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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
10 STATE OF CALIFORNIA  
11

12 In the Matter of ) FPPC No. 11/337  
13 )  
14 LYNWOOD TEACHER’S ASSOCIATION ) STIPULATION, DECISION and  
PAC AND MICHAEL JOCHUM, ) ORDER  
15 Respondent. )  
16 )  
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18 Complainant, the Fair Political Practices Commission, Respondent Lynwood Teacher’s  
19 Association PAC (“Respondent Committee”) and Respondent Michael Jochum (“Respondent Jochum”),  
20 hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices  
21 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 Respondents Committee and Jochum.

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

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

5         It is further stipulated and agreed that Respondent Committee violated the Political Reform Act  
6 by: 1) making an expenditure of campaign funds for purposes other than reasonably related to a  
7 political, legislative or governmental purpose, in violation of Section 89512.5, subdivision (a) (1 Count).  
8 It is further stipulated and agreed that Respondents Committee and Jochum violated the Political Reform  
9 Act by: 2) failing to timely file a semi-annual campaign statement for the reporting period July 1, 2010,  
10 through December 31, 2010, which was due by January 31, 2011, in violation of Section 84200,  
11 subdivision (a) (1 Count); and 3) failing to maintain the detailed accounts, records, bills, and receipts  
12 necessary to prepare the semi-annual campaign statement, for the reporting period of July 1, 2010,  
13 through December 31, 2010, to establish that the campaign statement was properly filed, and to comply  
14 with the campaign reporting provisions of the Act, in violation of Section 84104 (1 Count), as described  
15 in Exhibit 1, which is attached hereto and incorporated by reference, as though fully set forth herein.  
16 Exhibit 1 is a true and accurate summary of the facts in this matter.

17         Respondents agree to the issuance of the Decision and Order, which is attached hereto.  
18 Respondents also agree to the Commission imposing upon it an administrative penalty in the amount of  
19 Seven Thousand Five Hundred Dollars (\$7,500), of which Respondent Committee is liable for the full  
20 amount and Respondent Committee and Respondent Jochum are jointly and severally liable for \$4,500.  
21 A cashier's check or money order from Respondents in said amount, made payable to the "General Fund  
22 of the State of California," is submitted with this Stipulation as full payment of the administrative  
23 penalty, and shall be held by the State of California until the Commission issues its decision and order  
24 regarding this matter. The parties agree that in the event the Commission refuses to accept this  
25 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission  
26 meeting at which the Stipulation is rejected, all payments tendered by Respondents in connection with  
27 this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and agree that in the  
28 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission

1 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be  
2 disqualified because of prior consideration of this Stipulation.

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4 Dated: \_\_\_\_\_

\_\_\_\_\_  
5 Gary Winuk, Enforcement Chief, on behalf of the  
6 Fair Political Practices Commission

7 Dated: \_\_\_\_\_

\_\_\_\_\_  
8 Michael Jochum, individually and on behalf of Lynwood  
9 Teacher's Association PAC, Respondents

10 Dated: \_\_\_\_\_

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11 Joe Serrano, on behalf of Lynwood Teacher's Association  
12 PAC, Respondent

**DECISION AND ORDER**

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The foregoing Stipulation of the parties “In the Matter of Lynwood Teacher’s Association PAC and Michael Jochum, FPPC No. 11/337,” 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: \_\_\_\_\_  
Ann Ravel, Chair  
Fair Political Practices Commission

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Lynwood Teachers Association PAC (“Respondent Committee”) is a county general purpose committee in Los Angeles County. At all relevant times, Respondent Michael Jochum (“Respondent Jochum”) was the Respondent Committee’s treasurer.

The Political Reform Act (the “Act”)<sup>1</sup> requires a county general purpose committee to file periodic campaign statements, to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, in order for voters to be fully informed, and improper practices inhibited. In this matter, Respondents used campaign funds for purposes other than reasonably related to a political, legislative or governmental purpose, failed to timely file one semi-annual campaign statement, and failed to maintain records, as required by the Act.

For the purposes of this Stipulation, Respondents’ violations of the Act are stated as follows:

**COUNT 1:** Respondent Lynwood Teachers Association PAC made an expenditure of campaign funds for purposes other than reasonably related to a political, legislative or governmental purpose, in violation of Section 89512.5, subdivision (a).

