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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. 14/1275
13)
14 BARRY CHANG, BARRY CHANG FOR) STIPULATION, DECISION and
15 CITY COUNCIL 2014, SUE CHANG, BARRY) ORDER
16 CHANG FOR ASSEMBLY 2014, and JOHN)
BARTAS,)
17 Respondents.)

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Barry Chang, Barry Chang for City Council 2014, Sue Chang, Barry Chang for Assembly
20 2014, and John Bartas agree that this Stipulation will be submitted for consideration by the Fair
21 Political Practices 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 Barry Chang, Barry Chang for City Council 2014, Sue Chang, Barry Chang for Assembly 2014,
26 and John Bartas understand, and hereby knowingly and voluntarily waive, any and all procedural rights
27 set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
28 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,

1 the right to personally appear at any administrative hearing held in this matter, to be represented by an
2 attorney at Barry Chang, Barry Chang for City Council 2014, Sue Chang, Barry Chang for Assembly
3 2014, and John Bartas' own expense, to confront and cross-examine all witnesses testifying at the
4 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
5 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

6 It is further stipulated and agreed that Barry Chang, Barry Chang for City Council 2014, and
7 Sue Chang failed to disclose on campaign statements 160 contributions received totaling \$24,280 and
8 occupation and employer information for approximately 35 individual contributors, in violation of
9 Government Code Section 84211, subdivisions (a), (c), and (f) (1 count), and that Barry Chang, Barry
10 Chang for Assembly 2014, and John Bartas failed to disclose on campaign statements occupation and
11 employer information for approximately 231 individual contributors, in violation of Government Code
12 Section 84211, subdivision (f) (1 count). These counts are described in Exhibit 1, which is attached
13 hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate
14 summary of the facts in this matter.

15 Barry Chang, Barry Chang for City Council 2014, Sue Chang, Barry Chang for Assembly 2014,
16 and John Bartas agree to the issuance of the Decision and Order, which is attached hereto. Barry
17 Chang, Barry Chang for City Council 2014, Sue Chang, Barry Chang for Assembly 2014, and John
18 Bartas also agree to the Commission imposing upon them an administrative penalty in amounts totaling
19 \$3,500. Cashier's checks from Barry Chang, Barry Chang for City Council 2014, Sue Chang, Barry
20 Chang for Assembly 2014, and John Bartas in said amount, made payable to the "General Fund of the
21 State of California," are submitted with this Stipulation as full payment of the administrative penalty, to
22 be held by the State of California until the Commission issues its decision and order regarding this
23 matter. The parties agree that in the event the Commission refuses to accept this Stipulation, it shall
24 become null and void, and within fifteen (15) business days after the Commission meeting at which the
25 Stipulation is rejected, all payments tendered by Barry Chang, Barry Chang for City Council 2014, Sue
26 Chang, Barry Chang for Assembly 2014, and John Bartas in connection with this Stipulation shall be
27 reimbursed to them. Barry Chang, Barry Chang for City Council 2014, Sue Chang, Barry Chang for
28 Assembly 2014, and John Bartas further stipulate and agree that in the event the Commission rejects

1 the Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any
2 member of the Commission, nor the Executive Director, shall be disqualified because of prior
3 consideration of this Stipulation.

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6 Dated: _____
7 Galena West, Chief of Enforcement
8 Fair Political Practices Commission

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10 Dated: _____
11 Barry Chang, Respondent, individually, and
12 on behalf of, Barry Chang for City Council 2014
13 and Barry Chang for Assembly 2014, Respondents

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15 Dated: _____
16 Sue Chang, Respondent, individually, and
17 on behalf of Barry Chang for City Council 2014,
18 Respondent

19 Dated: _____
20 John Bartas, Respondent, individually, and
21 on behalf of Barry Chang for Assembly 2014,
22 Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Barry Chang, Barry Chang for City
3 Council 2014, Sue Chang, Barry Chang for Assembly 2014, and John Bartas ,” FPPC No. 14/1275,
4 including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political
5 Practices Commission, effective upon 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

Respondent Barry Chang is currently serving as Mayor of Cupertino. He was first elected to the Cupertino City Council in 2008, and was a successful candidate for re-election to that office in the November 4, 2014 General Municipal Election. Respondent Barry Chang for City Council 2014 was his candidate controlled committee. Respondent Sue Chang served as its treasurer.

Barry Chang also ran unsuccessfully for Assembly in the June 3, 2014 Primary Election. Respondent Barry Chang for Assembly 2014 was his candidate controlled committee. Respondent John Bartas served as its treasurer.

The Political Reform Act¹ (the “Act”) requires committees to timely file campaign statements and reports and to disclose particular information. However, Barry Chang, Barry Chang for City Council 2014, Sue Chang, Barry Chang for Assembly 2014, and John Bartas failed to disclose occupation and employer information for contributions received.

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act’s provisions as they existed in 2014.

An express purpose of the Act is to ensure that contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters will be better informed and improper practices inhibited.² To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish the purposes of disclosure.

Duty to Disclose Contributions on Campaign Statements

Committees are required to disclose the total amount of contributions received during the period covered by the campaign statement.³ Committees must disclose, on each campaign statement, the total amount of contributions received during the period from persons who had given a cumulative amount of \$100 or more.⁴

Duty to Disclose Occupation and Employer Information

For contributions totaling \$100 or more candidates and their controlled committees are required to itemize on each semi-annual and pre-election campaign statement the following

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 81002, subdivision (a).

