPC No. 14/1201

12 DAVID HADLEY, DAVID HADLEY
13 FOR ASSEMBLY 2014, and KELLY
LAWLER,

STIPULATION, DECISION, AND ORDER

14 Respondents.

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16 **STIPULATION**

17 Complainant, the Fair Political Practices Commission, and respondents David Hadley, David
18 Hadley for Assembly 2014, and Kelly Lawler hereby agree that this Stipulation will be submitted for
19 consideration by 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 by this
21 matter and to reach a final disposition without the necessity of holding an additional administrative
22 hearing to determine the liability of Respondents.

23 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
24 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of
25 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to
26 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
27 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to
28 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over

1 the hearing as a hearing officer, and to have the matter judicially reviewed.

2 It is further stipulated and agreed that Respondents violated the Political Reform Act by
3 receiving a campaign contribution in excess of contribution limits in violation of Government Code
4 section 85301, subdivision (a), as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated
5 by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in
6 this matter.

7 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
8 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
9 Two Thousand Five Hundred Dollars (\$2,500). Respondents submitted with this Stipulation a cashier's
10 check from Respondents in said amount, made payable to the "General Fund of the State of California,"
11 as full payment of the administrative penalty that shall be held by the State of California until the
12 Commission issues its Decision and Order regarding this matter. The parties agree that in the event the
13 Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen (15)
14 business days after the Commission meeting at which the Stipulation is rejected, all payments tendered
15 by Respondents in connection with this Stipulation shall be reimbursed to Respondents. Respondents
16 further stipulate and agree that in the event the Commission rejects the Stipulation, and a full evidentiary
17 hearing before the Commission becomes necessary, neither any member of the Commission, nor the
18 Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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

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25 Dated: _____
26 David Hadley, individually, and on behalf of David
27 Hadley for Assembly 2014
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Dated: _____
Kelly Lawler, individually, and on behalf of David
Hadley for Assembly 2014

DECISION AND ORDER

The foregoing Stipulation of the parties “David Hadley, David Hadley for Assembly 2014, and Kelly Lawler” FPPC No. 14/1201, 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 Chair.

IT IS SO ORDERED.

Dated: _____
Joann Remke, Chair
Fair Political Practices Commission

1 **EXHIBIT 1**

2 **INTRODUCTION**

3 David Hadley (“Respondent Hadley”) ran for state Assembly in the 2014 General Election.
4 David Hadley for Assembly 2014 (“Respondent Committee”) was his candidate-controlled committee.
5 Kelly Lawler (“Respondent Lawler”) was, at all-time relevant, the treasurer for Respondent Committee.
6 Under the Political Reform Act (the “Act”)¹ a candidate for Assembly cannot accept a campaign
7 contribution in excess of the applicable campaign contribution limit. The campaign contribution limit
8 for Assembly candidates in the 2014 General Election was \$4,100. Respondents violated the Act by
9 accepting a campaign contribution in excess of the campaign contribution limit.

10 For purposes of this Stipulation, the proposed violation of the Act is as follows:

11 COUNT 1: Respondents accepted a campaign contribution from the primarily formed
12 committee Republican Party of LA County – 66th AD that exceeded the campaign
13 contribution limit for candidates for state Assembly in violation of Section 85301,
14 subdivision (a), and Regulation 18545, subdivision (a)(1).

15 **SUMMARY OF THE LAW**

16 **Contribution Limits**

17 Section 82013, subdivision (a), defines a “committee” to include any person who receives
18 campaign contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly
19 known as a “recipient committee.” A recipient committee that in the immediately preceding twenty four
20 months made more than seventy percent of its expenditures, not including administrative expenses, in
21 support of an individual candidate is considered a “primarily formed committee.” (Section 82047.5 and
22 Regulation 18247.5.) The Act defines a “political party committee” as the state central committee or
23 county central committee for a political party. (Section 85205.)

24 Under the Act, a candidate for state elective office may not accept from a person, including a
25 primarily formed committee, any contribution exceeding the applicable contribution limit for that
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27 ¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are
28 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.

1 election. (Section 85301, subdivision (a).) The applicable contribution limit for the 2014 General
2 Election was \$4,100. (Regulation 18545, subdivision (a)(1).) Political party committees are not subject
3 to the campaign contribution limits set forth in Section 85301 and may make unlimited contributions to
4 a legislative candidate. (Section 85301.)

