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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of JUAN VARGAS, VARGAS 2000, and DEANNA LIEBERGOT, Respondents.	FPPC No.: 01/699 STIPULATION, DECISION and ORDER

Complainant Mark Krausse, Executive Director of the Fair Political Practices Commission, and Respondents Juan Vargas, Vargas 2000, and Deanna Liebergot hereby agree that this stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

The parties agree to enter into this stipulation to resolve all factual and legal issues raised in this matter, and to reach a final disposition without the necessity of holding an administrative hearing to determine the liability of Respondents.

Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in sections 83115.5, 11503, and 11523 of the Government Code, and in section 18361 of title 2 of the California Code of Regulations. This includes, but is not limited to, the right to personally appear at any administrative hearing held in this matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to

subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

It is further stipulated and agreed that Respondents Juan Vargas, Vargas 2000, and Deanna Liebergot committed four violations of the Political Reform Act by failing to timely disclose three late contributions, in violation of section 84203 of the Government Code, and failing to send major donor notifications to contributors of $5,000 or more, in violation of section 84105 of the Government Code, as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

Respondents agree to the issuance of the decision and order, which is attached hereto. Respondents also agree to the Commission imposing upon them an administrative penalty in the amount of Six Thousand Dollars ($6,000). A cashier's check from Respondents in said amount, made payable to the "General Fund of the State of California," is submitted with this stipulation as full payment of the administrative penalty, and shall be held by the State of California until the Commission issues its decision and order regarding this matter. The parties agree that in the event the Commission refuses to accept this stipulation, it shall become null and void, and within fifteen (15) business days after the Commission meeting at which the stipulation is rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to Respondents.

Respondents further stipulate and agree that in the event the Commission rejects the stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any member of the Commission, nor the Executive Director, shall be disqualified because of prior consideration of this stipulation.

Dated: _____

_____
Mark Krausse, Executive Director
Fair Political Practices Commission

Dated: _____

_____
Juan Vargas, Respondent

Dated: _____

_____
Vargas 2000, Respondent
By: Deanna Liebergot, Treasurer

Dated: _____

_____
Deanna Liebergot, Respondent

Dated: _____

_____
Fredric D. Woocher
Strumwasser & Woocher, LLP
Attorneys for Respondents

DECISION AND ORDER

The foregoing stipulation of the parties "In the Matter of Juan Vargas, Vargas 2000, and Deanna Liebergot, FPPC No. 01/699," 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 Chairman.

IT IS SO ORDERED.

Dated: _____

_____
Liane M. Randolph, Chairman
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Jaun Vargas was a successful candidate for California Assembly, Seventy-Ninth District, during the November 7, 2000 general election. Respondent Vargas 2000 (the "Committee") was a candidate controlled committee formed on September 2, 1999 by Respondent Vargas to support his bid for the Seventy-Ninth District Assembly seat. Respondent Deanna Liebergot was the treasurer for Respondent Committee at all times relevant to this proceeding.

The Political Reform Act (the "Act")[1] requires candidates and committees to comply with various campaign reporting requirements regarding the receipt of campaign contributions and the expenditure of campaign funds. In this matter, Respondents failed to comply with those campaign reporting requirements.

For the purposes of this stipulation, Respondents' violations are stated as follows:

COUNT 1: Respondents Juan Vargas, Vargas 2000, and Deanna Liebergot failed to disclose a $15,000 late contribution made on October 26, 2000 to the Assembly Democratic Leadership 2000 committee, in a properly filed late contribution report, by October 27, 2000, in violation of section 84203 of the Government Code.

COUNT 2: Respondents Juan Vargas, Vargas 2000, and Deanna Liebergot failed to disclose a $10,000 late contribution made on October 31, 2000 to the Senate Majority Fund, in a properly filed late contribution report, by November 1, 2000, in violation of section 84203 of the Government Code.

COUNT 3: Respondents Juan Vargas, Vargas 2000, and Deanna Liebergot failed to disclose a $10,000 late contribution made on November 1, 2000 to the Assembly Democratic Leadership committee, in a properly filed late contribution report, by November 2, 2000, in violation of section 84203 of the Government Code.

[1] The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

COUNT 4: On and between October 8, 1999 and November 16, 2000, Respondents Juan Vargas, Vargas 2000, and Deanna Liebergot failed to send major donor notification letters to contributors of $5,000 or more, in violation of section 84105 of the Government Code.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Duty to File Late Contribution Reports

One feature of this system is section 84203, which requires candidates and committees that make or receive a late contribution, to disclose that contribution in a late contribution report that must be filed within 24 hours of making or receiving the contribution. Section 82036 defines a "late contribution" as a contribution aggregating $1,000 or more that is received before an election, but after the closing date of the last pre-election statement. Under Section 84200.7, subdivision (b), for an election held in November of an even-numbered year, the late contribution period covers the last 16 days before the election.