**COUNT 2:** Respondents Lynwood Teachers Association PAC and Michael Jochum failed to timely file a semi-annual campaign statement for the reporting period July 1, 2010, through December 31, 2010, which was due by January 31, 2011, in violation of Section 84200, subdivision (a).

**COUNT 3:** Respondents Lynwood Teachers Association PAC and Michael Jochum failed to maintain the detailed accounts, records, bills, and receipts necessary to prepare the semi-annual campaign statement, for the reporting period of July 1, 2010, through December 31, 2010, to establish that the campaign statement was properly filed, and to comply with the campaign reporting provisions of the Act, in violation of Section 84104.

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns be fully and truthfully disclosed, in order for voters to be fully informed, and improper practices inhibited. To that end, the Act sets forth a comprehensive campaign reporting system.

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<sup>1</sup> 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 18110 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.

## **County General Purpose Committee**

Under the Act's campaign reporting system, recipient committees, as defined in Section 82013, subdivision (a), are required to file certain specified campaign statements and reports.

Under the Act, there are different types of recipient committees, defined by the type of election activity in which they engage. A recipient committee that is formed or exists to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county is defined, at Section 82027.5, subdivision (c), as a “county general purpose committee.”

### Duty to File Semi-Annual Campaign Statements

Section 84200, subdivision (a), requires recipient committees to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1 through June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 through December 31, and must be filed by January 31 of the following year. Section 84215, subdivision (c), requires a county general purpose committee to file the original and one copy of campaign statements with the election official of the county.

### Duty to Use Campaign Funds for a Political, Legislative or Governmental Purpose

Section 89512.5, subdivision (a), requires that expenditures made by a committee not controlled by a candidate must be reasonably related to a political, legislative, or governmental purpose of the committee.

### Duty to Maintain and Retain Records

To ensure accurate campaign reporting, Section 84104 imposes a mandatory duty on each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills and receipts that are necessary to prepare campaign statements, to establish that campaign statements were properly filed and to comply with the campaign reporting provisions of the Act. This requirement, as further stated by Regulation 18401, includes a duty to maintain detailed information and original source documentation for all contributions and expenditures.

Regulation 18401, subdivision (b)(2), requires the filer of the committee campaign statements to retain the above described campaign records for four years following the date that the campaign statement to which they relate is filed.

### Treasurer Liability

Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (a), 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. A committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006; Regulation 18426.1.)

## SUMMARY OF THE FACTS

Respondent Committee's campaign statements and activity disclosed therein establish that it was a county general purpose committee at all relevant times. Respondent Jochum was the Treasurer at least from January 1, 2010, until August 24, 2011, when a new treasurer filed and signed the semi-annual campaign statement.

As a county general purpose committee, Respondents were required to and failed to timely file a semi-annual campaign statement for the period July 1, 2010, through December 31, 2010, which was due by January 31, 2011. After contact from the Enforcement Division, on August 24, 2011, Respondent Committee filed a pre-election campaign statement for the period July 1, 2010, through September 30, 2010. This pre-election campaign statement disclosed that the Respondent Committee had \$5,000 of activity, but failed to disclose how the \$5,000 was used.

Further investigation revealed that the \$5,000 was paid by the Respondent Committee to the Lynwood Teacher's Association, which needed the money to pay bills that were unrelated to a political, legislative or governmental purpose. According to the Respondent Committee's new treasurer, the records for the period July 1, 2010, through December 31, 2010, were not maintained and he was unaware of Respondent Committee activity during this period. As a result, Respondent Committee was unable to timely complete the campaign statement. The Enforcement Division issued a subpoena and received a copy of the \$5,000 check written from the Respondent Committee to the Lynwood Teacher's Association. The memo portion of the check stated "Measure L on Nov 2." However, none of the Measure L committees disclosed receiving a contribution from Respondent Committee. According to the Respondent Committee's new treasurer, the account for the Lynwood Teacher's Association was in arrears and needed to pay bills and payroll. According to bank records, the \$5,000 was used to pay the Lynwood Teacher's Association bills and payroll. As a result of this settlement, the Lynwood Teacher's Association paid the \$5,000 back to the Respondent Committee and filed the semi-annual campaign statement, disclosing all of the Respondent Committee activity.

