

1 GARY S. WINUK
Chief of Enforcement
FAIR POLITICAL PRACTICES COMMISSION

2 428 J Street, Suite 620
3 Sacramento, CA 95814
Telephone: (916) 322-5660
4 Facsimile: (916) 322-1932

5 Attorney for Complainant

6
7 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

8 **STATE OF CALIFORNIA**

9
10 In the Matter of) FPPC No. 11/008
11)
12 JAMES LARRY MINOR,) STIPULATION, DECISION and
13 Respondent.) ORDER
14)

15 Complainant Roman G. Porter, Executive Director of the Fair Political Practices Commission,
16 and Respondent James Larry Minor (“Respondent”), hereby agree that this Stipulation will be submitted
17 for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

18 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
19 matter and to reach a final disposition without the necessity of holding an administrative hearing to
20 determine the liability of Respondent.

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

1 It is further stipulated and agreed that Respondent violated the Political Reform Act by making
2 contributions in a name other than one's own in violation of Government Code Section 84301 (11
3 counts), and making a campaign contribution in excess of the contribution limits in violation of
4 Government Code Section 85301 (a) (1 count).

5 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
6 Respondent also agrees to the Commission imposing upon him an administrative penalty in the amount
7 of Sixty Thousand Dollars (\$60,000). A cashier's check from Respondent in said amount, made payable
8 to the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
9 administrative penalty, to be held by the State of California until the Commission issues its Decision and
10 Order regarding this matter. The parties agree that in the event the Commission refuses to accept this
11 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
12 meeting at which the Stipulation is rejected, all payments tendered by Respondent in connection with
13 this Stipulation shall be reimbursed to Respondent. Respondent further stipulates and agrees that in the
14 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
15 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
16 disqualified because of prior consideration of this Stipulation.

17
18 Dated: _____

Roman G. Porter, Executive Director
Fair Political Practices Commission

19
20
21 Dated: _____

James Larry Minor

22
23
24
25
26 ///

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

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of James Larry Minor, FPPC No. 11/008,” 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

EXHIBIT 1

INTRODUCTION

Respondent James Larry Minor was a campaign contributor to the Jeff Stone for State Senate Campaign 2009 and The Committee to Elect Brenda Salas campaign committees. The Jeff Stone for State Senate 2009 campaign committee was established for a California State Senate candidate in the June 2010 primary election. The Committee to Elect Brenda Salas was a campaign committee established for a California State Assembly candidate in the June 2006 primary election.

As a campaign contributor, Respondent was prohibited from contributing in excess of \$3,900 to the Jeff Stone for State Senate Campaign 2009 campaign committee, as required by Section 85301 (a) of the Political Reform Act (the "Act").¹ Additionally, Respondent was required to identify himself by his name as the source of any contributions to the campaign committees under Section 84301 of the Act.

In this matter, Respondent made ten campaign contributions to the Jeff Stone for State Senate Campaign 2009 committee in a name other than his own, made a contribution in excess of the campaign contribution limits to the Jeff Stone for State Senate Campaign 2009 committee, and made one contribution to The Committee to Elect Brenda Salas campaign committee in a name other than his own.

Respondent was the subject of criminal prosecution for these actions by the California Department of Justice in Riverside County. The entry into this stipulation was made as a part of the complete resolution of his misdemeanor criminal and administrative matters.

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

- COUNT 1: James Larry Minor on or about June 25, 2009, contributed to the Jeff Stone for State Senate Campaign 2009 campaign by a name other than the name by which said Respondent was identified for legal purposes, to wit: Aimee Balcunas, a violation of Government Code section 84301
- COUNT 2: James Larry Minor on or about June 26, 2009, contributed to the Jeff Stone for State Senate Campaign 2009 campaign by a name other than the name by which said Respondent was identified for legal purposes, to wit: Derek Balcunas, a violation of Government Code section 84301

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 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: James Larry Minor on or about June 25, 2009, contributed to the Jeff Stone for State Senate Campaign 2009 campaign by a name other than the name by which said Respondent was identified for legal purposes, to wit: Andrew Minor, a violation of Government Code section 84301
- COUNT 4: James Larry Minor on or about June 25, 2009, contributed to the Jeff Stone for State Senate Campaign 2009 campaign by a name other than the name by which said Respondent was identified for legal purposes, to wit: Sarah Minor, a violation of Government Code section 84301
- COUNT 5: James Larry Minor on or about June 25, 2009, contributed to the Jeff Stone for State Senate Campaign 2009 campaign by a name other than the name by which said Respondent was identified for legal purposes, to wit: Larry G. Minor, a violation of Government Code section 84301
- COUNT 6: James Larry Minor on or about June 25, 2009, contributed to the Jeff Stone for State Senate Campaign 2009 campaign by a name other than the name by which said Respondent was identified for legal purposes, to wit: Lorrie Minor, a violation of Government Code section 84301
- COUNT 7: James Larry Minor on or about June 25, 2009, contributed to the Jeff Stone for State Senate Campaign 2009 campaign by a name other than the name by which said Respondent was identified for legal purposes, to wit: Daniel Callicott, a violation of Government Code section 84301
- COUNT 8: James Larry Minor on or about June 25, 2009, contributed to the Jeff Stone for State Senate Campaign 2009 campaign by a name other than the name by which said Respondent was identified for legal purposes, to wit: Kathleen Callicott, a violation of Government Code section 84301
- COUNT 9: James Larry Minor on or about June 29, 2009, contributed to the Jeff Stone for State Senate Campaign 2009 campaign by a name other than the name by which said Respondent was identified for legal purposes, to wit: Aline Mitchell, a violation of Government Code section 84301
- COUNT 10: James Larry Minor on or about June 29, 2009, contributed to the Jeff Stone for State Senate Campaign 2009 campaign by a name other than the name by which said Respondent was identified for legal purposes, to wit: Randy Mitchell, a violation of Government Code section 84301
- COUNT 11: James Larry Minor on or about June 25, 2009, made contributions to the Jeff Stone for State Senate Campaign 2009 campaign in excess of contribution limits, a violation of Government Code section 85301 (a).

