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3 **FAIR POLITICAL PRACTICES COMMISSION**
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7
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
10

11
12 In the Matter of) FPPC No. 13/549
13)
14) STIPULATION, DECISION and
15) ORDER
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Respondents.

18 Complainant, the Fair Political Practices Commission (“Commission”), and respondents Andrew
19 Ammon and Committee to Elect Andrew Ammon to the San Gabriel School Board 2011, hereby agree
20 that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its
21 next 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 Andrew Ammon and Committee to Elect
5 Andrew Ammon to the San Gabriel School Board 2011 violated the Political Reform Act by making a
6 cash expenditure of \$100 or more, in violation of Government Code Section 84300, subdivision (b)(1
7 count); and failing to maintain campaign records in connection with Respondent Andrew Ammon's
8 2011 campaign for San Gabriel School Board, in violation of Government Code Section 84104 (1
9 count). These counts are described in Exhibit 1, which is attached hereto and incorporated by reference
10 as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

11 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
12 Respondent also agrees to the Commission imposing upon him an administrative penalty in the amount
13 of Four Thousand Dollars (\$4,000). A cashier's check from Respondent in said amount, made payable
14 to the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
15 administrative penalty, to be held by the State of California until the Commission issues its decision and
16 order regarding this matter. The parties agree that in the event the Commission refuses to accept this
17 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
18 meeting at which the Stipulation is rejected, all payments tendered by Respondent in connection with
19 this Stipulation shall be reimbursed to Respondent. Respondent further stipulates and agrees that in the
20 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
21 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
22 disqualified because of prior consideration of this Stipulation.

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Dated: _____

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

Dated: _____

Respondent Andrew Ammon,
Individually and on behalf of
Committee to Elect Andrew Ammon
to the San Gabriel School Board 2011

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Andrew Ammon and Committee to Elect Andrew Ammon to the San Gabriel School Board 2011” FPPC No. 13/549, 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: _____

Joann Remke, Chair
Fair Political Practices Commission

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2 **EXHIBIT 1**

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4 **INTRODUCTION**

5 Respondent Andrew Ammon (“Respondent Ammon”) is currently a member of the San Gabriel
6 School Board (the “Board”). Respondent Committee to Elect Andrew Ammon to the San Gabriel
7 School Board 2011 (“Respondent Committee”) qualified as a candidate controlled recipient committee
8 under the Political Reform Act (the “Act”)¹ on or about July 27, 2011, when Respondent Ammon filed a
9 statement of organization in connection with his 2011 candidacy for the Board. Respondent Ammon is
10 also the treasurer for Respondent Committee.

11 This matter arose from an anonymous complaint alleging that Respondent Ammon violated the
12 disclosure provisions of the Act by failing to report a campaign contribution received prior to the
13 November 8, 2011 San Gabriel School Board Election (the “Election”). An investigation of the
14 complaint revealed that on or around September 22, 2011, Respondents made a cash expenditure of
15 \$1,000, in violation of Section 84300, subdivision (b). Respondent Committee did not report the \$1,000
16 cash expenditure on any of its campaign statements. The investigation also revealed that Respondents
17 failed to maintain the detailed accounts, records, bills, and receipts necessary to establish that campaign
18 statements filed in connection with the 2011 campaign were properly filed and in compliance with the
19 campaign reporting provisions of the Act.

20 For the purposes of this stipulation, Respondents’ violations of the Act are stated as follows:

21 COUNT 1 On or about September 22, 2011, Respondents made a cash expenditure of \$100 or
22 more totaling \$1,000, in violation of Government Code Section 84300, subdivision (b).

23 COUNT 2 Respondents failed to maintain the detailed accounts, records, bills, and receipts
24 necessary to establish that campaign statements filed in connection with the 2011
25 campaign were properly filed and in compliance with the campaign reporting
26 provisions of the Act, in violation of Government Code Section 84104.

27 ¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references
28 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.

1 **SUMMARY OF THE LAW**

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

6 **Prohibition on Cash Expenditures of \$100 or More**

7 Section 82025 defines “expenditure” as a payment, forgiveness of a loan, payment of a loan by a
8 third party, or an enforceable promise to make a payment, unless it is clear from the surrounding
9 circumstances that it is not made for political purposes. “An expenditure is made on the date the
10 payment is made or on the date consideration, if any, is received, whichever is earlier.” (Section 82025.)

11 Section 84300, subdivision (b), provides: “No expenditure of one hundred dollars (\$100) or more
12 shall be made in cash.”

