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3 **FAIR POLITICAL PRACTICES COMMISSION**
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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
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12 In the Matter of) FPPC No. 10/711
13)
14 HUBERT WALSH, HUB WALSH FOR) STIPULATION, DECISION and
SUPERVISOR, AND MARCIA B. HALL,) ORDER
15)
16 Respondents.)
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18 Complainant Roman G. Porter, Executive Director of the Fair Political Practices Commission,
19 and Respondents Hubert Walsh, Hub Walsh for Supervisor, and Marcia B. Hall agree that this
20 Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next
21 regularly scheduled meeting.

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

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

1 attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the
2 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
3 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

4 It is further stipulated and agreed that Respondents Hubert Walsh, Hub Walsh for Supervisor,
5 and Marcia B. Hall violated the Political Reform Act by receiving seven cash contributions of \$100 or
6 more, in violation of Section 84300, subdivision (a), of the Government Code (1 count). This count is
7 described in Exhibit 1, which is attached hereto and incorporated by reference as though fully set forth
8 herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

9 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
10 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount
11 of One Thousand Five Hundred Dollars (\$1,500). A cashier's check from Respondents in said amount,
12 made payable to the "General Fund of the State of California," is submitted with this Stipulation as full
13 payment of the administrative penalty, to be held by the State of California until the Commission issues
14 its decision and order regarding this matter. The parties agree that in the event the Commission refuses
15 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
16 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
17 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
18 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
19 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
20 shall be disqualified because of prior consideration of this Stipulation.

21
22 Dated: _____
23 Roman G. Porter, Executive Director
24 Fair Political Practices Commission

25 Dated: _____
26 Hubert Walsh, Respondent, Individually
27 and on behalf of Hub Walsh for Supervisor

28 Dated: _____
Marcia B. Hall, Respondent, Individually
and on behalf of Hub Walsh for Supervisor

EXHIBIT 1

INTRODUCTION

Respondent Hubert Walsh (“Respondent Walsh”) has been a member of the Merced County Board of Supervisors since his election in 2008. Respondent Hub Walsh for Supervisor (“Respondent Committee”) was the controlled recipient committee of Respondent Walsh. At all relevant times to this matter, Respondent Marcia B. Hall was the treasurer of Respondent Committee. This case arose from a Franchise Tax Board (“FTB”) audit of Respondent Committee for the period January 1, 2008 through December 31, 2008. During the period covered by the audit, Respondent Committee reported receiving contributions of \$34,123 and making expenditures totaling \$32,137.

The Political Reform Act (the “Act”)¹ prohibits cash campaign contributions of over \$100. In this matter, Respondents accepted seven cash contributions in excess of \$100 totaling \$825.

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

COUNT 1: In 2008, Respondents Hubert Walsh, Hub Walsh for Supervisor and Marcia B. Hall received seven cash contributions of \$100 or more, in violation of Section 84300, subdivision (a), of the Government Code.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act, therefore, establishes a campaign reporting system designed to accomplish this purpose of disclosure.

Prohibition Against Cash Contributions

Section 84300, subdivision (a) provides that no contribution of one hundred dollars (\$100) or more shall be made or received in cash. Section 84300, subdivision (c), also requires that all contributions of \$100 or more be made in the form of a written instrument containing the name of the contributor and drawn from the account of the contributor.

¹The 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.

Liability of Committee Treasurers

Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (c), it is the duty of a 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 Walsh has been a member of the Merced County Board of Supervisors since his election in 2008. At all relevant times to this matter, Respondent Hall was the treasurer of Respondent Committee.

During 2008, Respondents accepted seven contributions of \$100 or more in the form of cash. Respondents timely reported receiving these contributions on various campaign statements, however, did not report or maintain the contributor information for one of the \$100 contributions received in October, 2008.

The Act prohibits receiving cash contributions of \$100 or more. During 2008, Respondents accepted seven cash contributions in excess of \$100 or more. The cash contributions are set forth in the table below:

Date Received (on or about)	Contributor	Amount
March 17, 2008	Mary Walsh	\$100
May 1, 2008	Charlene Armstrong	\$125
August 24, 2008	Mary Walsh	\$100
October 1, 2008	Eugene Her	\$100
October 1, 2008	Sara Lo Lee	\$100
October 1, 2008	Phil Wilson	\$200
October 3, 2008	Unknown	\$100
Total:		\$825

Pursuant to Section 84300, subdivision (a), Respondents were prohibited from receiving cash contributions of \$100 or more. By receiving seven cash contributions of \$100 or more, Respondents violated Section 84300, subdivision (a), of the Government Code.

CONCLUSION

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

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, liability under the Act is governed in significant part by the provisions of Section 91001, subdivision (c), which requires the Commission to consider whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith, in applying remedies and sanctions. The improper handling of cash contributions in an election campaign has historically been considered a serious violation of the Act, because it can prevent tracking of the true source of campaign contributions.

AGGRAVATION: There were seven contributions received as cash, one of which was accepted and reported without the required contributor information.

MITIGATION: Respondents timely reported all seven of the cash contributions over \$100 on the appropriate campaign statement. The amount of the cash contributions received was only 2.4% of the total contributions received by Respondents. Respondents do not have a history of violating the Act.

Accordingly, the facts of this case justify an imposition of an administrative penalty of one thousand five hundred dollars (\$1,500).