Section 82013, subdivision (a) defines a "committee" as any person or combination of persons who directly or indirectly receives contributions totaling one thousand dollars ($1,000) or more in a calendar year. Section 82016 defines a "controlled committee" as a committee that is controlled directly or indirectly by a candidate or acts jointly with the candidate in connection with the making of expenditures. A candidate controls a committee if the candidate, the candidate's agent, or any other committee controlled by the candidate has a significant influence on the actions or decisions of the committee.

Under section 84213, it is the duty of every candidate to verify to the best of his or her knowledge that the campaign statements filed by his or her controlled committee are true and complete, and that the committee's treasurer has used all reasonable diligence in the preparation of such campaign statements.

Duty to Notify Contributors of $5,000 or More

When a committee receives a contribution of $5,000 or more, section 84105 requires the committee to notify the contributor that he or she may qualify as a "major donor committee" and therefore have a filing obligation under the Act. The notice must be in writing, and sent within two weeks of receiving the contribution. A contributor qualifies as a major donor committee by making contributions totaling $10,000 or more in a calendar year. (Section 82013, subdivision

(c).) Under regulation 18427.1, a committee has no obligation to send a major donor notification letter to a contributor, if the committee has previously sent a major donor notification letter to the contributor in the same calendar year.

Liability of Treasurer

As provided in section 84100, every committee shall have a treasurer. Under section 84100 and regulation 18427, subsection (a), it is the duty of the 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. Under sections 83116.5 and 91006, a committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

SUMMARY OF THE FACTS

Respondent Vargas 2000 was a candidate controlled committee, formed by Respondent Vargas to support his successful candidacy for the Seventy-Ninth District Assembly seat during the November 7, 2000 general election. Respondent Deanna Liebergot was the treasurer for Respondent Committee at all times relevant to these proceedings.

COUNTS 1-3
Failure to File Late Contribution Reports

As a candidate controlled committee, Respondent Committee had a duty to file late contribution reports, disclosing, within 24 hours, the late contributions that it made. The late contribution reporting period for the November 7, 2000 general election was October 22, 2000 through November 6, 2000.

Prior to the November 7, 2000 election, Respondent Committee made three late contributions as set forth in the table below, and failed to file late contribution reports disclosing the contributions:

Count	Contributor	Amount	Contribution	LCR Due	LCR Filed
1	Assembly Democratic Leadership	$15,000	10/26/2000	10/27/2000	Not filed
2	Senate Majority Fund	$10,000	10/31/2000	11/1/2000	Not filed
3	Assembly Democratic Leadership	$10,000	11/1/2000	11/2/2000	Not filed

By failing to file late contribution reports disclosing three late contributions, as set forth above, Respondents committed three violations of Section 84203.

COUNT 4
Failure to Send Major Donor Notification Letters

Under section 84105, Respondents were required to notify any person who contributed $5,000 or more to Respondent Committee that the contributor may be obligated to file campaign statements as a major donor committee. The notification was required to be made within two weeks of the date that the $5,000 threshold was met.

Because Respondent Liebergot was not aware of the requirement to send major donor notification letters, Respondent Committee did not send any major donor notifications to its contributors of $5,000 or more, during the period October 8, 1999 through November 6, 2000. Fortunately, Respondent Committee's failure to notify these contributors did not result in any major donor non-filing violations.

However, by failing to send major donor notification letters to contributors of $5,000 or more, Respondents violated section 84105.

CONCLUSION

This matter consists of four counts, which carry a maximum possible administrative penalty of $2,000 for each violation, for a maximum penalty of Eight Thousand Dollars ($8,000).

Under the Enforcement Division's Streamlined Late Contribution Enforcement Program, the approved administrative penalty for failing to timely disclose late contributions is 15 percent of the amount of the undisclosed contributions. Although this case has been excluded from the Program, as it involved more than late contribution non-filing violations, the late contribution reporting violations in this case do not appear to be especially aggravated, and as such, imposition of a penalty approximating that standard penalty is appropriate. Respondent's failure to notify potential major donors did not result in other violations of Act, and as such, a penalty in the middle of the penalty range for that violation is appropriate.

The facts of this case therefore justify imposition of the agreed upon penalty of $5,000 for Counts One through Three, and $1,000 for Count Four, for a total administrative penalty of Six Thousand Dollars ($6,000).