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

11 In the Matter of:

12 MARGIE L. RICE FOR MAYOR 2016,
13 MARGIE RICE, ANITA RICE, AND
14 COMMITTEE TO ELECT ANITA RICE
TO THE SANITARY BOARD OF
MIDWAY CITY 2016,

15 Respondents.
16

FPPC No. 16/19818

STIPULATION, DECISION, AND ORDER

17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission and
19 respondents Margie L. Rice for Mayor 2016, Margie Rice, Anita Rice, and Committee to Elect Anita Rice
20 to the Sanitary Board of Midway City 2016 (Respondents) hereby agree that this Stipulation will be
21 submitted for consideration by the Fair Political Practices Commission (Commission) at its next regularly
22 scheduled meeting.

23 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this
24 matter and to reach a final disposition without the necessity of holding an additional administrative hearing
25 to determine the liability of Respondents.

26 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
27 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of
28 Regulations, title 2, sections 18361.1 through 18361.9. 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 respondents Margie L. Rice for Mayor 2016, Margie Rice,
6 Anita Rice violated the Political Reform Act by failing to disclose identifying information on a mass
7 mailing, in violation of Government Code section 84305 (1 count) and that respondents Margie L. Rice
8 for Mayor 2016, Margie Rice, Anita Rice, and Committee to Elect Anita Rice to the Sanitary Board of
9 Midway City 2016 violated the Political Reform Act by failing to timely disclose making and receiving a
10 non-monetary contribution, in violation of Government Code section 84211, subdivisions (a), (b), (f), and
11 (k) (1 count), all as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by reference as
12 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

13 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
14 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
15 \$3,000. Respondents submitted with this Stipulation a cashier's check in said amount, made payable to
16 the "General Fund of the State of California," as full payment of the administrative penalty that shall be
17 held by the State of California until the Commission issues its Decision and Order regarding this matter.
18 The parties agree that in the event the Commission refuses to accept this Stipulation, it shall become null
19 and void, and within fifteen (15) business days after the Commission meeting at which the Stipulation is
20 rejected, all payments tendered by Respondents in connection with this Stipulation shall be reimbursed to
21 Respondents. Respondents further stipulate and agree that in the event the Commission rejects the
22 Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any member
23 of the Commission, nor the Executive Director, shall be disqualified because of prior consideration of this
24 Stipulation.

25 Dated: _____

26 _____
27 Galena West, Chief, on behalf of the Enforcement
28 Division of the Fair Political Practices Commission

1 Dated: _____
2 Margie Rice, individually and on behalf of Margie L.
3 Rice for Mayor 2016

4 Dated: _____
5 Anita Rice, individually and on behalf of Margie L.
6 Rice for Mayor 2016 and Committee to Elect Anita
7 Rice to the Sanitary Board of Midway City 2016

8
9 **DECISION AND ORDER**

10 The foregoing Stipulation of the parties “In the Matter of Margie L. Rice for Mayor 2016, Margie
11 Rice, Anita Rice, and Committee to Elect Anita Rice to the Sanitary Board of Midway City 2016,” FPPC
12 No. 16/19818, including all attached exhibits, is hereby accepted as the final decision and order of the Fair
13 Political Practices Commission, effective upon execution below by the Chair.

14
15 IT IS SO ORDERED.

16 Dated: _____
17 Joann Remke, Chair
18 Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Margie L. Rice for Mayor 2016 (the “Committee”) is a candidate-controlled committee for Westminster mayoral candidate and respondent Margie Rice (“Rice”). Respondent Anita Rice is the Committee’s treasurer and a candidate for Midway City Sanitary District. Anita Rice’s candidate-controlled committee is respondent Committee to Elect Anita Rice to the Sanitary Board of Midway City 2016 (“Committee to Elect Anita Rice”).

Under the Political Reform Act (the “Act”),¹ a candidate-controlled committee must include its name, street address, and city, and the name of the person controlling the committee on the outside of each piece of a mass mailing. The Committee violated the Act by failing to include its name, street address, city, and Rice’s name on a postcard mailed to 20,000 recipients.

In addition, a candidate-controlled committee must timely file campaign statements disclosing the expenditures it makes to support other campaigns. The Committee violated the Act by failing to disclose a non-monetary contribution to Committee to Elect Anita Rice. As the candidate and treasurer, Rice and Anita Rice are liable, along with the Committee, for the Committee’s violations.² The Committee to Elect Anita Rice also failed to disclose receiving the non-monetary contribution from the Committee.

SUMMARY OF THE LAW

An express purpose of the Act is to ensure that campaign contributions and expenditures are fully and truthfully disclosed so that voters are fully informed and improper practices are discouraged.³

In furtherance of this purpose, the Act requires a mass mailing to disclose the name, street address, and city of the controlled committee that paid for the mailing, as well as the name of the person controlling the committee.⁴ A mass mailing is made when more than 200 substantially similar pieces of mail are sent in a calendar month.⁵ The committee that pays for the largest portion of expenditures related to a mass mailing—including design, printing, and postage—is considered the sender, and must include its name, street address, and city, and the name of the person controlling the committee on the outside of each piece.⁶ The words “paid for by” must precede the identifying information on the mailer.⁷

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Sections 83116.5 and 91004.

³ Section 81002, subd. (a).

⁴ Section 84305.

⁵ Section 82041.5 and Regulation 18435, subd. (a).

⁶ Section 84305 and Regulation 18435, subd. (b) and (c).

⁷ Regulation 18435, subd. (d).