### COUNT 1

#### **Making an Expenditure of Campaign Funds for Purposes Other than a Political, Legislative or Governmental Purpose**

Section 89512.5, subdivision (a), requires that expenditures of campaign funds made by a committee not controlled by a candidate must be reasonably related to a political, legislative, or governmental purpose of the committee. Bank records show that Respondent Committee wrote a check for \$5,000 to the Lynwood Teacher's Association in October of 2010, signed by Hector Marquez. According to Mr. Marquez, the previous Lynwood Teacher's Association President Delilah Outley asked him to write the check because the Respondent Jochum was unavailable due to some medical issues and he was still on the bank signature card. Further, he stated that Ms. Outley asked him to write "Measure L on Nov 2" in the memo portion of the check. He thought the money was used for Measure L. According to an interview of Ms. Outley, she thought the money was used for Measure L also.

In fact, the \$5,000 check from Respondent Committee was deposited into the Lynwood Teacher's Association bank account. At that time, the Lynwood Teacher's Association bank account was in arrears approximately -\$209. The \$5,000 was used to pay bills and payroll of the Lynwood Teacher's Association, which was unrelated to the Respondent Committee. There were no expenditures made to support or oppose Measure L. Lynwood Teacher's Association has paid back the \$5,000 to Respondent Committee, as a result of this settlement.

Therefore, Respondent Committee violated Section 89512.5, subdivision (a), by making an expenditure of campaign funds by a committee not controlled by a candidate that was not reasonably related to a political, legislative, or governmental purpose of the committee.

### COUNT 2

#### **Failure to File a Semi-Annual Campaign Statement**

Respondents Committee and Jochum were required to and failed to timely file a semi-annual campaign statement for the reporting period July 1, 2010, through December 31, 2010, which was due by January 31, 2011. The Enforcement Division informed the Respondent Committee that they were required to file this campaign statement. On August 24, 2011, Respondent Committee filed a pre-election campaign statement for the period July 1, 2010, through September 30, 2010. However, this pre-election campaign statement disclosed that the Respondent Committee had \$5,000 less in the bank account, but failed to disclose how \$5,000 was used. Respondent Committee has filed a semi-annual campaign statement for the period July 1, 2010, through December 31, 2010, disclosing all campaign activity, as a result of this settlement.

Therefore, Respondents Committee and Jochum were required to and failed to timely file a semi-annual campaign statement that covered the reporting period July 1, 2010, through December 31, 2010, on or before January 31, 2011, in violation of Section 84200, subdivision (a).

### COUNT 3

#### **Failure to Maintain and Retain Campaign Records**

Respondents Committee and Jochum had a duty to and failed to maintain and retain campaign records for the reporting period July 1, 2010, through December 31, 2010. According to Respondent Committee's new treasurer, Respondents failed to maintain and retain any campaign records during this reporting period. Further, the new treasurer did not have access to the Respondent Committee bank account. As a result, the Enforcement Division issued bank subpoenas to determine financial activity of the Respondent Committee.

Therefore, Respondents Committee and Jochum failed to maintain and retain detailed accounts, records, bills, and receipts necessary to prepare the semi-annual campaign statement for the reporting period July 1, 2010, through December 31, 2010, to establish that the campaign statement was properly filed, and to comply with the campaign reporting provisions of the Act, in violation of Section 84104.

## CONCLUSION

This matter involves three counts of violating the Act which carries an administrative penalty of \$5,000 per violation, for a total maximum penalty of \$15,000.

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division 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 Enforcement Division considers the facts and circumstances of the violation in 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 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 the Respondent, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

**Count 1:** Making an expenditure of campaign funds for purposes other than reasonably related to a political, legislative or governmental purpose is a serious violation of the Act. This type of violation undermines the basic purpose of the Act.

There are no other cases recently approved regarding using campaign funds of a committee not controlled by a candidate for purposes other than reasonably related to a political, legislative or governmental purpose. However, cases involving personal use of campaign funds associated with seeking or holding office, in violation of Section 89512, are similar in nature. The following cases were approved by the Commission:

*In the Matter of Ken Bukowski and Citizens to Elect Ken Bukowski*, FPPC No. 06/029. (Default Decision) This case involved one count of using campaign funds in the amount of approximately \$2,290 for personal use, one recordkeeping violation, four counts of failing to timely file semi-annual campaign statements, along with multiple other violations, for a total of eleven counts. A \$5,000 penalty for the personal use of campaign funds was approved by the Commission on October 8, 2009. A \$2,000 penalty for the recordkeeping violation, a \$2,000 penalty for the post election semi-annual campaign statement and a \$1,000 penalty for the semi-annual campaign statements were approved by the Commission on October 8, 2009.

