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3 **FAIR POLITICAL PRACTICES COMMISSION**
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5 Attorneys for Complainant

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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
10

11
12 In the Matter of) FPPC No. 12/193
13)
14 CALIFORNIAN’S AGAINST CORRUPT) STIPULATION, DECISION and
POLITICIANS AND ALEX SANCHEZ,) ORDER
15 TREASURER,)
16 Respondents.)

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18 Complainant, the Fair Political Practices Commission, and respondents Californian’s Against
19 Corrupt Politicians and Alex Sanchez (“Respondents”) agree that this Stipulation will be submitted for
20 consideration by the Fair Political Practices 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, pursuant to Section 83116 of the Government Code.

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 failed to timely file a preelection statement
4 with the La Puente City Clerk by March 29, 2012, for the February 26, 2012, through March 24, 2012,
5 reporting period, in violation of Government Code section 84200.5.

6 All counts are described in Exhibit 1, which is attached hereto and incorporated by reference as
7 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

8 Respondents agree to the issuance of the Decision and Order, which is attached hereto.

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

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21 Dated: _____

Gary Winuk, Enforcement Chief,
On behalf of Fair Political Practices Commission

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24 Dated: _____

Alex Sanchez, Treasurer
Californian's Against Corrupt Politicians
On behalf of Californian's Against Corrupt Politicians, Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Californian’s Against Corrupt
3 Politicians and Alex Sanchez, Treasurer” FPPC No. 12/139, including all attached exhibits, is hereby
4 accepted as the final decision and order of the Fair Political Practices Commission, effective upon
5 execution below by the Chair.

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7 IT IS SO ORDERED.

8 Dated: _____

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10 Ann Ravel, Chair
11 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

On March 16, 2012, Respondent Californian's Against Corrupt Politicians ("Respondent Committee") qualified as a city general purpose committee due to receiving a contribution of \$1,950 from Alex Sanchez (Respondent Sanchez), who has been Respondent Committee's treasurer at all relevant times. During the subsequent reporting period, Respondent Committee made \$1,873.84 in expenditures, but failed to timely file a preelection statement, as required by the Political Reform Act (the "Act").¹

For the purposes of this Stipulation, Respondent Committee and Respondent Sanchez's (collectively "Respondents") violation of the Act is stated as follows:

COUNT 1: Respondent Californian's Against Corrupt Politicians and its treasurer Respondent Alex Sanchez failed to timely file a preelection statement with the La Puente City Clerk by March 29, 2012, for the February 26, 2012, through March 24, 2012, reporting period, in violation of Government Code section 84200.5.

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).)

Duty to File Campaign Statements

Section 82013, subdivision (a), of the Act includes within the definition of "committee" any person or combination of persons who receives contributions of \$1,000 or more during a calendar year. This type of committee is commonly referred to as a "recipient committee."

Under the Act, there are different kinds of recipient committees, defined by the type of election activity in which they engage. A recipient committee that is formed or exists primarily to support or oppose candidates or measures voted on in only one city is defined, at Section 82027.5, subdivision (d), as a "city general purpose committee."

Every city general purpose committee must file a preelection statement for each period in which it makes contributions or independent expenditures totaling \$500 or more. (Section 84200.5, subd. (i).) For the period

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.

ending 45 days before the election, the statement shall be filed no later than 40 days before the election.² (Section 84200.8, subd. (a).) Subsequently, another preelection statement for the reporting period ending 17 days before the election must be filed no later than 12 days before the election. (Section 84200.8, subd. (b).)

A city general purpose committee must file an original and a copy of all required campaign statements with the clerk of the city. (Section 84215, subd. (d).)

The Act defines an “independent expenditure” as an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election, but which is not made to or at the behest of the affected candidate or committee. (Section 82031.)

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 city general purpose committee on March 16, 2012, as a result of receiving a contribution of \$1,950 from Respondent Sanchez.

On the same day, Respondent Committee made an independent expenditure of \$738.84 to have a negative attack advertisement that advocated the defeat of incumbent La Puente City Council candidates Dan Holloway and Chris Klinakis in the April 10, 2012, election, mailed to 602 residents of La Puente.

On March 22, 2012, Respondent Committee made an independent expenditure of \$1,135.00 to have the same negative attack advertisement mailed to 2,044 residents of La Puente.

Subsequently, Respondents failed to file a preelection statement with the La Puente City Clerk by March 29, 2012, for the February 26, 2012, through March 24, 2012, reporting period.

Both Dan Holloway and Chris Klinakis were re-elected to the La Puente City Council in the April 10, 2012, election.

COUNT 1

Failure to Timely File a Preelection Statement

As a city general purpose committee that made independent expenditures totaling \$500 or more during the February 26, 2012, through March 24, 2012, reporting period, Respondent Committee and its treasurer Respondent Sanchez had a duty to file a preelection statement with the La Puente City Clerk by March 29, 2012. By failing to file a preelection statement with the La Puente City Clerk by March 29, 2012, for the February 26, 2012, through March 24, 2012, reporting period, Respondents violated Section 84200.5.

² Under Regulation 18116, whenever the Act requires that a statement or report (other than late contribution reports required by Section 84203, late independent expenditure reports required by Section 84204, or notice by the contributor of a late in-kind contribution required by Section 84203.3) 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 such a statement or report shall be extended to the next regular business day.

CONCLUSION

This matter consists of 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 Fair Political Practices Commission's ("Commission") Enforcement Division ("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(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.

Respondents have no history of violating the Act, have cooperated with the Enforcement Division's investigation into this matter, and have agreed to an early resolution of this matter. Additionally, the targets of both of Respondent Committee's negative attack advertisements won the pertinent election.

Count 1: Failing to timely file a preelection statement is a serious violation of the Act as it deprives the public of important information about Respondent Committee's financial activities. Recent fines approved by the Commission for failing to timely file preelection statements include:

In the Matter of Davis Democratic Club and Elizabeth R. Weir, FPPC No. 08/390. In March 2012, the Commission approved a fine of \$2,000 for the respondents' failure to timely file a preelection statement. The respondents had no history of violating the Act, and agreed to an early resolution of the matter.

In the Matter of Republican Central Committee of San Luis Obispo County, FPPC No. 11/441. In May 2012, the Commission approved a fine of \$2,000 for the respondent's failure to timely file a preelection statement. The respondent had no history of violating the Act, and agreed to an early resolution of the matter.

In this matter, Respondents did not file the preelection statement until after the pertinent election and being contacted by the Enforcement Division. During this period Respondent Committee received a contribution of \$1,950 and made two independent expenditures totaling \$1,873.84. Therefore a \$2,000 fine for Count 1 is recommended.

PROPOSED PENALTY

Accordingly, the imposition of a total administrative fine of \$2,000 is recommended.

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