The Act also requires candidate-controlled committees to file pre-election statements during election years.⁸ Before a general election, a committee must file a pre-election statement no later than 12 days before the election for the statement period ending 17 days before the election.⁹ This statement must disclose the total amount of contributions the committee has made during the period to support another candidate, including non-monetary contributions, as well as specific information about any contribution of \$100 or more.¹⁰ A committee that receives a non-monetary contribution from another candidate's committee must disclose that contribution on its statement.¹¹

SUMMARY OF THE FACTS

The Committee and Committee to Elect Anita Rice each paid \$696.00 on September 30, 2016 to print a campaign mailer featuring Rice on one side of a postcard and Anita Rice on the other side. The Committee also paid \$300.00 on October 3, 2016 to prepare the mailer and \$3070.45 on October 11, 2016 for postage. One half of the Committee's costs for preparation and postage were therefore a non-monetary contribution to the Committee to Elect Anita Rice. The mailer was sent to 20,000 Westminster residences on or about October 11, 2016.

On October 17, 2016, Rice contacted the Enforcement Division to report that the mailer did not contain the proper disclosure. The mailer included both committee ID numbers, but no other identifying information.

On October 27, 2016, the Committee timely filed its pre-election statement for the period of September 25, 2016 through October 22, 2016. The statement reported the Committee's payments made for the mailer. However, the statement did not report the Committee spent \$1685.22 to support the Committee to Elect Anita Rice. The Committee to Elect Anita Rice also failed to report receiving a non-monetary contribution from the Committee. The Committee amended its pre-election statement and filed a late contribution report on November 2, 2016 to disclose its contributions to the Committee to Elect Anita Rice. The Committee to Elect Anita Rice also failed an amended statement to reflect receipt of the non-monetary contribution.

VIOLATIONS

Count 1: Failure to Disclose Identifying Information on a Mass Mailing

The Committee, Rice, and Anita Rice failed to disclose that a mass mailing was paid for by the Committee and failed to include the Committee's name, street address, and city, and Rice's name on the mailing, in violation of Section 84305 and Regulation 18435.

⁸ Section 84200.5, subd. (a).

⁹ Section 84200.8, subd. (a).

¹⁰ Section 84211, subd. (b) and (k).

¹¹ Section 84211, subd. (a) and (f).

Count 2: Failure to Timely Disclose Making and Receiving Expenditures Supporting Another Candidate

The Committee, Rice, Anita Rice, failed to disclose making, and the Committee to Elect Anita Rice and Anita Rice failed to timely disclose receiving a non-monetary contribution of \$100 or more in violation of Section 84211, subdivisions (a), (b), (f), and (k).

CONCLUSION

This matter consists of two counts of violating the Act, which carry a maximum administrative penalty of \$5,000 per count.

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)-(6): the seriousness of the violations; the presence or lack of intent to conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the Respondents demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether the violator, upon learning of the violations, voluntarily filed amendments.

The Commission also considers penalties in prior cases involving similar violations. Recent similar cases include the following:

Count 1

- *In the Matter of the Port Hueneme Police Officers' Association Political Action Committee*, FPPC No. 14/1285. (Commission approved a stipulated decision on December 17, 2015.) The respondent sent a mass mailer that failed to identify itself as the sender. An aggravating factor was the respondent's failure to disclose the costs of the mailer until after the election, which is dissimilar to the facts of the current case. The commission imposed a penalty of \$2,500.
- *In the Matter of Norman Hsu*; FPPC No. 13/1108. (Commission approved a stipulated decision on May 21, 2015.) The respondent paid for a mass mailing supporting two candidates, but failed to identify himself as the sender. The mailer was written mostly in first-person and included the respondent's name inside, but the outside envelope said "Community News." The Commission imposed a penalty of \$2,500.

Count 2

- *In the Matter of Rancho Cucamonga Professional Firefighters Association IAFF Local 2274 PAC and Michael McCliman*, FPPC No. 14/602. (Commission approved a stipulated decision on May 21, 2015.) The respondents made a \$700 contribution to a general purpose committee and a \$12,500 non-monetary contribution to a candidate-controlled committee, but failed to timely report the expenditures. The non-monetary contribution was not disclosed until almost three years after it was made. The Commission imposed a penalty of \$2,000.

- *In the Matter of Green Technology Leadership Group PAC, No on Prop 23, and Rita Copeland*, FPPC No. 14/258. (Commission approved a stipulated decision on January 15, 2015.) The respondents failed to timely report three expenditures totaling \$151,500. The Commission imposed a penalty of \$2,000.

A central purpose of the Act is to ensure expenditures and identifying information in election campaigns are fully and truthfully disclosed. The Committee, Rice, and Anita Rice failed to disclose identifying information on a mass mailing. Further, the Committee, Rice, Anita Rice, and the Committee to Elect Anita Rice failed to disclose the Committee's non-monetary contribution to the Committee to Elect Anita Rice.

In mitigation, Rice self-reported the lack of identifying information to the Enforcement Division on the day she received a copy of the final postcard in the mail. According to Rice, the omission of the Committee's identifying information was an inadvertent oversight. As such, Rice cooperated with the investigation, providing copies of checks and invoices to the Enforcement Division that show the Committee's expenditures in support of the Committee to Elect Anita Rice. In addition, the postcard includes both candidates' names in several places and portions are written in first-person, providing information as to the probable sender.

In further mitigation, the Committee amended its pre-election statement six days after the deadline to disclose its contribution to the Committee to Elect Anita Rice. Also, the Committee's original pre-election statement disclosed all the Committee's payments related to the mailer.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, the penalties imposed in prior cases, and other relevant information, a penalty of \$2,000 for Count 1 and \$1,000 for Count 2 is recommended, for a total penalty of \$3,000.