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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA

10 In the Matter of ) FPPC No. 10/957  
11 )  
12 BLACK WOMEN ORGANIZED FOR )  
POLITICAL ACTION STATE PAC, and ) STIPULATION, DECISION and  
13 BERYL CRUMPTON POTTER, ) ORDER  
TREASURER, )  
14 )  
15 Respondents. )

16  
17 Complainant, Gary S. Winuk, Enforcement Chief of the Fair Political Practices Commission, and  
18 Respondents Black Women Organized for Political Action State PAC and Beryl Crumpton Potter  
19 hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices  
20 Commission at its next regularly scheduled meeting.

21 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this  
22 matter, and to reach a final disposition without the necessity of holding an administrative hearing to  
23 determine the liability of Respondents.

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

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

3 It is further stipulated and agreed that Respondents Black Women Organized for Political Action  
4 State PAC and Beryl Crumpton Potter violated the Political Reform Act by failing to report  
5 approximately \$13,409 in contributions received and approximately \$12,801 in expenditures made by  
6 the committee in the 2010 calendar year, in violation of Government Code Section 84211, subdivisions  
7 (a), (b), (c), (d), (e), (f), (i), (j) and (k), (Count 1). Exhibit 1 is attached hereto and incorporated by  
8 reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this  
9 matter.

10 Respondents agree to the issuance of the Decision and Order, which is attached hereto.  
11 Respondents also agree to the Commission imposing upon it an administrative penalty in the amount of  
12 Two Thousand Five Hundred Dollars (\$2,500). A cashier's check from Respondents in said amount,  
13 made payable to the "General Fund of the State of California," is submitted with this Stipulation as full  
14 payment of the administrative penalty, to be held by the State of California until the Commission issues  
15 its decision and order regarding this matter. The parties agree that in the event the Commission refuses  
16 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the  
17 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in  
18 connection with this Stipulation shall be reimbursed to Respondents.

19 Respondents further stipulate and agree that in the event the Commission rejects the Stipulation,  
20 and a full evidentiary hearing before the Commission becomes necessary, none of the members of the  
21 Commission shall be disqualified because of prior consideration of this Stipulation.

22 Dated: \_\_\_\_\_

\_\_\_\_\_  
23 Gary S. Winuk  
24 Chief of Enforcement, Fair Political Practices Commission

25  
26 Dated: \_\_\_\_\_

\_\_\_\_\_  
27 Beryl Crumpton Potter, Treasurer, individually and on  
28 behalf of Black Women Organized for Political Action  
State PAC, Respondents

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Black Women Organized for Political  
3 Action State PAC, and Beryl Crumpton Potter, Treasurer”, FPPC No. 10/957, including all attached  
4 exhibits, is hereby accepted as the final decision and order of the Fair Political Practices Commission,  
5 effective upon execution below by the Chair.

6  
7 IT IS SO ORDERED.

8  
9  
10 Dated: \_\_\_\_\_

\_\_\_\_\_   
Ann Ravel, Chair  
Fair Political Practices Commission

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Black Women Organized for Political Action State PAC (“Respondent Committee”) is a recipient committee. Respondent Beryl Crumpton Potter (“Respondent Potter”) was Respondent Committee’s treasurer at all relevant times.

Under the Political Reform Act (the “Act”)<sup>1</sup>, recipient committees must report contributions received and expenditures made by periodically filing campaign statements.

For purposes of this Stipulation, Respondents violated the Act as follows:

Count 1: As a recipient committee and its treasurer, Respondent Black Women Organized for Political Action State PAC and Beryl Crumpton Potter had a duty to report, on the committee’s campaign statements, contribution received and expenditures made by the committee during the reporting period. Respondents Black Women Organized for Political Action State PAC and Beryl Crumpton Potter failed to report approximately \$13,409 in contributions received and approximately \$12,801 in expenditures made by the committee in the 2010 calendar year, in violation of Government Code Section 84211, subdivisions (a), (b), (c), (d), (e), (f), (i), (j) and (k).

### **SUMMARY OF THE LAW**

All statutory references and discussions of law pertain to the Act’s provisions as they existed at the time of the violations.

#### **Liberal Construction and Vigorous Enforcement of the Political Reform Act**

When the Act was enacted, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities. (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

One of the purposes of the Act is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited. (Section 81002, subd. (a).) Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.” (Section 81002, subd. (f).)

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81,000 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.

## Required Filing of Campaign Statement

At the core of the Act's campaign reporting system is the requirement that a recipient committee file campaign statements. (Sections 84200 - 84225.) A "recipient committee" is any person or combination of person who receives contributions totaling \$1,000 or more in a calendar year. (Section 82013, subd. (a).)

## Required Reporting of Contributions Received

Each campaign statement must report "[t]he total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received." (Section 84211, subd. (a).) Also, each campaign statement must report "[t]he total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more." (Section 84211, subd. (c).)

A contribution is a payment of any kind made for political purposes for which full and adequate consideration is not made to the donor. (Sections 82015, subd. (a), and 82044; Regulation 18215, subd. (a).) A payment is made for political purpose if, for instance, it is: (1) for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate; or (2) it is received by or made at the behest of a candidate or controlled committee. (See Regulation 18215, subs. (a)(1) and (2).)