13 **Duty to Maintain Campaign Records**

14 To ensure accurate campaign reporting, Section 84104 imposes a mandatory duty on each
15 candidate, treasurer, and elected officer to maintain detailed accounts, records, bills and receipts that are
16 necessary to prepare campaign statements, to establish that campaign statements were properly filed and
17 to comply with the campaign reporting provisions of the Act. This requirement, as further stated by
18 Regulation 18401, includes a duty to maintain detailed information and original source documentation
19 for all contributions and expenditures.

20 Regulation 18401, subdivision (b)(2), requires the filer of the committee campaign statements to
21 retain the above described campaign records for four years following the date that the campaign
22 statement to which they relate is filed.

23 **Treasurer and Candidate Liability**

24 Under Section 81004, subdivision (b), Section 84100 and Regulation 18427, subdivisions (a),
25 (b), and (c), it is the duty of a candidate and the treasurer of his or her controlled committee to ensure
26 that the committee complies with all the requirements of the Act concerning the receipt and expenditure
27 of funds, and the reporting of such. A committee’s treasurer and candidate may be held jointly and
28

1 severally liable, along with the committee, for any reporting violations committed by the committee
2 under Sections 83116.5 and 91006.

3 **SUMMARY OF THE FACTS**

4 Respondent Ammon successfully ran for the San Gabriel School Board in 2011. He previously
5 ran for the same position in 2009, but lost. Respondent Committee served as Respondent Ammon's
6 controlled committee for his 2011 campaign. Respondent Committee qualified as a candidate controlled
7 recipient committee under the Act on or about July 27, 2011, when Respondent Ammon filed a
8 statement of organization in connection with his 2011 candidacy for the Board. On July 25, 2013, a
9 Form 410 was filed terminating Respondent Committee.

10 All statements filed in connection with Respondent Committee list Respondent Ammon as its
11 treasurer. However, when asked by the Fair Political Practices Commission Enforcement Division (the
12 "Enforcement Division") to produce campaign records for Respondent Committee, Respondent Ammon
13 indicated that the only records he had consisted of several emails with vendors and one invoice. The
14 documentation provided was insufficient to substantiate the campaign contributions, expenditures and
15 other information included on Respondent Committee's campaign statements. In regards to the lack of
16 records, Respondent Ammon explained that the individual charged with maintaining his records had
17 passed away two months prior to the Election and that he did not have access to any records that might
18 have been kept by the individual.

19 According to subpoenaed records from Respondent Committee's campaign bank account,
20 Respondent Committee received \$10,308.03 in campaign contributions and made \$10,171.30 in
21 expenditures. Respondent Committee's campaign bank account records also show that a \$1,000 cash
22 withdrawal was made on September 22, 2011 that cannot be reconciled with any reported or unreported
23 expenditures made by Respondent Committee. During Respondent Ammon's interview with the
24 Enforcement Division, he explained that Respondents used the \$1,000 cash withdrawal to pay an
25 outstanding debt to one of the vendors for Respondent Ammon's campaign.

26 The Commission has investigated Respondent Ammon on three prior occasions in connection
27 with both his 2009 and 2011 campaigns for San Gabriel School Board. In February 2011, Respondent
28 Ammon received a warning letter for failing to timely file a semi-annual statement. In December 2012,

1 the Commission approved a fine of \$200 for Respondent Ammon’s failure to timely file a semi-annual
2 statement for Respondent Committee covering October 23, 2011, through December 31, 2011.

3 **COUNT 1**

4 **The Making of a Cash Expenditure of \$100 or More**

5 On or about September 22, 2011, Respondents made a \$1,000 cash withdrawal from Respondent
6 Committee’s campaign bank account. Shortly thereafter, Respondents used the \$1,000 cash withdrawal
7 to make an expenditure in the form of a payment to one of the vendors working on Respondent
8 Ammon’s campaign, in violation of Government Code Section 84300, subdivision (b).

9 **COUNT 2**

10 **Failure to Maintain Campaign Records**

11 Respondent Ammon was a successful candidate in the 2011 San Gabriel School Board Election.
12 Respondents failed to maintain the detailed accounts, records, bills, and receipts necessary to establish
13 that campaign statements filed in connection with Respondent Ammon’s 2011 campaign were properly
14 filed and in compliance with the campaign reporting provisions of the Act, in violation of Government
15 Code Section 84104.

16 **CONCLUSION**

17 This matter consists of two counts of violating the Act, which carries a maximum possible
18 administrative penalty of Ten Thousand Dollars (\$10,000).

