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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. 14/297
13)
14 GROVER MERRITT, GROVER MERRITT)
FOR DISTRICT ATTORNEY 2014, and) STIPULATION, DECISION and
15 ROBERT REGO,) ORDER
16 Respondents.)
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18 Complainant, Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Grover Merritt, Grover Merritt For District Attorney 2014, and Robert Rego agree that
20 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 the Respondent, pursuant to Section 83116 of the Government Code.

25 Grover Merritt, Grover Merritt For District Attorney 2014, and Robert Rego understand, and
26 hereby knowingly and voluntarily waive, any and all procedural rights set forth in Sections 83115.5,
27 11503 and 11523 of the Government Code, and in Sections 18361.1 through 18361.9 of Title 2 of the
28 California Code of Regulations. This includes, but is not limited to, the right to personally appear at

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

5 It is further stipulated and agreed that Grover Merritt, Grover Merritt For District Attorney
6 2014, and Robert Rego violated the Political Reform Act by accepting a monetary contribution of
7 \$4,000 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 Grover Merritt, Grover Merritt For District Attorney 2014, and Robert Rego agree to the
12 issuance of the Decision and Order, which is attached hereto. Grover Merritt, Grover Merritt For
13 District Attorney 2014, and Robert Rego also agree to the Commission imposing upon them an
14 administrative penalty in the amount of \$1,500. A cashier's check from Grover Merritt, Grover Merritt
15 For District Attorney 2014, and Robert Rego in said amount, made payable to the "General Fund of the
16 State of California," is submitted with this Stipulation as full payment of the administrative penalty, to
17 be held by the State of California until the Commission issues its decision and order regarding this
18 matter. The parties agree that in the event the Commission refuses to accept this Stipulation, it shall
19 become null and void, and within fifteen (15) business days after the Commission meeting at which the
20 Stipulation is rejected, all payments tendered by Grover Merritt, Grover Merritt For District Attorney
21 2014, and Robert Rego in connection with this Stipulation shall be reimbursed to Grover Merritt,
22 Grover Merritt For District Attorney 2014, and Robert Rego. Grover Merritt, Grover Merritt For
23 District Attorney 2014, and Robert Rego further stipulate and agree that in the event the Commission
24 rejects the Stipulation, and a full evidentiary hearing before the Commission becomes necessary,
25 neither any member of the Commission, nor the Executive Director, shall be disqualified because of
26 prior consideration of this Stipulation.

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28 Dated: _____

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Galena West, Acting Chief of Enforcement
Fair Political Practices Commission

Dated: _____

Grover Merritt, Respondent, individually, and on behalf of,
Grover Merritt For District Attorney 2014, Respondent

Dated: _____

Robert Rego, Respondent, individually, and on behalf of,
Grover Merritt For District Attorney 2014, Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Grover Merritt, Grover Merritt For
3 District Attorney 2014, and Robert Rego,” FPPC No. 14/297, 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.

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9 Dated: _____

10 Joann Remke, Chair
11 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Grover Merritt was an unsuccessful candidate for San Bernardino County District Attorney in the June 3, 2014 election, and Grover Merritt For District Attorney 2014 is his candidate controlled committee. Robert Rego is the Committee's treasurer.

This case arose from the Enforcement Division of the Fair Political Practices Commission's ("Commission") audit of Grover Merritt For District Attorney 2014, 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, 2013 through June 30, 2014, and the Committee reported \$73,995 in contributions received and \$93,922 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 Grover Merritt, Grover Merritt For District Attorney 2014, and Robert Rego, by in large, complied with the Act and the Ordinance's campaign reporting requirements. However, the audit revealed that Grover Merritt, Grover Merritt For District Attorney 2014, and Robert Rego received and deposited into the campaign bank account a contribution for \$4,000 received from Upland Realty Equities V., Inc. on or about March 16, 2014, in the form of a cashier's check.

VIOLATION

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

On or about March 16, 2014, Grover Merritt, Grover Merritt For District Attorney 2014, and Robert Rego received a monetary contribution of \$4,000 in the form of a cashier's check, which was not drawn from the bank account of the contributor, 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.

⁵ Section 84100.

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

⁷ Sections 83116.5 and 91006.

The Commission also considers penalties in prior cases involving similar violations. A recent similar case involving the acceptance of a contribution in the form of cashier's checks or money orders is:

- In *the Matter of Dan Hamburg, Dan Hamburg for Supervisor 2010, and Geoffrey Baugher*, FPPC Nos. 10/751 and 10/981. Hamburg made two contributions totaling \$1,500 to the committee by money order on or about November 8, 2010. On April 25, 2013, the Commission approved a penalty of \$1,500 for the violation.

In mitigation, Respondents have not previously been found to have violated the Act. The contribution was properly reported on the first pre-election campaign statement. The Treasurer stated that the company's name appeared on the cashier's check, and that the Committee did not realize that the check was not drawn from the company's bank account. The Committee refunded the contribution after notification during the audit that the contribution was made in the form of a cashier's check. The contribution was properly reported on the campaign statement covering January 1, 2014 through March 17, 2014.

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.