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6	Attorneys for Complainant		
7			
8	BEFORE THE FAIR POLITICAL PRACTICES COMMISSION		
9	STATE OF CALIFORNIA		
10			
11	In the Matter of:	FPPC No. 16/007	
12	MARK PETERSON	STIPULATION, DECISION, AND ORDER	
13	Respondent.		
14			
15			
16	STIPULATION		
17	Complainant, the Enforcement Division of the Fair Political Practices Commission and respondent		
18	Mark Peterson hereby agree that this Stipulation will be submitted for consideration by the Fair Political		
19	Practices Commission (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 hearing		
22	to determine the liability of Peterson.		
23	Peterson understands, and hereby knowingly and voluntarily waives, any and all procedural rights		
24	set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of Regulations,		
25	title 2, sections 18361.1 through 18361.9. This includes, but is not limited to, the right to personally appear		
26	at any administrative hearing held in this matter, to be represented by an attorney at Peterson's own		
27	expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to		
28	testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing		

DECISION AND ORDER The foregoing Stipulation of the parties "In the Matter of Mark Peterson," FPPC No. 16/007, 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

EXHIBIT 1

INTRODUCTION

Respondent Mark Peterson is the District Attorney for the County of Contra Costa. Mark Peterson for District Attorney 2014 (the "Committee") is his candidate-controlled committee. Peterson violated the Political Reform Act (the "Act")¹ by making personal expenditures with Committee funds.

SUMMARY OF THE LAW

Campaign contributions are held in trust for expenses associated with the election of the candidate, or for expenses associated with holding office.² Candidates and elected officials cannot spend campaign funds on items that are not reasonably related to a political, legislative, or governmental purpose.³ If an expenditure of campaign funds confers a personal benefit of \$200 or more on the candidate or official, the expenditure must be directly related to a political, legislative, or governmental purpose.⁴

SUMMARY OF THE FACTS

Peterson was elected District Attorney of Contra Costa County in 2010 and re-elected in 2014. He previously served on the Concord City Council. Peterson was the treasurer of the Committee until December of 2015 when he hired a professional treasurer.

Beginning in January of 2011 and continuing until October of 2015, Peterson routinely used Committee funds for personal expenditures. This included using the Committee debit card for personal items such as meals at restaurants, gasoline, clothing, movie tickets, hotel rooms, cellular telephone bills, etc. Peterson also made a number of cash withdraws from the Committee bank account and used the cash for personal purposes, and transferred funds from the Committee account to his personal bank account. In total, Peterson made personal use of \$66,372.03 in campaign funds. He reimbursed the Committee for all of the personal expenditures.

The following table details Peterson's personal expenditures of campaign funds and reimbursements he made to the Committee.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² §89510, subd. (b).

³ §89512.

⁴ §89512, subd. (a).

Year	Total Amount of Personal	Total Amount Reimbursed to the
	Expenditures from Committee	Committee by Year
	Funds by Year	
2011	\$7,305.88	\$6,291.47
2012	\$10,250.65	\$7,762.13
2013	\$9,781.60	\$14,350.60
2014	\$24,504.03	\$1,480.11
2015	\$14,529.87	\$33,250
2016	\$0	\$3,237.72
Total:	\$66,372.03	\$66,372.03

The Committee's campaign statements for 2011 through June, 2015 did not reflect any of the approximately 600 expenditures made by Peterson for personal use. Nor did the statements show the reimbursements Peterson made to the Committee. The cash balances listed on each campaign statement also did not reflect Peterson's personal use of campaign funds.

In a letter dated October 7, 2015 from the Franchise Tax Board ("FTB"), Peterson received notice the Committee had been selected for an FTB audit. Between October 15, 2015 and December 20, 2015, Peterson reimbursed the Committee a total of \$33,000. Peterson had previously reimbursed the Committee approximately \$30,000. In March of 2016, before FTB began its audit, Peterson contacted the Enforcement Division of the Fair Political Practices Commission through his attorney and admitted to making personal expenditures with campaign funds between 2011 and 2015 as detailed above. Peterson cooperated with the Enforcement Division and provided contemporaneous records regarding the expenditures and reimbursements.

