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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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11
12 In the Matter of) FPPC No. 12/643
13)
14 MICK GLEASON FOR SUPERVISOR 2012,) STIPULATION, DECISION and
MICK GLEASON, and SOLOMON) ORDER
15 RAJARATNAM, TREASURER,)
Respondents.)
16)

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18 Complainant, the Fair Political Practices Commission, and respondents Mick Gleason for
19 Supervisor 2012, Mick Gleason, and Solomon Rajaratnam (collectively “Respondents”) 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 Respondents, 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,
28 the 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 violated the Political Reform Act by failing
5 to timely report twelve subvendor payments, totaling \$31,848.56, made between March 18, 2012, and
6 June 30, 2012, in violation of Government Code sections 84200.5, subdivision (b), 84211, subdivision
7 (k)(6), and 84303 (Count 1). All counts are described in Exhibit 1, which is attached hereto and
8 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
9 the facts in this matter.

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

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15 Dated: _____

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

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Mick Gleason, Respondent,
Individually and on behalf of
Mick Gleason for Supervisor 2012

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24 Dated: _____

Solomon P. Rajaratnam, Respondent,
Individually and on behalf of
Mick Gleason for Supervisor 2012

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Mick Gleason for Supervisor 2012, Mick Gleason, and Solomon Rajaratnam, Treasurer” FPPC No. 12/643, 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

EXHIBIT 1

INTRODUCTION

Respondent Mick Gleason for County Supervisor 2012 (“Respondent Committee”) was the candidate controlled committee of Respondent Mick Gleason (“Respondent Gleason”). Respondent Gleason was a successful candidate for 1st District County Supervisor of Kern County in the June 5, 2012, primary election and the November 6, 2012, general election. Respondent Solomon P. Rajaratnam (“Respondent Rajaratnam”) has been Respondent Committee’s treasurer at all relevant times.

This matter arose out of an anonymous complaint submitted to the Fair Political Practices Commission’s (the “Commission”) Enforcement Division (“Enforcement Division”) alleging Respondent Committee, Respondent Gleason, and Respondent Rajaratnam (collectively “Respondents”) failed to timely report subvendor payments on Respondent Committee’s campaign statements. The subsequent investigation by the Enforcement Division revealed that Respondents failed to timely report twelve subvenders payments, totaling \$31,848.56, on two campaign statements, as required by the Political Reform Act (the “Act”).¹

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

COUNT 1: Respondents Mick Gleason for County Supervisor 2012, Mick Gleason, and Solomon P. Rajaratnam failed to timely report twelve subvendor payments, totaling \$31,848.56, made between March 18, 2012, and June 30, 2012, in violation of Government Code sections 84200.5, subdivision (b), 84211, subdivision (k)(6), and 84303.

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 violation.

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).)

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.

Duty to File Campaign Statements

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. (Section 82013, subd. (a).) A controlled committee is a committee that is controlled directly or indirectly by a candidate. A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions of the committee. (Section 82016, subd. (a).) Committees are required to file two preelection statements before an election and two semiannual statements each year. (Section 84200.5.)

For all candidates being voted upon the first Tuesday after the first Monday in June or November of an even-numbered year, one preelection statement for the reporting period ending 17 days before the election must be filed no later than 12 days before the election.² (Sections 84200.5, subd. (b), 84200.7, subd. (a)(2).) Additionally, a semiannual statement must be filed by July 31 for the period ending June 30, and no later than January 31 for the period ending December 31. (Sections 84200, subd. (a).)

Required Reporting of Subvendor Payments

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.

Section 84303 provides that no expenditure of \$500 or more shall be made, other than for overhead and normal operating expenses, by an agent or independent contractor, including but not limited to, an advertising agency, on behalf of, or for the benefit of, any committee, unless the expenditure is reported by the committee as if the expenditure were made directly by the committee. This type of information reported by the committee is commonly referred to as “subvendor information.”

Section 84211, subdivision (k)(6), requires the disclosure of such subvendor information as part of the contents of any campaign statement required to be filed by the committee. Specifically, the following information must be provided: (1) the subvendor’s full name; (2) his or her street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure is made. (section 84211, subdivision (k)(1)-(4) and (6).)

