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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. 14/025  
13 )  
14 KENNETH DICKSON AND KENNETH ) STIPULATION, DECISION and  
DICKSON FOR 67<sup>TH</sup> ASSEMBLY 2012, ) ORDER  
15 Respondents. )  
16 )  
17 )

18 Complainant, the Fair Political Practices Commission, and respondents Kenneth Dickson and  
19 Kenneth Dickson for 67<sup>th</sup> Assembly 2012 (“Respondents”) agree that this Stipulation will be submitted  
20 for 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 inadvertently violated the Political Reform  
4 Act by failing to timely report contributions of \$5,000 or more received on August 29 and December 28,  
5 2011, in violation of Government Code section 85309, subdivision (c) (1 count). All counts are  
6 described in Exhibit 1, which is attached hereto and incorporated by reference as though fully set forth  
7 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 \$1,000. 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 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.

20 Dated: \_\_\_\_\_

\_\_\_\_\_  
21 Gary Winuk, Enforcement Chief,  
22 On behalf of the  
23 Fair Political Practices Commission

24 Dated: \_\_\_\_\_

\_\_\_\_\_  
25 Kenneth Dickson, Respondent  
26 Individually and on behalf of  
27 Respondent Kenneth Dickson for 67<sup>th</sup> Assembly 2012  
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1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Kenneth Dickson and Kenneth Dickson  
3 for 67<sup>th</sup> Assembly 2012” FPPC No. 14/025, including all attached exhibits, is hereby accepted as the  
4 final decision and order of the Fair Political Practices Commission, effective upon execution below by  
5 the Vice-Chair.

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7 **IT IS SO ORDERED.**

8 Dated: \_\_\_\_\_

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10 Sean Eskovitz, Vice-Chair  
11 Fair Political Practices Commission  
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## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Kenneth Dickson for 67<sup>th</sup> Assembly 2012 (“Respondent Committee”) was, at all times relevant, the candidate-controlled committee of Kenneth Dickson (“Respondent Dickson”), who was, at all times relevant, a candidate for State Assembly in the June 5, 2012, primary election and Respondent Committee’s treasurer. Respondent Committee and Respondent Dickson (collectively “Respondents”) failed to timely report two contributions of \$5,000 or more received by Respondent Committee at a time other than the election cycle, as required by Political Reform Act (the “Act”).<sup>1</sup>

This matter arose from a Franchise Tax Board (“FTB”) audit for the period January 1, 2011, through June 30, 2012. During the period covered by the audit, Respondent Committee reported receiving contributions totaling \$102,780 and making expenditures totaling \$92,057.

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

**COUNT 1:** Respondents Kenneth Dickson and Kenneth Dickson for 67<sup>th</sup> Assembly 2012 received a contribution of \$5,000 or more on August 29 and again on December 28, 2011, and failed to report each contribution to the Secretary of State within 10 business days, in violation of Government Code section 85309, subdivision (c).

### **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

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<sup>1</sup> 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 18109 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.

adequate enforcement mechanisms so that the Act will be “vigorously enforced.” (Section 81002, subd. (f).)

#### Duty to Report Contributions of \$5,000 or more

A candidate for elective state office is required to report to the Secretary of State within 10 business days of receipt of every contribution of \$5,000 or more that is received at any time other than the election cycle. (Section 85309, subd. (c).) The election cycle is the period of time commencing 90 days prior to an election and ending on the date of the election. (Section 85204.)

#### Joint and Several Liability of the Candidate

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

On August 29, 2011, Respondent Committee received a \$45,000 contribution from Respondent Dickson. On September 29, 2011, Respondents filed with the Secretary of State a semiannual statement for the January 1 through August 31, 2011, period that disclosed the \$45,000 contribution.

On December 28, 2011, Respondent Committee received a \$56,545 contribution from Respondent Dickson. On January 28, 2012, Respondents filed with the Secretary of State a semiannual statement for the July 1 through December 31, 2011, reporting period that disclosed the two contributions from Respondent Dickson and a total of \$1,545.89 in expenditures. Respondent Committee did not receive any other contributions during that particular reporting period. Respondent Dickson subsequently lost in the June 5, 2012, primary election.

#### **COUNT 1**

#### **Failure to Timely Report Contributions of \$5,000 or More**

Respondents were required to disclose each contribution of \$5,000 or more received at a time other than during the election cycle to the Secretary of State within 10 business days of receipt of the contribution.

Respondents failed to report the \$45,000 contribution Respondent Committee received on August 29, 2011, and the \$56,545 contribution Respondent Committee received on December 28, 2011, to the Secretary of State within 10 business days of receiving each contribution, in violation of Section 85309, subdivision (c).

## CONCLUSION

This matter consists of a single 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.

On April 11, 2011, the Commission approved \$8,000 in fines, four counts at \$2,000 each, against a successful candidate for State Senate, his controlled committee, and the committee's treasurers for their failure to timely report 19 contributions totaling \$721,527. (*In the Matter of Abel Maldonado, Abel Maldonado for Senate, Christopher J. Raymer, and Chris Steinbruner*, FPPC No. 10/070.)

In this matter, Respondents failed to timely report two contributions totaling \$101,545. The two contributions were the only contributions received by Respondent Committee during the pertinent period. Respondents do not have a history of enforcement actions, cooperated with the audit, and have agreed to an early settlement of the matter. Respondents reported both contributions on semiannual statements filed with the Secretary of State, and available to the public, only a few days after Respondents were required to report the two contributions. Additionally, Respondent Committee's expenditures during the period in which the two contributions occurred totaled only \$1,545.89. Also, based on the evidence, it is likely that Respondents' violation was inadvertent.

## PROPOSED PENALTY

Accordingly, the imposition of a total administrative penalty of \$1,000 is recommended.

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