BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

In the Matter of

NEWPORT BEACH CITY HALL IN THE PARK COMMITTEE, YES ON MEASURE B AND LYSA RAY,

Respondents.

Complainant Roman G. Porter, Executive Director of the Fair Political Practices Commission, and Respondents Newport Beach City Hall in the Park, Yes on Measure B and Lysa Ray agree that this stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

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

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

It is further stipulated and agreed that Respondents Newport Beach City Hall in the Park Committee, Yes on Measure B and Lysa Ray violated the Political Reform Act by failing to identify a major donor, who was a source of more than $50,000, in campaign filings, in violation of Government Code Section 84504 (1 count). All counts are described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

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

Dated: 3/18/10

Roman G. Porter, Executive Director
Fair Political Practices Commission

Dated: 4/22/10

Lysa Ray, Respondent,
Individually and on behalf of Newport Beach City Hall in the Park Committee, Yes on Measure B
DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Newport Beach City Hall in the Park Committee, Yes on Measure B and Lysa Ray,” FPPC No. 08/022, 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: 8 April 2010

Ross Johnson, Chairman
Fair Political Practices Commission
EXHIBIT 1

INTRODUCTION

Respondent Newport Beach City Hall in the Park Committee, Yes on Measure B (Respondent Committee) was a ballot measure committee primarily formed to support the passage of Measure B in the City of Newport Beach in the February 5, 2008 election. Respondent Lysa Ray was the Committee’s treasurer at all times relevant to this matter.

In conjunction with the February 5, 2008 election, Respondents filed recipient committee campaign statements, indicating the formation, received contributions, expenses and termination of the Respondent Committee. These filings did not include the identification of a major donor in the committee name, as required by the Political Reform Act¹ (the “Act”).

For the purposes of this Stipulation, Respondent’s violation of the Act is stated as follows:

COUNT 1: Respondents Newport Beach City Hall in the Park Committee, Yes on Measure B and Lysa Ray filed campaign statements which did not include in the name of the committee, the identity of a major donor, in violation of Section 84504 of the Government Code.

SUMMARY OF THE LAW

Section 81002 provides that campaigns shall fully and truthfully disclose information regarding receipts and expenditures in election campaigns in order to fully inform the public and inhibit improper practices. The Act established a campaign reporting system to accomplish this purpose.

Duty to Identify Major Donors in Committee Name

Section 84504 requires identification of major donors in the committee name. Section 84504, subdivision (a), specifically requires that any committee that supports or opposes one or more ballot measures shall name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of fifty thousand dollars ($50,000) or more in any reference to the committee required by law, including, but not limited to, its statement of organization filed pursuant to Section 84101.

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 18109 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.
Liability of Committee Treasurers

Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (a), it is the duty of the 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. (Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

Respondent Newport Beach City Hall in the Park Committee, Yes on Measure B was a ballot measure committee primarily formed to support the passage of Measure B in the City of Newport Beach in the February 5, 2008 election. Respondent Lysa Ray was the Committee’s treasurer at all times relevant to this matter. Measure B was a city ballot measure that would amend the city charter to require a new city hall to be built on city owned land adjacent to the library. John Croul ultimately provided approximately 95% of the committee’s total funding, including a $60,000 contribution on May 10, 2007.

COUNT 1

Failure to Identify Major Donor in Committee Name

Pursuant to Section 84504, Respondents had a duty to disclose any donor who gave $50,000 or more to Respondent Committee. Respondent Committee received $60,000 from John Croul on May 10, 2007. Thus, the campaign statements should have included the name of John Croul as providing major funding.

By failing to identify the name of a major donor in the committee name on campaign statements, Respondents violated section 84504 of the Act.

AGGRAVATING FACTORS

The failure to include the proper disclosure on campaign filings deprives the public of important information regarding the sponsors of political committees, in this case the Newport Beach City Hall in the Park Committee, Yes on Measure B.

MITIGATING FACTORS

In mitigation, Respondents have no prior history of violating the Act. Additionally, Respondents cooperated with the investigation.

CONCLUSION

This matter consists of one count of violating the Act carrying a maximum administrative penalty of $5,000 per violation for a total of $5,000.
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 demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

The failure to identify a major donor in committee name in campaign filings can be a serious violation of the Act as it violates an important purpose of the Act, the identification and disclosure of major donors. The typical administrative penalty for a major donor identification violation, depending on the facts of the case, has been in the middle range of available penalties.

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of the agreed upon penalty of Two Thousand Dollars ($2,000).