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11 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

12 STATE OF CALIFORNIA

13 In the Matter of:

FPPC No. 12/063

14 SANTA BARBARA COUNTY
15 LINCOLN CLUB and CORY BANTILAN

STIPULATION, DECISION, AND ORDER

16 Respondents.

17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 respondents Santa Barbara County Lincoln Club and Cory Bantilan (Respondents) hereby 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 by this
23 matter and to reach a final disposition without the necessity of holding an additional administrative
24 hearing to determine the liability of Respondents.

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

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

4 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing
5 to timely file three semi-annual campaign statements in violation of Government Code sections 84200,
6 subdivision (a) and 84605, subdivision (a), as described in Exhibit 1. Exhibit 1 is attached hereto and
7 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
8 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 an administrative penalty in the total amount of Six
11 Thousand Dollars (\$6,000). Respondents submitted with this Stipulation a cashier's check from
12 Respondents in said amount, made payable to the "General Fund of the State of California," as full
13 payment of the administrative penalty that shall be held by the State of California until the Commission
14 issues its Decision and Order regarding this matter. The parties agree that in the event the Commission
15 refuses to accept this Stipulation, it shall become null and void, and within fifteen (15) business days
16 after the Commission meeting at which the Stipulation is rejected, all payments tendered by
17 Respondents in connection with this Stipulation shall be reimbursed to Respondents. Respondents
18 further stipulate and agree that in the event the Commission rejects the Stipulation, and a full evidentiary
19 hearing before the Commission becomes necessary, neither any member of the Commission, nor the
20 Executive Director, shall be disqualified because of prior consideration of this Stipulation.

21
22 Dated: _____ Gary S. Winuk, on behalf of the Enforcement Division
23 _____ Fair Political Practices Commission
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25
26 Dated: _____ Cory Bantilan, individually, and on behalf of Santa
27 _____ Barbara County Lincoln Club, Respondents
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DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Santa Barbara County Lincoln Club and Cory Bantilan” FPPC No. 12/063, 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: _____

Ann Ravel, Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent Santa Barbara County Lincoln Club (“Respondent Committee”) is a general purpose recipient committee. Respondent Cory Bantilan (“Respondent Bantilan”) was, at all times relevant to this case, the treasurer for Respondent Committee. Under the Political Reform Act (the “Act”)¹ committees are required to file semi-annual campaign statements reporting contributions and expenditures. Respondents violated the Act by failing to timely file semi-annual campaign statements for three consecutive reporting periods.

For purposes of this Stipulation, the proposed violations of the Act are as follows:

- COUNT 1: Respondents failed to file a semiannual campaign statement for the January 1, 2011 through June 30, 2011 reporting period by the August 1, 2011 deadline in violation of Section 84200, subdivision (a), and failed to timely file electronically a semiannual campaign statement for the same reporting period in violation of Section 84605, subdivision (a).
- COUNT 2: Respondents failed to file a semiannual campaign statement for the July 1, 2011 through December 31, 2011 reporting period by the January 31, 2012 deadline in violation of Section 84200, subdivision (a), and failed to timely file electronically a semiannual campaign statement for the same reporting period in violation of Section 84605, subdivision (a).
- COUNT 3: Respondents failed to file a semiannual campaign statement for the January 1, 2012 through June 30, 2012 reporting period by the July 31, 2012 deadline in violation of Section 84200, subdivision (a), and failed to timely file electronically a semiannual campaign statement for the same reporting period in violation of Section 84605, subdivision (a).

SUMMARY OF THE LAW

Duty to File Campaign Statements

Committees are included among the entities subject to the Act’s campaign reporting requirements. Section 82013 defines a committee as any person or combination of persons who directly or indirectly receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year. This type of committee is commonly referred to as a “recipient committee.”

Section 84200, subdivision (a) requires all recipient committees to file semi-annual campaign statements (Form 460) each year no later than July 31 for the period ending June 30, and no later than

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.

January 31 for the period ending December 31.² Sections 84214 and Regulation 18404 require a recipient committee to file campaign statements until it terminates its obligations by filing a Statement of Termination (Form 410).

Duty to File Campaign Statements Electronically

Committees with a cumulative total amount of contributions received, expenditures made, loans received, and loans made in excess of \$25,000 in any reporting period are also required to file semiannual campaign statements with the Office of the Secretary of State (“SOS”) electronically. (Section 84605, subd. (a)(1).) Once a committee is required to file electronically, the committee must file electronic statements in all subsequent reporting periods. (Section 84605, subd. (d).) Committees filing electronically are required to continue to file in paper format also. (Section 84605, subd. (f).)

Treasurer Liability

Section 84100 provides that every committee shall have a treasurer. Under Section 84100 and Regulation §18427, subdivision (a), 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; Regulation §18316.6.)

SUMMARY OF THE FACTS

Respondent Committee formed in 1978. In 2004, Respondents began filing semi-annual campaign reports electronically. Respondents failed to file a semi-annual campaign report for the January 1, 2011 through June 30, 2011 period by the August 1, 2011 deadline. The SOS sent Respondents letters dated September 16, 2011, October 6, 2011, and November 17, 2011 reminding Respondents of their obligation to file campaign statements. Respondents did not respond to the letters. The SOS then referred the matter to the Commission.