Treasurer and Candidate Liability

Under Section 81004, subdivision (b), Section 84100 and Regulation 18427, subdivisions (a), (b), and (c), it is the duty of a candidate and the treasurer of his or her controlled committee to ensure that the

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.

committee complies with all the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such. A committee's treasurer and candidate may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee under Sections 83116.5 and 91006.

SUMMARY OF THE FACTS

On or about May 24, 2012, Respondents filed a preelection statement for Respondent Committee with the Kern County Registrar of Voter's Office ("Kern County") for the March 18, 2012, through May 19, 2012, reporting period, in which they reported payments to Western Pacific Research totaling \$16,362.25. Respondents did not report any subvendor payments.

On or about July 31, 2012, Respondents filed a semiannual statement with Kern County for the May 20, 2012, through June 30, 2012, reporting period, in which they reported payments to Western Pacific Research totaling \$14,798.47, and accrued expenses owed to Western Pacific Research totaling \$31,418. Respondents did not report any subvendor payments.

In September 2012, the Enforcement Division received an anonymous complaint alleging that Respondents had not reported required subvendor payments made by Western Pacific Research on Respondent Committee's behalf. On September 26, 2012, the Enforcement Division sent Respondent Rajaratnam a compliance letter requesting that he amend by October 22, 2012, any filed campaign statements that did not report required subvendor payments. On October 20, 2012, Respondent Rajaratnam requested an extension until November 1, 2012, to comply with the Enforcement Division's request, and the Enforcement Division granted his request.

On November 1, 2012, Respondents filed an amended preelection statement for the March 18, 2012, through May 19, 2012, reporting period, in which they reported four subvendor payments, totaling \$9,268.36, made by Western Pacific Research on behalf of Respondent Committee. Respondent also filed an amended semiannual statement for the May 20, 2012, through June 30, 2012, reporting period, in which they reported eight subvendor payments, totaling \$22,580.20, made by Western Pacific Research on behalf of Respondent Committee.

Accordingly, Respondents committed the following violation of the Act:

Count 1

Failure to Timely Report Subvendor Payments

Respondents Mick Gleason for County Supervisor 2012, Mick Gleason, and Solomon P. Rajaratnam failed to timely report four subvendor payments, totaling \$9,268.36, by May 24, 2012, made during the March 18, 2012, through May 19, 2012, reporting period, and failed to timely report eight subvendor payments, totaling \$22,580.20, by July 31, 2012, made during the May 20, 2012, through June 30, 2012, reporting period, in violation of Sections 84200.5, subdivision (b), 84211, subdivision (k)(6), and 84303.

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 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.

The failure to timely report subvendor payments by a campaign is a serious violation of the Act because it deprives the public of important information about a campaign's expenditures, such as the identities of the recipients of such expenditures, and the reasons for such expenditures.

However, Respondents reported the subvendor payments in compliance with the Enforcement Division's request. Additionally, Respondents cooperated with the investigation into this matter and have agreed to an early resolution of the matter. Also, the violation was inadvertent and due to Respondent Rajaratnam's inexperience as a treasurer.

Recent fines imposed by the Commission for the failure to timely report subvendor payments include:

In the Matter of Shannon Grove, Shannon Grove for Assembly 2010, and Karen Cain, FPPC No. 10/1098. In December 2012, the Commission approved a fine of \$2,250 for an Assembly candidate's failure to timely report subvendor payments totaling \$229,374 on a semiannual statement. There was no evidence that the violation was intentional, and the respondents cooperated with the investigation and agreed to an early resolution of the matter.

In the Matter of Zack Scrivner, Scrivner for Supervisor 2010, and Shawn Kelly, FPPC No. 10/1099. In December 2012, the Commission approved a fine of \$2,250 for a Kern County Supervisor candidate's failure to timely report subvendor payments totaling \$297,182 on six campaign statements. The respondents were successful in their campaign. However, there was no evidence that the violations were intentional, and the respondents cooperated in the investigation and agreed to an early resolution of the matter.

Based on the aforementioned facts, imposition of an administrative penalty in the amount of \$2,000 is recommended.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, and consideration of penalties in prior enforcement actions, the imposition of a \$2,000 penalty on Respondents is recommended.

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