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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

FPPC No. 14/411

12 INCORPORATE OLYMPIC VALLEY PAC,

STIPULATION, DECISION AND ORDER

13 Respondent.
14

15 **STIPULATION**

16 Complainant the Enforcement Division of the Fair Political Practices Commission and
17 Respondent Incorporate Olympic Valley PAC (“Committee”) hereby agree that this Stipulation will be
18 submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled
19 meeting.

20 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
21 matter and to reach a final disposition without the necessity of holding an additional administrative
22 hearing to determine the liability of the Committee, pursuant to section 83116 of the Government Code.

23 The Committee understands, and hereby knowingly and voluntarily waives, any and all
24 procedural rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California
25 Code of Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the
26 right to appear personally at any administrative hearing held in this matter, to be represented by an
27 attorney at their own expense, to confront and cross-examine all witnesses testifying at the hearing, to
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1 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
2 the hearing as a hearing officer, and to have the matter judicially reviewed.

3 As described in Exhibit 1, it is further stipulated and agreed that Incorporate Olympic Valley
4 PAC failed to timely file monthly campaign statements for the period July 15, 2013, through July 15,
5 2014, in violation of section 84252 (1 Count). Exhibit 1, which is attached hereto and incorporated by
6 reference as though fully set forth herein, is a true and accurate summary of the facts in this matter.

7 The Committee agrees to the issuance of the Decision and Order, which is attached hereto, and
8 agree to the Commission imposing upon it an administrative penalty in the amount of \$2,500. A
9 cashier's check or money order from the Committee totaling said amount, made payable to the "General
10 Fund of the State of California," is submitted with this Stipulation as full payment of the administrative
11 penalty and shall be held by the State of California until the Commission issues its Decision and Order
12 regarding this matter. The parties agree that in the event the Commission refuses to accept this
13 Stipulation, it will become null and void, and within fifteen (15) business days after the Commission
14 meeting at which the Stipulation is rejected, all payments tendered by the Committee in connection with
15 this Stipulation must be reimbursed to them. The Committee further stipulates and agrees that in the
16 event the Commission rejects the Stipulation and a full evidentiary hearing before the Commission
17 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
18 disqualified because of prior consideration of this Stipulation.

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20 Dated: _____

Galena West, Enforcement Chief,
on behalf of the Fair Political Practices
Commission

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23 Dated: _____

Rita Copeland, on behalf of Incorporate Olympic
Valley PAC, Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Incorporate Olympic Valley PAC,” FPPC No. 14/411, 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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EXHIBIT 1

INTRODUCTION

Respondent Incorporate Olympic Valley PAC (“Committee”) qualified as a committee and failed to file a statement of organization and monthly campaign statements. The Committee is primarily formed to support a LAFCO proposal.

Under the Political Reform Act¹ (“Act”), a committee that is primarily formed to support or oppose a LAFCO proposal is required to file monthly campaign statements by the 15th of each calendar month from the time of circulation of the petition begins to the time the measure is placed on the ballot, or, if not placed on the ballot, until termination.² The circulation of the petition began June 28, 2013. The Committee withdrew the LAFCO proposal in December 2015. In this matter, the Committee failed to timely file monthly campaign statements from July 15, 2013, through July 15, 2014.

SUMMARY OF THE LAW

Duty to File Campaign Statements for a LAFCO Proposal

Under the Act, individuals and organizations have campaign reporting obligations once they qualify as a “committee.” A committee is any person or combination of persons who directly or indirectly does any of the following:

- (a) Receives contributions totaling one thousand dollars or more in a calendar year;
- (b) Makes independent expenditures totaling one thousand dollars or more in a calendar year; or
- (c) Makes contributions totaling ten thousand dollars or more in a calendar year to or at the behest of candidates or committees. A person or combination of persons that becomes a committee shall retain its status as a committee until such time as that status is terminated pursuant to Section 84214.³

A committee that is primarily formed to support or oppose a LAFCO proposal is required to file a campaign statement by the 15th of each calendar month from the time the circulation of the petition begins to the time the measure is placed on the ballot. If the measure is not placed on the ballot, the committee is required to file monthly campaign statements until termination.⁴ A committee is required to disclose payments for political purposes, including any payments made for the purpose of influencing or attempting to influence the actions of voters or a local agency formation commission for or against the qualification, adoption, or passage of a LAFCO proposal.⁵ Payments that are not considered contributions or expenditures for LAFCO purposes include payments made for the cost of preparing reports, including staff time, studies or analyses,

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 18110 through 18997 of Title 2 of the California Code of Regulations.

² Section 84252, subd. (a).

³ Section 82013.

⁴ Section 84252.

⁵ Section 84251.

including environmental impact reports, feasibility studies, fiscal analyses, and processing or similar fees paid to a LAFCO.⁶

SUMMARY OF THE FACTS

The Incorporate Olympic Valley (“IOV”) non-profit is made up of a group of volunteers who live in the unincorporated region of Olympic Valley, also known as Squaw Valley. According to IOV, they hired an attorney familiar with the LAFCO process, who did not explain the Act’s filing requirements. After the Enforcement Division received a complaint and notified IOV, the IOV Board members hired an attorney familiar with the filing requirements under the Act and a professional treasurer, who assisted the Committee to file all campaign statements.

VIOLATION

Count 1

According to Placer County LAFCO, the Committee submitted an Intent to Circulate a Petition for Incorporation of the town of Olympic Valley on June 28, 2013. On July 31, 2014, the Committee filed campaign statements covering the periods from January 1, 2013, through July 15, 2014. Thereafter, the Committee has filed monthly campaign statements and has withdrawn the LAFCO proposal.

By failing to timely file monthly campaign statements for the periods July 15, 2013, through July 15, 2014, the Committee violated section 84252.

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 the context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): (1) the seriousness of the violations; (2) the presence or lack of intent to conceal, deceive or mislead; (3) whether the violation was deliberate, negligent, or inadvertent; (4) whether the respondents 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 Respondent voluntarily filed an amendment to provide full disclosure.

The Commission also considers penalties in prior cases involving similar violations. While the Commission has not prosecuted this section of the Act involving LAFCO, this type of violation is similar to the failure to timely file a semi-annual campaign statement, disclosing financial activity of a committee. A recent similar case where the respondents failed to timely file semi-annual campaign statements includes:

⁶ Regulation 18417, effective January 1, 2014.

In the Matter of Robert Bernosky and Bernosky for Assembly 2012, FPPC No. 13/1162. In this matter, Bernosky and Bernosky for Assembly 2012 failed to timely file a semi-annual campaign statement, both in paper and electronic format, by the January 31, 2013 due date, in violation of Sections 84200, subd. (a) and 84605, subd. (a). In August 2015, the Commission imposed a \$2,500 penalty for this violation. In aggravation, this committee had previously been fined in the streamline program.

In this matter, the Committee failed to timely file one year of monthly campaign filings. Once notified, the Committee hired an attorney and professional treasurer, assisting the Committee to become compliant. Further, the IOV did post a tally of monetary receipts on their website, which disclosed more than what was required under the Act, as much of the money received was used for the cost of reports and studies, which are excluded from disclosure under the Act. While the Committee remains open, the LAFCO proposal was withdrawn in December 2015.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, a prior similar case, and other relevant factors, a penalty of \$2,500 is recommended.