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

11 In the Matter of) FPPC No. 14/1387
12)
13)
14 JOHN BROSNAN, and JOHN) **STIPULATION, DECISION and ORDER**
15 BROSAN FOR DISTRICT 3)
16 SUPERVISOR 2014,)
Respondents.)

17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents John Brosnan, and John Brosnan for District 3 Supervisor 2014, hereby agree that this
20 Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next
21 regularly scheduled meeting.

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

25 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
26 rights set forth in Government Code Sections 83115.5, 11503 and 11523, and in California Code of
27 Regulations, title 2, Sections 18361.1 through 18361.9. This includes, but is not limited to the right to
28 personally appear at any administrative hearing held in this matter, to be represented by an attorney at

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

4 It is further stipulated and agreed that Respondents violated the Political Reform Act as
5 described in Exhibit 1: failed to file four preelection campaign statements and one semi-annual
6 campaign statement by the applicable due dates in 2014, violating Government Code Sections 84200,
7 subdivision (a), 84200.5, subdivision (a), and 84200.7, subdivisions (a) and (b). (1 count); and received
8 cash contributions of \$100 or more totaling \$5,000, violating Government Code Section 84300,
9 subdivision (a) (1 count).

10 Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein.
11 Exhibit 1 is a true and accurate summary of the facts in this matter.

12 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
13 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
14 Four Thousand Dollars (\$4,000). A cashier's check from Respondents in said amount, made payable to
15 the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
16 administrative penalty, and shall be held by the State of California until the Commission issues its
17 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to
18 accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
19 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
20 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
21 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
22 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
23 shall be disqualified because of prior consideration of this Stipulation.

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Dated: _____

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

Dated: _____

John Brosnan, Respondent, individually and on behalf of John
Brosnan for District 3 Supervisor 2014, Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of John Brosnan, and John Brosnan for District 3 Supervisor 2014,” FPPC Case No. 14/1387, 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

EXHIBIT 1

INTRODUCTION

Respondent John Brosnan was a successful candidate in the June 3, 2014 primary election, and an unsuccessful candidate in the November 4, 2014 general election for Lake County Supervisor. John Brosnan for District 3 Supervisor 2014 (the Committee) was Brosnan's candidate controlled committee. At all relevant times, Brosnan was treasurer of the Committee.

As a candidate and his controlled committee under Political Reform Act (the "Act")¹, Brosnan and the Committee had a duty to timely file campaign statements and reports and disclose particular information. But in 2014, Brosnan and the Committee failed to timely file four preelection campaign statements and one semi-annual campaign statement and received a prohibited cash contribution totaling \$5,000.

SUMMARY OF THE LAW

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

Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

When enacting the Political Reform Act, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities.² To that end, the Act must be liberally construed to achieve its purposes.³

There are many purposes of the Act. One purpose is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ Another is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced."⁵

Definition of Controlled Committee

A "committee" includes any person or combination of persons who receives contributions totaling \$1,000 or more in a calendar year,⁶ commonly known as a "recipient committee." A recipient committee which is controlled directly or indirectly by a candidate, or

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

² § 81001, subd. (h).

³ § 81003.

⁴ § 81002, subd. (a).

⁵ § 81002, subd. (f).

⁶ § 82013, subd. (a).

which acts jointly with a candidate in connection with the making of expenditures, is a “controlled committee.”⁷

Duty to File Semi-Annual Campaign Statements

The Act requires all candidates and committees pursuant to Section 82013, subdivision (a), to file semi-annual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.⁸ All filing obligations continue until the recipient committee is terminated by filing a statement of termination with the Secretary of State (SOS) and a copy with the local filing officer receiving the committee’s original campaign statements.⁹

Duty to File Preelection Campaign Statements

All candidates for offices voted upon in the June 3, 2014 primary election, and in the November 4, 2014 general election, and their controlled committees were required to file preelection statements as follows:

- 1) For the period ending March 17, the statement must have been filed no later than March 24;
- 2) For the period ending May 17, the statement must have been filed no later than May 22;
- 3) For the period ending September 30, the statement must have been filed no later than October 6;
- 4) For the period ending October 18, the statement must have been filed no later than October 23.¹⁰

All candidates voted upon in the election for which the statement was filed and their controlled committees must have filed the preelection statements due on May 22 and October 23 by guaranteed overnight delivery service or by personal delivery.¹¹

Prohibited Cash Contributions of \$100 or More

No contribution of \$100 or more may be made or received in cash.¹² All contributions of \$100 or more must be made in the form of a written instrument containing the name of the contributor and the name of the payee, and drawn from the account of the contributor.¹³

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⁷ § 82016, subd. (a).

⁸ § 84200, subd. (a); Reg. 18116, subd. (a).

⁹ § 84214; Reg. 18404, subd (b) – (e).

¹⁰ §§ 84200.5, subd. (a), and 84200.7, subd. (a) and (b); Reg. 18116, subd. (a).

¹¹ § 84200.7, subd. (a)(2) and (b)(2).

¹² § 84300, subd. (a).

¹³ § 84300, subd. (c).

Candidate and Treasurer Liability

Every committee must have a treasurer.¹⁴ It is the duty of a committee's candidate and 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.¹⁵ A committee's candidate and treasurer may be held jointly and severally liable with the committee for any reporting violations.¹⁶

SUMMARY OF THE FACTS

On May 29, 2013, Brosnan filed his statement of intention to run for the Lake County Board of Supervisors District 3. He filed the initial statement of organization on August 19, 2013, and filed a terminating statement of organization on June 4, 2015. According to the Committee's records, the Committee received total contributions of approximately \$40,420 and made total expenditures of approximately \$39,418.