Respondents then failed to file a semi-annual campaign statement for the July 1, 2011 through December 31, 2011 reporting period by the January 31, 2012 deadline. The Fair Political Practices Commission (“Commission”) sent Respondents a letter dated June 28, 2012 regarding their failure to file semi-annual campaign statement but received no reply.

July 31, 2012 came and went and Respondents did not file a semi-annual campaign statement for the January 1, 2012 through June 30, 2012 reporting period.

Subsequently, the Commission initiated an enforcement action against Respondents. As a result of the enforcement action, on or about December 31, 2012 Respondents filed semi-annual statements for the periods ending June 30, 2011, December 31, 2011, and June 30, 2012. The statements showed the following total contributions and expenditures for Respondent Committee:

² Under Regulation 18116, whenever the Act requires that a semi-annual campaign statement be filed prior to or not later than a specified date or during or within a specified period, and the deadline falls on a Saturday, Sunday or official state holiday, the filing deadline for the statement is extended to the next regular business day.

Reporting Period	Total Contributions Received	Total Expenditures Made	Ending Cash Balance
1/1/2011 to 6/30/2011	\$0	\$6,806.98	\$6,154.17
7/1/2011 to 12/31/2011	\$0	\$4,050	\$2,104.17
1/1/2012 to 6/30/2012	\$250	\$2,015	\$339.17
Totals	\$250	\$12,871.98	

Accordingly, Respondents committed the following violations:

COUNT 1
Failure to Timely File Semi-annual Campaign Statement

Respondents failed to file a semiannual campaign statement for the January 1, 2011 through June 30, 2011 reporting period by the August 1, 2011 deadline in violation of Section 84200, subdivision (a), and failed to timely file electronically a semiannual campaign statement for the same reporting period in violation of Section 84605, subdivision (a).

COUNT 2
Failure to Timely File Semi-annual Campaign Statement

Respondents failed to file a semiannual campaign statement for the July 1, 2011 through December 31, 2011 reporting period by the January 31, 2012 deadline in violation of Section 84200, subdivision (a), and failed to timely file electronically a semiannual campaign statement for the same reporting period in violation of Section 84605, subdivision (a).

COUNT 3
Failure to Timely File Semi-annual Campaign Statement

Respondents failed to file a semiannual campaign statement for the January 1, 2012 through June 30, 2012 reporting period by the July 31, 2012 deadline in violation of Section 84200, subdivision (a), and failed to timely file electronically a semiannual campaign statement for the same reporting period in violation of Section 84605, subdivision (a).

CONCLUSION

This matter consists of three counts of violating the Act, which carry a maximum administrative penalty of five thousand dollars (\$5,000) per count, or \$15,000 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; and whether there was a pattern of violations.

Similar cases recently decided by the Commission include the following:

- *In the Matter of Carl Hilliard and Hilliard for Supervisor 2012*, FPPC No. 12/108: Respondent contributed \$15,000 to his campaign to pay for a telephone survey of voters . He failed to file a semi-annual campaign statement for the period during which he made the contribution. On December 13, 2012, the Commission imposed a penalty of \$1,500 for the violation.
- *In the Matter of Edwin Jacinto and the Committee to Elect Edwin Jacinto*, FPPC No. 12/197: Respondent, an unsuccessful city council candidate, failed to file a semi-annual campaign statement. Respondent previously received a warning letter for reporting violations and in another instance was fined by the Commission for failing to file campaign statements. On December 13, 2012, the Commission approved a default decision that imposed a penalty of \$2,000 for failure to file a semi-annual campaign statement.
- *In the Matter of Yolo County Democratic Central Committee Local Account et al.*, FPPC No. 08/357. This case involved five counts of failure to timely file semi-annual campaign statements. On January 28, 2011, the Commission imposed a penalty for \$2,000 per count.
- *In the Matter of Saundra Davis and Committee to Elect Saundra Davis*, FPPC No. 06/372. This case involved one count of failure to file a post-election semi-annual campaign statement. The campaign statement not filed would have included 50% of all contributions received (\$5,610) as well as 64% of all expenditures made (\$7,015) for the entire campaign. The Commission approved a \$2,000 penalty on September 17, 2010.

Full disclosure of receipts and expenditures in campaigns is one of the central purposes of the Act. By failing to file campaign statements, Respondents denied the public important information regarding Respondents' political activities.

This case is not the first time Respondents violated the Act's campaign reporting requirements. Respondents failed to file a semi-annual campaign statement for the July 1, 2010 through December 31, 2010 reporting period by January 31, 2011. As the result of a Commission enforcement action, Respondents filed the delinquent statement on July 26, 2011 and paid a fine of \$400. Respondent Bantilan was the treasurer at the time. Respondents experience and prior violation justify a higher penalty than if Respondents had no prior violation and/or limited experience with campaign reporting.

Also, Respondents' political activity during the reporting periods, while limited, was not inconsequential. They reported contributions and expenditures totaling \$13,121.98 for the periods during which they failed to timely file campaign statements.

To their credit, Respondents eventually filed the delinquent statements and cooperated with the Commission in resolving this case prior to the issuance of an Accusation.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, as well as Respondents' prior similar violations, and the penalties imposed in prior cases, a penalty of \$2,000 per count is recommended for a total penalty of \$6,000.