19 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
20 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
21 emphasis on serving the purposes and intent of the Act. The Enforcement Division also considers the
22 facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5,
23 subdivision (d)(1)-(6), which include: the seriousness of the violations; the presence or lack of intent to
24 deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the
25 Respondent demonstrated good faith in consulting with Commission staff; whether there was a pattern
26 of violations; and whether upon learning of the violation the Respondent voluntarily filed amendment to
27 provide full disclosure.

1 Regarding Count 1, making a cash expenditure of \$100 or more is a serious violation of the Act
2 because it undermines the Commission’s ability to ensure that expenditures are fully and truthfully
3 disclosed.

4 In this case, Respondent made a cash expenditure of \$1,000. According to Respondent
5 Committee’s campaign bank account, the \$1,000 cash contribution constituted nearly 10% of the total
6 expenditures made by Respondent Committee in connection with Respondent Ammon’s 2011 campaign.
7 Further exacerbating the public harm experienced here is the fact that Respondents never reported the
8 \$1,000 expenditure on a campaign statement.

9 In aggravation, Respondent Ammon is an experienced candidate and treasurer. The 2011
10 Election was the second election he participated in as both a candidate and treasurer. Therefore, he
11 should have been aware of the prohibition on cash expenditures of \$100 or more. In further aggravation,
12 Respondent Ammon has a prior history of violating the Act’s reporting provisions and is still an acting
13 elected official.

14 However, in mitigation, Respondent has fully cooperated with our investigation and provided the
15 Enforcement Division with the details of the \$1,000 cash expenditure.

16 Since 2011, the Commission has only approved one settlement involving cash expenditures of
17 \$100 or more made in violation of Section 84300, subdivisions (b):

- 18 • ***In the Matter of Arturo Chacon and Art Chacon for Water Board 2010*** (FPPC No. 08/652).

19 Respondent’s controlled committee made five cash expenditures of \$100 or more totaling
20 approximately \$1,400. In aggravation, respondents also failed to report the cash expenditures on
21 his controlled committee’s campaign statements. On February 10, 2011, the Commission
22 approved a \$2,000 fine for the one count.

23 Therefore, based on the aforementioned facts and precedent, imposition of an administrative
24 penalty in the amount of \$2,000 for Count 1 is recommended.

25 Regarding Count 2, failure to maintain campaign records is a serious violation because it
26 impedes the Commission’s ability to inhibit improper practices and ensure full disclosure of receipts and
27 expenditures. In this matter, Respondents failed to keep sufficient records to verify that Respondent
28 Committee was in compliance with the Act. The public harm is particularly high in this case because

1 several of the transactions made were of a nature that cannot be traced with bank records alone. In
2 particular, a cash withdrawal of \$1,000 that was made from Respondent Ammon's campaign bank
3 account on September 22, 2011, which was eventually used to make the cash expenditure referenced in
4 Count 1.

5 In further aggravation, as discussed above, Respondent Ammon has prior experience as a
6 candidate and treasurer, and has a prior history of violating the Act's disclosure provisions. Therefore,
7 he knew or at least should have known of his responsibility to keep records.

8 However, in mitigation, Respondent Ammon has fully cooperated with our investigation. Also,
9 Respondent Ammon contends that even though he is listed as Respondent Committee's treasurer,
10 another individual who passed away in the months preceding the Election was responsible for
11 maintaining the records.

12 Recent similar cases where the respondents failed to properly maintain campaign records in
13 violation of Section 84104 include:

- 14 • ***In the Matter of Davis Democratic Club and Elizabeth R. Weir*** (FPPC No. 08/390). In addition
15 to several other reporting errors and omissions, Respondents Davis Democratic Club, a county
16 general purpose committee, and Respondent Elizabeth R. Weir, Treasurer, failed to maintain
17 proper records to support the campaign statements filed for the reporting periods of calendar
18 years 2007, 2008, 2009, and 2010, in violation of Government Code Section 84104. On March
19 15, 2012, the Commission approved a \$1,500 fine for the one count for failure to maintain
20 campaign records.
- 21 • ***In the Matter of Lynwood Teacher's Association PAC and Michael Jochum*** (FPPC No.
22 11/337). In this matter, Respondents used \$5,000 of campaign funds to pay Lynwood Teachers
23 Association bills and payroll, but not for the benefit of an individual. In addition, Respondents
24 failed to timely file a semi-annual campaign statement and failed to maintain campaign records.
25 In August of 2012, the Commission approved a \$2,000 penalty for respondents' failure to
26 maintain records.

27 Therefore, based on the aforementioned facts and precedent, imposition of an administrative
28 penalty in the amount of \$2,000 for Count 4 is recommended.

Proposed Penalty

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the Respondent’s pattern of behavior, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of Four Thousand Dollars (\$ 4,000) is recommended.

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