The Enforcement Division confirmed during its investigation that the Committee's amended campaign statements substantially complied with the Act's campaign reporting requirements. But Brosnan and the Committee failed to timely file the following five original campaign statements for reporting periods in 2014:

Statement Type	Reporting Period	Date Due	Date Filed	Days Late	Total Reported Contributions (including Amendments)	Total Reported Expenditures (including Amendments)
460 Preelection	01/01 – 03/17/2014	03/24/2014	04/16/2014	23	\$0.00	\$576.90
460 Preelection	03/18 – 05/17/2014	05/22/2014	06/26/2014	35	\$10,320.00	\$9,136.06
460 Semi-annual	05/18 – 06/30/2014	07/31/2014	09/11/2014	42	\$0.00	\$374.01
460 Preelection	07/01 – 09/30/2014	10/06/2014	10/24/2014	18	\$20,000.00	\$9,238.34
460 Preelection	10/01 – 10/18/2014	10/23/2014	10/30/2014	7	\$0.00	\$2,999.96
TOTAL					\$30,320.00	\$22,325.27

These late-reported figures represent 75.01% of total contributions received and 56.64% of total expenditures made by the Committee.

Brosnan admitted that the Committee received \$5,000 in cash from his parents on June 19, 2013. This contribution was reported in the appropriate campaign statement.

¹⁴ § 84100.

¹⁵ § 84100; Reg. 18427.

¹⁶ §§ 83116.5 and 91006; Reg. 18316.6.

VIOLATIONS

Count 1: Failure to Timely File Campaign Statements

Brosnan and the Committee failed to file four preelection campaign statements and one semi-annual campaign statement by the applicable due dates in 2014, violating Government Code Sections 84200, subdivision (a), 84200.5, subdivision (a), and 84200.7, subdivisions (a) and (b).

Count 2: Prohibited Cash Contributions

Brosnan and the Committee received cash contributions of \$100 or more totaling \$5,000, violating Government Code Section 84300, subdivision (a).

CONCLUSION

This matter consists of two counts of violating the Act, which carries a maximum administrative penalty of \$5,000 per count, totaling \$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 involving the failure to timely file campaign statements include:

- *In the Matter of Virginia Mari Goodman, Mari Goodman for Assembly 34-2012, and Joan Slater*; FPPC No. 13/1327. Respondent, an unsuccessful candidate for State Assembly, her controlled committee and its treasurer, failed to file two preelection campaign statements for the November 2012 election, violating Sections 84200.5, subdivision (a), and 84200.7 (1 count). During 2012, Mari Goodman for Assembly 34-2012 received contributions totaling \$20,466 and made expenditures totaling \$16,673. On June 18, 2015 the Commission approved a \$2,500 penalty for this count.
- *In the Matter of Familias por Maywood, Veronica Guardado, and Ana Rosa Rizo*; FPPC No. 14/356. Respondents failed to timely file semi-annual campaign statements in 2008 and 2009, violating Section 84200, subdivision (a) (2 counts). During these semi-annual campaign statement periods, the respondents received contributions totaling approximately \$22,797, and made expenditures totaling approximately \$24,169. On June 19, 2014 the Commission approved a \$2,500 penalty per count.

Recent similar cases involving prohibited cash contributions include:

- *In the Matter of Arthur “Art” C. Brown, Art Brown for Orange County 4th District Supervisor 2010, Art Brown for City Council 2012, and Christie “Chris” L. Brown; FPPC No. 12/224.* Respondents received two contributions of \$100 or more in cash, in violation of Government Code Section 84300, subdivision (a) (1 count). On November 20, 2014, the Commission approved a \$1,500 penalty for this violation.

Brosnan and the Committee failed to timely file four preelection campaign statements and one semi-annual campaign statement, and the second preelection campaign statement for the Primary Election was filed nearly one month after the election. The late filing of campaign statements generally resulted in a lack of timely disclosure, depriving the public of important information regarding the sources and amounts of contributions and expenditures made in support of Brosnan.

Brosnan and the Committee also received a prohibited \$5,000 cash contribution, which represented over 12% of total contributions received by the Committee. Cash contributions are difficult to track, which makes it difficult to ensure compliance with campaign reporting requirements and contribution limits. However, Brosnan and the Committee disclosed this contribution in the appropriate campaign statement.

In mitigation, Brosnan and the Committee have no history of enforcement action and fully cooperated with the investigation. Brosnan was an unsuccessful candidate, acting as the Committee’s treasurer and managing a relatively small campaign. Brosnan and the Committee filed four of the five late-filed statements before the relevant elections, minimizing the public harm. And most of the contributions received by the Committee were from Brosnan and his family. The investigation did not reveal evidence of deliberate concealment or intent to deceive the public. And the Enforcement Division found that Brosnan and the Committee’s amended campaign statements substantially complied with the Act’s campaign reporting requirements.

PROPOSED PENALTY

After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant factors, the following penalty is recommended:

Count	Description	Penalty per count
1	Failure to Timely File Campaign Statements	\$2,500
2	Prohibited Cash Contributions	\$1,500
	Total Agreed Upon Penalty	\$4,000

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