³ Section 84211, subdivision (a).

⁴ Section 84211, subdivision (c).

information about the contributor: his or her full name and street address; his or her occupation, and the name of his or her employer, or if self-employed, the name of his or her business; the date and amount of each contribution; and the cumulative amount of contributions received from the contributor.⁵

Liability of Committee Treasurers

Every committee must have a treasurer.⁶ 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.⁷ A committee's treasurer may be held jointly and severally liable with the committee for any reporting violations.⁸

SUMMARY OF THE FACTS

Barry Chang, Barry Chang for City Council 2014, and Sue Chang failed to disclose occupation and/or employer information for 35 individual contributors for contributions received during the July 1, 2014 through September 30, 2014 reporting period, totaling \$5,230. This represents approximately 20% of total contributors. An amendment filed nine days after the October 6, 2014 filing deadline included 160 new contributors (totaling \$24,280 in monetary contributions) not disclosed in the original filing. These new contributors accounted for 89% of total contributors for the reporting period, and 65% of monetary contributions received. Barry Chang, Barry Chang for Assembly 2014, and John Bartas failed to disclose occupation and/or employer information for 49 individual contributors for contributions received during the January 1, 2013 through June 30, 2013 reporting period, and 182 contributors for the March 18, 2014 through May 17, 2014 reporting period, for contributions totaling \$9,880, and \$48,621, respectively. This represents approximately 75% of total contributors.

VIOLATIONS

Count 1: Failure to Disclose Contributions Received and Occupation and Employer Information

Barry Chang, Barry Chang for City Council 2014, and Sue Chang failed to disclose on campaign statements 160 contributions received totaling \$24,280 and occupation and employer information for approximately 35 individual contributors, in violation of Government Code Section 84211, subdivisions (a), (c), and (f).

Count 2: Failure to Disclose Occupation and Employer Information

Barry Chang, Barry Chang for Assembly 2014, and John Bartas failed to disclose on campaign statements occupation and employer information for approximately 231 individual contributors, in violation of Government Code Section 84211, subdivision (f).

⁵ Section 84211, subdivision (f).

⁶ Section 84100.

⁷ Section 84100 and Regulation 18427, subdivision (a).

⁸ Sections 83116.5 and 91006.

CONCLUSION

This matter consists of two counts of violating the Act, which carries a maximum administrative penalty of 10,000.

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.

Recent similar cases where the respondents failed to disclose contributions received include:

- *In the Matter of Fernando Vasquez, Vasquez for Downey Council 2010, and Jane Leiderman, Treasurer, FPPC No. 11/057.* Respondents failed to report 17 contributions received totaling \$7,696 over two pre-election reporting periods for two counts. Respondents filed amended statements disclosing the contributions approximately three months after the election. The Commission approved settlement of this case on March 15, 2012, and the agreed upon penalty for each reporting violation was \$2,000 per count.
- *In the Matter of Xavier Campos, Xavier Campos for City Council 2010, and Linda Delgado; FPPC No. 13/177.* Respondents failed to timely report contributions received during two consecutive reporting periods totaling approximately \$3,665. On November 20, 2014, the Commission approved a \$2,000 penalty for this violation.

Recent similar cases where the respondents failed to disclose contributor occupation and employer information include:

- *In the Matter of Joe Yee, Friends of Joe Yee for City Council 2012, and Lynda Otto; FPPC No. 12/820.* Respondents failed to disclose occupation and employer information for 60 contributions over six reporting periods. The total amount of these contributions was \$11,525; which was approximately 7% of the total amount of all contributions received by the committee. On February 20, 2014, the Commission approved a \$1,500 penalty for this violation.
- *In the Matter of Sandra A. Volta Johnson, Sandra Johnson for City Council 2012, and Kimberly Underwood, FPPC 14/853.* Respondents failed to timely disclose the occupation and employer information for 20 individual contributors for contributions

received over three successive reporting periods totaling \$14,600; representing approximately 28% of the total contributions received by the committee. On August 20, 2015, the Commission approved a penalty of \$1,500 for this violation.

In the present case, Barry Chang, Barry Chang for City Council 2014, and Sue Chang failed to disclose timely disclose 160 contributors, who made contributions totaling \$24,280. Barry Chang, Barry Chang for City Council 2014, Sue Chang, Barry Chang for Assembly 2014, and John Bartas failed to disclose occupation and employer information for 266 individual contributors for contributions received over multiple reporting periods. Like the *Johnson* and *Yee* cases, this is a significant nondisclosure of occupation and employer information for contributions received, and a pattern of non-disclosure; as this information was not provided for individual contributors on multiple campaign statements.

In mitigation, Barry Chang, Barry Chang for City Council 2014, Sue Chang, Barry Chang for Assembly 2014, and John Bartas do not have a prior enforcement history, provided amendments after contact by Enforcement, and cooperated fully with the investigation.

PROPOSED PENALTY

After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant factors, a penalty of \$2,000 for Count One and \$1,500 for Count Two, for a total penalty of \$3,500 is recommended.

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