5 **Treasurer and Candidate Liability**

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

11 **SUMMARY OF THE FACTS**

12 David Hadley ("Respondent Hadley") ran for state Assembly in the 2014 General Election.
13 David Hadley for Assembly 2014 ("Respondent Committee") was his candidate-controlled recipient
14 committee. Kelly Lawler ("Respondent Lawler") was, at all-times relevant, the treasurer for Respondent
15 Committee. In total, Respondent Committee reported receiving \$705,270.66 in contributions and
16 making \$872,424.97 in expenditures between January 1, 2014 and October 18, 2014.

17 On October 21, 2014, the primarily formed committee Republican Party of LA County – 66th AD
18 ("RPLC") made a campaign contribution totaling \$45,000 to Respondent Committee². Respondents
19 contend that they accepted the campaign contribution based on the mistaken belief that RPLC was a
20 political party committee not subject to campaign contribution limits. In actuality, RPLC did not qualify
21 as a political party committee under the Act because it was neither a state nor county controlled
22 committee for a political party. Respondent Lawler contends that the mistake occurred in good faith in
23 reliance upon RPLC holding itself out as an official political party committee of the Republican Party
24 and the Secretary of State confirming that RPLC had filed as a political party committee³.

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28 ² The \$45,000 contribution constituted over ninety-percent of the total expenditures made by RPLC since their formation on May 6, 2013.

³ RPLC filed each of its campaign statements as a political party committee.

1 On October 22, 2014, within 24 hours after being contacted by the Enforcement Division of the
2 Fair Political Practices Commission of the mistake, Respondents reimbursed RPLC \$40,900 for the
3 funds accepted in excess of the \$4,100 campaign contribution limit.

4 **COUNT 1**

5 **Accepting a Campaign Contribution Over the Limit**

6 On August 28, 2014, Respondents accepted a campaign contribution from the Republican Party
7 of LA County – 66th AD totaling \$45,000. The applicable campaign contribution limit for the 2014
8 General Election was \$4,100. By accepting a campaign contribution in excess of the campaign
9 contribution limit for candidates for state Assembly, Respondents violated Section 85301, subdivision
10 (a), and Regulation 18545, subdivision (a)(1).

11 **CONCLUSION**

12 This matter consists of one count of violating the Act, which carries a maximum administrative
13 penalty of five thousand dollars (\$5,000).

14 In determining the appropriate penalty for a particular violation of the Act, the Commission
15 considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
16 emphasis on serving the purposes and intent of the Act. Additionally, the Commission considers the
17 facts and circumstances of the violation in the context of the factors set forth in Regulation 18361.5,
18 subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to conceal, deceive
19 or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the respondents
20 demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations;
21 and whether upon learning of the violation the Respondent voluntarily filed amendments to provide full
22 disclosure.

23 Accepting a campaign contribution in excess of the campaign contribution limit is one of the
24 more serious violations of the Act because it allows for the circumvention of the limits on campaign
25 contributions proscribed by California’s voters and provides an unfair advantage to one candidate over
26 another in an election. Prior Commission cases involving receipt of campaign contributions over the
27 limit typically have resulted in penalties in the range of \$3,000 to \$5,000. For example, *In the Matter of*
28 *Joel Anderson and Taxfighters for Anderson Assembly 2010*, FPPC Case No. 09/064, respondents

1 agreed to pay a penalty of \$4,000 per count for five counts of accepting contributions in excess of
2 contribution limits. (Stipulation approved by Commission on December 10, 2009.) In that case, the
3 committee accepted five contributions in excess of the applicable contribution limit. Four of these
4 contributions were for \$10,000 and the fifth was for \$8,000.

5 *In the Matter of Russell Bogh, Russ Bogh for Senate 2010, and Dana Hopkins*, respondents
6 accepted an \$11,000 campaign contribution from Bogh Engineering that exceeded the applicable
7 campaign contribution limit for candidates for state Senate. In that case, respondents' violation
8 appeared to be inadvertent. On January 16, 2014, the Commission approved a fine of \$3,000 for the one
9 count of accepting contributions in excess of contribution limits.

10 In similarity to *Bogh*, Respondents did not intend to violate the Act. As noted above,
11 Respondents contend that they mistakenly believed that RPLC was a political party committee not
12 subject to contribution limits under the Act. In further mitigation, Respondents fully cooperated with
13 the Enforcement Division's investigation in this matter and immediately reimbursed RPLC for the funds
14 accepted in excess of the \$4,100 contribution limit. Further, the immediate reimbursement of funds
15 received over the limit means that the campaign did not benefit from the funds.

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17 **PROPOSED PENALTY**

18 After considering several mitigating factors that are present in this case, including that the
19 violation in question was inadvertent and that Respondents' had no intention to deceive voters, as well
20 as other relevant factors, the imposition of a penalty of \$2,500 is recommended.