Each campaign statement must also include the total amount of contributions received from persons who gave the committee cumulative amounts of less than \$100 during the period covered by the statement. (Section 84211, subd. (d).)

Section 84211, subdivision (f), further requires that certain identifying information be provided for each person from whom a cumulative amount of contributions of \$100 or more has been received during the period covered by the campaign statement, including the following: (1) the person's full name; (2) his or her street address; (3) his or her occupation; (4) the name of his or her employer, or if self-employed, the name of the business; (5) the date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan; and (6) the cumulative amount of contributions.

## Required Reporting of Expenditures

Section 84211, subdivisions (b) and (i), require recipient committees to disclose on each campaign statement: (1) the total amount of expenditures made during the period covered by the campaign statement; and (2) the total amount of expenditures made during the period covered by the campaign statement to persons who have received \$100 or more.

Section 82025 defines "expenditure" as a payment, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. "An expenditure is made on

the date the payment is made or on the date consideration, if any, is received, whichever is earlier.” (Section 82025.)

Pursuant to Section 84211, subdivision (k), for each person to whom an expenditure of \$100 or more has been made during the period covered by the campaign statement, the following information must be disclosed on the campaign statement: (1) the recipient’s full name; (2) the recipient’s street address; (3) the amount of each expenditure; and (4) the description of the consideration for which each expenditure was made.

Each campaign statement must also include the total amount of expenditures made by the committee to persons who have received less than \$100 during the period covered by the campaign statement. (Section 84211, subd. (j).)

#### Required Reporting of Cash Balance

Section 84211, subdivision (e), requires that each campaign statement include the committee’s balance of cash and cash equivalents on hand at the beginning and end of the period covered by the campaign statement.

#### Treasurer Liability

Under Section 81004, subdivision (b), Section 84100 and Regulation 18427, subdivision (a), a committee’s treasurer has the duty to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Pursuant to Sections 83116.5 and 91006, the treasurer of a committee may be held jointly and severally liable, along with the committee, for the committee’s violations.

### **SUMMARY OF THE FACTS**

Respondent Committee qualified as a recipient committee in 2000. In the 2010 calendar year, Respondent Committee received contributions totaling approximately \$13,409, and made expenditures totaling approximately \$12,801.

On January 13, 2011, Respondent Committee and Respondent Potter filed a Semi-Annual Statement of No Activity (“Form 425”) for the January 1, 2010, through June 30, 2010, reporting period, and one for the July 1, 2010, through December 31, 2010, reporting period. In the both Form 425’s, no expenditures and no contributions were reported.

Accordingly, Respondents committed one violation of the Act, as follows:

#### Count 1

#### **Failure to Report Contributions Received and Expenditures Made**

As a recipient committee and its treasurer, Respondent Black Women Organized for Political Action State PAC and Beryl Crumpton Potter had a duty to report contribution received and expenditures made by the committee during the reporting period. Respondents Black

Women Organized for Political Action State PAC and Beryl Crumpton Potter failed to report approximately \$13,409 in contributions received and approximately \$12,801 in expenditures made by the committee in the 2010 calendar year, in violation of Government Code Section 84211, subdivisions (a), (b), (c), (d), (e), (f), (i), (j) and (k).

## CONCLUSION

This matter involves one count of violating the Act which carries a maximum administrative penalty of \$5,000.

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division of the Fair Political Practices Commission (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): 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(s) demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether upon learning of the violation the respondent voluntarily filed amendments to provide full disclosure. The facts are required to be considered by the Commission under Regulation 18361.5.

The public harm inherent in campaign reporting violations is that the public is deprived of time-sensitive information regarding the sources and amounts of contributions received and expenditures made in support of candidates.

Rather than filing Form 425's, which do not include campaign contributions and expenditures, Respondents were required to file campaign statements that included contributions received and expenditures made by the committee, which they failed to do.

However, the violation was due to Respondent Potter's negligence and lack of experience with the Act, rather than deliberate acts to deceive the public. Additionally, Respondents have demonstrated good faith in cooperating with the Enforcement Division's investigation of this matter and Respondents have no history of action by the Enforcement Division.

Recent penalties approved by the Commission concerning violations of Section 84211 include:

- *In the Matter of Arturo Chacon and Art Chacon for Water Board 2010*, FPPC No. 08/652. This case involved 6 counts of violations of Section 84211. Penalties of \$2,000 and \$2,500 per count were approved by the Commission on February 10, 2011, due to respondents' failure to report contributions received and expenditures made. Respondents cooperated with the Enforcement Division's investigation and agreed to early settlement well in advance of the Probable Cause Conference that would otherwise have been held.

In this matter, Respondents' actions were similar, and therefore an imposition of an

administrative penalty in the amount of \$2,500 for Count 1 is recommended.

After consideration of the factors of Regulation 18361.5, and consideration of penalties in prior enforcement actions, the imposition of a penalty of \$2,500 is recommended.

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