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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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12 In the Matter of) FPPC No. 14/298
13)
14 CURT HAGMAN, CURT HAGMAN FOR)
SAN BERNARDINO COUNTY) STIPULATION, DECISION and
15 SUPERVISOR, and JOHN FUGATT,) ORDER
16 Respondents.)
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18 Complainant, Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Curt Hagman, Curt Hagman for San Bernardino County Supervisor, and John Fugatt
20 agree that this Stipulation will be submitted for consideration by the Fair Political Practices
21 Commission at its 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 the Respondent, pursuant to Section 83116 of the Government Code.

25 Curt Hagman, Curt Hagman for San Bernardino County Supervisor, and John Fugatt
26 understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in
27 Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1 through 18361.9
28 of Title 2 of the California Code of Regulations. This includes, but is not limited to, the right to

1 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
2 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to
3 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
4 the hearing as a hearing officer, and to have the matter judicially reviewed.

5 It is further stipulated and agreed that Curt Hagman, Curt Hagman for San Bernardino County
6 Supervisor, and John Fugatt violated the Political Reform Act by accepting a monetary contribution of
7 \$8,200 in the form of a cashier's check, which was not drawn from the bank account of the contributor,
8 in violation of Government Code Section 84300, subdivision (c) (1 count). This count is described in
9 Exhibit 1, which is attached hereto and incorporated by reference as though fully set forth herein.
10 Exhibit 1 is a true and accurate summary of the facts in this matter.

11 Curt Hagman, Curt Hagman for San Bernardino County Supervisor, and John Fugatt agree to
12 the issuance of the Decision and Order, which is attached hereto. Curt Hagman, Curt Hagman for San
13 Bernardino County Supervisor, and John Fugatt also agree to the Commission imposing upon them an
14 administrative penalty in the amount of \$1,500. A cashier's check from Curt Hagman, Curt Hagman
15 for San Bernardino County Supervisor, and John Fugatt in said amount, made payable to the "General
16 Fund of the State of California," is submitted with this Stipulation as full payment of the administrative
17 penalty, to be held by the State of California until the Commission issues its decision and order
18 regarding this matter. The parties agree that in the event the Commission refuses to accept this
19 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
20 meeting at which the Stipulation is rejected, all payments tendered by Curt Hagman, Curt Hagman for
21 San Bernardino County Supervisor, and John Fugatt in connection with this Stipulation shall be
22 reimbursed to Curt Hagman, Curt Hagman for San Bernardino County Supervisor, and John Fugatt.
23 Curt Hagman, Curt Hagman for San Bernardino County Supervisor, and John Fugatt further stipulate
24 and agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before
25 the Commission becomes necessary, neither any member of the Commission, nor the Executive
26 Director, shall be disqualified because of prior consideration of this Stipulation.

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Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

Dated: _____

Curt Hagman, Respondent, individually, and on behalf of,
Curt Hagman for San Bernardino County Supervisor, Respondent

Dated: _____

John Fugatt, Respondent, individually, and on behalf of,
Curt Hagman for San Bernardino County Supervisor, Respondent

EXHIBIT 1

INTRODUCTION

Curt Hagman was a successful candidate for San Bernardino County Supervisor, District 4 in the June 3, 2014 Primary Election and in the November 4, 2014 General Election, and Curt Hagman for San Bernardino County Supervisor is his candidate controlled committee. John Fugatt is the Committee's treasurer.

This case arose from the Enforcement Division of the Fair Political Practices Commission's ("Commission") audit of Curt Hagman for San Bernardino County Supervisor, required by the Government Code Section 83123.5 and the County of San Bernardino Campaign Finance Reform Ordinance (the "Ordinance"). The Commission is authorized to be the civil prosecutor of the Ordinance. The audit covered the period January 1, 2014 through December 31, 2014, and the Committee reported \$591,784 in contributions received and \$584,333 in expenditures made for the time period. Respondents violated the Political Reform Act (the "Act")¹ by accepting a contribution that was not drawn from the bank account of the contributor.

SUMMARY OF THE LAW

An express purpose of the Act is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited.² The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

Contributions Not Drawn on the Contributor's Bank Account

No contribution of \$100 or more, other than an in-kind contribution, shall be made unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or intermediary.³

A cashier's check is similar to a money order in that it is not drawn from the account of the remitter. Rather, the remitter pays the bank to issue a cashier's check, which is guaranteed by the bank, but not drawn from the account of the remitter.⁴ In the case of a contribution made in the form of a cashier's check or money order, the remitter is referred to as the contributor.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. The regulations of the Fair Political Practices Commission are contained in Sections 18109 through 18997 of Title 2, California Code of Regulations.

² Section 81002, subdivision (a).

³ Section 84300, subdivision (c).

⁴ See, e.g., Cal. U. Com. Code, §§ 3103, subdivisions (a)(2), (3), and (11), and 3104, subdivisions (f) and (g).

Liability of Committee Treasurers

Every committee must have a treasurer.⁵ 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.⁶ A committee's treasurer may be held jointly and severally liable with the committee for any reporting violations.⁷

SUMMARY OF THE FACTS

The Enforcement Division's audit found that Curt Hagman, Curt Hagman for San Bernardino County Supervisor, and John Fugatt, by and large, complied with the Act and the Ordinance's campaign reporting requirements. However, the audit revealed that Curt Hagman, Curt Hagman for San Bernardino County Supervisor, and John Fugatt received and deposited into the campaign bank account a cashier's check in the amount of \$8,200 from Nannette Lesage, on or about March 28, 2014.

VIOLATION

Count 1: Receiving Contribution Not Drawn From the Bank Account of the Contributor

On or about March 28, 2014, Curt Hagman, Curt Hagman for San Bernardino County Supervisor, and John Fugatt, received a cashier's check in the amount of \$8,200 from Nannette Lesage, in violation of Government Code Section 84300, subdivision (c).

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 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) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3) whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated good faith in consulting with Commission staff; 5) whether there was a pattern of violations; and 6) whether, upon learning of the violation, the violator voluntarily provided amendments to provide full disclosure.

The Commission also considers penalties in prior cases involving similar violations. A recent similar case involving the acceptance of a contribution not drawn from the bank account of the contributor is:

⁵ Section 84100.

⁶ Section 84100 and Regulation 18427, subd. (a).

⁷ Sections 83116.5 and 91006.

- *In the Matter of Randolph Beasley and Beasley for Supervisor 2014*; FPPC No. 14/319. Beasley was an unsuccessful candidate for San Bernardino Supervisor, District 2 in the June 3, 2014 election. Beasley received cash loans totaling \$8,200, on March 07, 2014. On May 21, 2015, the Commission approved a penalty of \$1,500 for the violation

In mitigation, Hagman and Fugatt have not previously been found to have violated the Act. In addition, the contribution was properly reported on the second pre-election campaign statement, and the Committee promptly refunded the contribution after notification during the audit that the contribution had been made in the form of a cashier's check. The refund, issued prior to the date of the General Election, was disclosed on the semi-annual statement covering May 18, 2014 through June 30, 2014, filed on July 31, 2014. The committee cooperated fully with the Enforcement Division's audit. However, the public harm in receiving contributions via cashier's check is that there is no audit trail to confirm who gave the contribution.

PROPOSED PENALTY

After review of the facts of this case, including consideration of the factors of Regulation 18361.5, the imposition of a penalty of \$1,500 is recommended.