- COUNT 12: James Larry Minor on or about May 5, 2006, contributed to the Committee to Elect Brenda Salas campaign by a name other than the name by which said Respondent was identified for legal purposes, to wit: Larry G. Minor, a violation of Government Code section 84301

SUMMARY OF THE LAW

Campaign Contributions on Behalf of Another

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. (Government Code Section 84301)

A “person” is defined to include an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert. (Government Code Section 82047)

Limits on Contributions from Persons

A person, other than a small contributor committee or political party committee, may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office other than a candidate for statewide elective office may not accept from a person, any contribution totaling more than three thousand dollars (\$3,000) per election.

FPPC Regulation 18545 provides for adjusted limits for statewide elections. For the 2010 election cycle, the contribution limit for individual contributions to state senate races was \$3,900.

SUMMARY OF THE FACTS

Respondent James Larry Minor was a campaign contributor to the Jeff Stone for State Senate Campaign 2009 and The Committee to Elect Brenda Salas campaign committees. The Jeff Stone for State Senate 2009 campaign committee was established for a California State Senate candidate in the June 2010 primary election. The Committee to Elect Brenda Salas was a campaign committee established for a California State Assembly candidate in the June 2006 primary election.

Respondent knowingly violated the Act by arranging for contributions to be made to the campaign committees by relatives and associates of his, and then providing his relatives and associates with reimbursement for their contributed amounts.

Respondent made ten campaign contributions to the Jeff Stone for State Senate Campaign 2009 committee in a name other than his own on or about June 25, 2009. All these contributions were made in the amount of \$3,900, the contribution limit for that election cycle. By making these contributions, he exceeded the maximum contribution allowed by him for that election cycle, \$3,900.

He further made one contribution to The Committee to Elect Brenda Salas campaign committee in a name other than his own in the amount of \$3,300 on or about May 5, 2006.

COUNTS 1-10

MAKING CAMPAIGN CONTRIBUTIONS ON BEHALF OF ANOTHER WITHOUT DISCLOSURE

Respondent made ten contributions on or about June 25, 2009 to the Jeff Stone for State Senate Campaign 2009 committee in a name other than his own, to wit: Aimee Balcunas, Derek Balcunas, Andrew Minor, Sarah Minor, Larry G. Minor, Lorrie Minor, Daniel Callicott, Kathleen Callicott, Aline Mitchell, and Randy Mitchell. By making contributions in names other than those by which he is legally identified, Respondent violated Section 84301 of the Act.

COUNT 11

CONTRIBUTION EXCEEDING THE CONTRIBUTION LIMITS

Respondent made a contribution in excess of the \$3,900 limit on or about June 25, 2009 to the Jeff Stone for State Senate Campaign 2009. By making a contribution in excess of the limits, Respondent violated Section 85301 (a) of the Act.

COUNT 12

MAKING CAMPAIGN CONTRIBUTIONS ON BEHALF OF ANOTHER WITHOUT DISCLOSURE

Respondent made one contribution on or about May 5, 2006 to the Committee to Elect Brenda Salas committee in a name other than his own, to wit: Larry G. Minor. By making a contribution in a name other than that by which he is legally identified, Respondent violated Section 84301 of the Act.

CONCLUSION

This matter consists of twelve counts of violating the Act carrying a maximum administrative penalty of \$60,000.

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

For Counts 1-10, and Count 12 making contributions without disclosing the true name of the contributor, this is one of if not the most serious violations of the Act as it deprives the public of the knowledge of the true source of a campaign contribution and can be used as a method to circumvent the campaign contribution limits. The typical administrative penalty for this violation, depending on the facts of the case, has been in the low-to-high range of available penalties.

For Count 11, making a contribution in excess of the campaign contribution limits, this is also one of if not the most serious violations of the Act as it circumvents the limits on campaign contributions proscribed by California's voters and provides an unfair advantage to one candidate over another in a democratic election. The typical administrative penalty for a contribution limits violation, depending on the facts of the case, has been in the high range of available penalties.

The penalty proposed by the Enforcement Division was made after consultation with the Attorney General's office and the Respondent, who have all agreed to this as part of the total resolution of the matter if approved by the Commission.

FACTORS IN AGGRAVATION

Respondent intentionally violated the Act in two election cycles with two different candidates. He knowingly violated the campaign contribution limits and knowingly failed to disclose the true source of his contributions, two of the most serious violations of the Act. His actions provided an unfair advantage to the candidates to whom he provided excess contributions.

FACTORS IN MITIGATION

Respondent has no history of violating the Act or similar laws. There is no evidence of bribery, corruption or abuse of elected office. Indeed, both candidates on whose behalf the contributions were made lost in the primary election.

PENALTY

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of the agreed upon penalty of Sixty Thousand Dollars (\$60,000). Five Thousand Dollars (\$5,000) for each count.