*In the Matter of Barbara Dore and Dore for Water Board*, FPPC Nos. 05/739, 08/592, 08/218, 09/192. (Default Decision) This case involved one count of using campaign funds in the amount of at least \$2,500 for personal use, seven counts of failing to timely file semi-annual campaign statements, along with multiple other violations, for a total of eleven counts. A \$3,500 penalty for the personal use of campaign funds was approved by the Commission on October 8, 2009, along with a \$3,000 penalty for failure to file semi-annual campaign statements where there was significant financial activity and \$2,500 penalty for failure to file semi-annual campaign statements where there was little financial activity.

Regarding Count 1, the previous cases cited are more aggravated since these cases involved personal benefit to a candidate. In this case, \$5,000 was used to pay bills and payroll for expenses unrelated to Respondent Committee. However, the money was not misused for an

individual's personal benefit. Further, Respondent Committee's new treasurer and the newly elected President of the Lynwood Teacher's Association have been cooperative with the Enforcement Division. Therefore, imposition of an administrative penalty in the amount of Three Thousand Dollars (\$3,000) is recommended.

**Count 2:** Failing to file campaign statements is a serious violation of the Act because it deprives the public of important information about the Respondent Committee's financial activity. In this matter, Respondents failed to timely file one required semi-annual campaign statement.

Recent penalties approved by the Commission include:

*In the Matter of Kai Stinchcombe and Vote for Kai-Assembly 2010*, FPPC No. 10/652. This case involved 2 counts of failing to timely file semi-annual campaign statements. A penalty of \$2,000 per count was approved by the Commission on May 17, 2012.

*In the Matter of Alhambra Firefighters PAC and Sergio Casanova*, FPPC No. 10/521. (Default Decision) This case involved a state general purpose committee that failed to file three semiannual campaign statements. A \$2,500 penalty for each count was approved by the Commission on September 22, 2011.

Regarding Count 2, this case is aggravated by the fact that Respondent Committee failed to file a campaign statement during a time where campaign funds were used for purposes other than political, legislative or governmental. However, the Respondent Committee has cooperated with the Enforcement Division and has filed the delinquent semi-annual campaign statement, disclosing the financial activity. Therefore, imposition of an administrative penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) is recommended.

**Count 3:** Recordkeeping violations have ranged from the low to high end of the available penalty range depending on the facts and circumstances of each case. In this matter, Respondents had no records to verify the political activity of the Respondent Committee, which is aggravated by the fact that records were not readily available to determine the improper use of campaign funds.

Recent penalties approved by the Commission include:

*In the Matter of Ken Bukowski and Citizens to Elect Ken Bukowski*, FPPC No. 06/029. (Default Decision) As discussed further above, a \$2,000 penalty for the recordkeeping violation was approved by the Commission on October 8, 2009.

*In the Matter of Arturo Chacon and Art Chacon for Water Board 2010*, FPPC No. 08/652. This case involved two counts of recordkeeping violation, along with multiple reporting violations and making and receiving cash over \$100, for a total of 13 Counts. A \$2,000 penalty for each recordkeeping count was approved by the Commission on February 10, 2011.

Regarding Count 3, this case is similar in that the failure to maintain and retain records makes it difficult to determine the financial activity of a committee. In this case, the fact that no

records were maintained by Respondent Jochum made it difficult for the Respondent Committee's new treasurer and the newly elected President of the Lynwood Teacher's Association to determine what financial activity occurred during the July 1, 2010, through December 31, 2010, semi-annual campaign statement reporting period. Further, the failure to maintain the records made it difficult to determine how \$5,000 was used during this period. However, Respondent Committee's new treasurer and the newly elected President of the Lynwood Teacher's Association have cooperated with the investigation. Therefore, imposition of an administrative penalty in the amount of Two Thousand Dollars (\$2,000) is recommended.

### **PROPOSED PENALTY**

After consideration of the factors of Regulation 18361.5, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of Seven Thousand Five Hundred Dollars (\$7,500) is recommended.