VIOLATIONS

Counts 1 through 9 – Personal Use of Campaign Funds

From 2011 through 2015, Peterson spent \$66,372.03 of campaign funds on personal expenditures not related to a political, legislative, or governmental purpose in violation of Government Code section 89512.

CONCLUSION

This matter consists of nine counts of violating the Act, which carry a maximum administrative penalty of five thousand dollars (\$5,000) per count, and \$45,000 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 Commission 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 conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the respondents demonstrated good faith in consulting with

Commission staff; whether there was a pattern of violations; and whether the violator, upon learning of the violations, voluntarily filed amendments.

The Act provides that campaign contributions be held in trust for expenses associated with election of the candidate, or for expenses associated with holding office. This serves the purpose of drawing a distinct line between campaign contributions and payments directly to public officials. When an official makes personal use of campaign funds, it erodes public confidence in the political process by blurring that line between lawful contributions and payments to public officials.

Because of the importance of the prohibition on personal use of campaign funds, the penalties for such violations are high. Examples of prior comparable cases include:

- In the Matter of Dean Florez, Dean Florez for Lt. Governor 2010, and Dean Florez for State Controller 2014 (FPPC Case No. 12/213). Respondent Dean Florez, a former State Senator, made personal use of funds totaling \$26,541.89 from two controlled committees. He did not reimburse the committees for the personal expenditures. On November 14, 2013, the Commission approved a settlement in which the respondents agreed to a penalty of \$5,000 per count for 12 counts of personal use for a total administrative penalty of \$60,000.
- In the Matter of George Shirakawa, George Shirakawa for School Board, and Shirakawa for Supervisor (FPPC Case No. 12/662) Respondent George Shirakawa, a county supervisor and former school board member, made personal expenditures with campaign funds totaling approximately \$131,670 over a five-year period. Shirakawa said he reimbursed his committees for a substantial portion of the money he had used but the exact amount of reimbursements was not determined. On April 25, 2013, the Commission approved a settlement in which the respondents agreed to a penalty of \$5,000 per count for 10 counts of personal use for a total administrative penalty of \$50,000.
- In the Matter of Tina Baca Del Rio, Friends of Tina Baca Del Rio and Tina Baca Del Rio for Commerce City Council 2013 (FPPC Case No. 12/832). Respondent Tina Baca Del Rio, a city council member, made personal expenditures with committee funds totaling \$3,634.09. She claimed she reimbursed her committee for the expenditures but could not provide records to substantiate her claim. On September 15, 2016, the Commission approved a settlement that included, amongst a number of other violations, 3 counts of personal use at \$5,000 per count.

In this case, the total amount Peterson spent on personal expenditures was significantly more than the amounts in the *Dean Florez* and *Tina Baca Del Rio* cases but was less than half of the amount of personal expenditures in the *George Shirakawa* case. Unlike the cases discussed above, Peterson did fully reimburse the Committee. Peterson contends that he considered the expenditures a loan from the Committee and that he always intended to repay the Committee. But Peterson's personal use of campaign funds was not disclosed on his campaign statements and he used campaign funds to make personal expenditures for five years. During this period, Peterson successfully ran for re-election in 2014, while continuing to make personal expenditures from his campaign account. While Peterson did keep track of the personal

purchases and reimburse the Committee account from time to time, over half of the money he reimbursed to the Committee occurred after he learned the Committee bank records would be subject to an FTB audit. To his credit, upon learning of the FTB audit Peterson contacted the Enforcement Division, admitted his violations, and fully cooperated with the investigation.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, and the penalties imposed in prior cases, we propose a penalty of \$5,000 per count resulting in a total penalty of \$45,000.