

1 GARY S. WINUK  
Chief of Enforcement  
2 GALENA WEST  
Senior Commission Counsel  
3 **FAIR POLITICAL PRACTICES COMMISSION**  
428 J Street, Suite 620  
4 Sacramento, CA 95814  
Telephone: (916) 322-5660

5 Attorneys for Complainant  
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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA  
10  
11

12 In the Matter of ) FPPC No. 11/448  
13 )  
14 ) STIPULATION, DECISION and  
15 PROTECTMARRIAGE.COM - YES ON 8, A ) ORDER  
16 PROJECT OF CALIFORNIA RENEWAL )  
AND DAVID BAUER, )  
17 Respondents. )

18 Complainant the Enforcement Division of the Fair Political Practices Commission, and  
19 Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer agree  
20 that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its  
21 next regularly scheduled meeting.  
22

23 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this  
24 matter and to reach a final disposition without the necessity of holding an administrative hearing to  
25 determine the liability of Respondents, pursuant to Section 83116 of the Government Code.

26 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural  
27 rights 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,  
the right to personally appear at any administrative hearing held in this matter, to be represented by an

1 attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the  
2 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge  
3 preside over the hearing as a hearing officer, and to have the matter judicially reviewed. It is further  
4 stipulated and agreed that Respondents ProtectMarriage.com – Yes on 8, A Project of California  
5 Renewal Committee and David Bauer violated the Political Reform Act failing to timely file late  
6 contribution reports, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code  
7 (6 counts); by failing to timely file \$1,000 online election cycle reports, in violation of Government  
8 Code Section 85309, subdivision (b) (8 counts); by failing to timely file \$5,000 online reports, in  
9 violation of Government Code Section 85309, subdivision (d) (2 counts); by failing to properly dispose  
10 of an anonymous contribution, in violation of Section 84304 of the Government Code (1 count); and by  
11 failing to disclose certain information regarding persons who contributed \$100 or more, in violation of  
12 Section 84211, subdivision (f), of the Government Code (1 count). All counts are described in Exhibit  
13 1, which is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a  
14 true and accurate summary of the facts in this matter.

15 Respondents agree to the issuance of the Decision and Order, which is attached hereto.  
16 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount  
17 of Forty Nine Thousand Dollars (\$49,000). A cashier's check from Respondents in said amount, made  
18 payable to the "General Fund of the State of California," is submitted with this Stipulation as full  
19 payment of the administrative penalty, to be held by the State of California until the Commission issues  
20 its decision and order regarding this matter. The parties agree that in the event the Commission refuses  
21 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the  
22 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in  
23 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and  
24 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the  
25 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,  
26 shall be disqualified because of prior consideration of this Stipulation.

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

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Gary Winuk, Enforcement Chief,  
on behalf of the  
Fair Political Practices Commission

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

\_\_\_\_\_  
David Bauer, Respondent,  
Individually and on behalf of  
ProtectMarriage.com – Yes on 8,  
A Project of California Renewal

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of ProtectMarriage.com – Yes on 8, A  
3 Project of California Renewal and David Bauer,” FPPC No. 11/448, including all attached exhibits, is  
4 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective  
5 upon execution below by the Chairman.

6  
7 IT IS SO ORDERED.

8  
9 Dated: \_\_\_\_\_

\_\_\_\_\_   
Ann Ravel, Chair  
Fair Political Practices Commission

## EXHIBIT 1

### INTRODUCTION

Respondent ProtectMarriage.com – Yes on 8, A Project of California Renewal (“Respondent Committee”) is a state primarily formed committee. At all time relevant, Respondent David Bauer (“Respondent Bauer”) served as treasurer of Respondent Committee. Respondent Committee is sponsored by California Renewal. This case arose from Franchise Tax Board (“FTB”) audit of Respondent Committee for the period January 1, 2007 through December 31, 2008. During the period covered by the audit, Respondent Committee reported receiving contributions of approximately \$40,132,138 and making expenditures of approximately \$39,688,788.

As a primarily formed committee under the Political Reform Act<sup>1</sup> (the “Act”), Respondents have a duty to timely file campaign statements and reports and disclose particular information. However, Respondents 1) failed to timely file late contribution reports; 2) failed to timely file election cycle reports; 3) failed to timely file \$5,000 reports; 4) failed to properly dispose of an anonymous contribution; and 5) failed to disclose certain information regarding persons who contributed \$100 or more.

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

#### Late Contribution Reports

COUNT 1: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$11,099 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about October 21, 2008 through October 25, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

COUNT 2: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$25,340 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about October 26, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

COUNT 3: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$28,625 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about October 27, 2008 and October 28, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

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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.

COUNT 4: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$43,100 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about October 29, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

COUNT 5: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$508,150 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about October 30, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

COUNT 6: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$38,110 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about October 31, 2008 through November 4, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

### **\$1,000 Online Reports**

COUNT 7: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$24,000 during the 90-day election cycle ending on November 4, 2008, due on or about August 6, 2008 through August 10, 2008, in violation of Government Code Section 85309, subdivision (b).

COUNT 8: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$109,500 during the 90-day election cycle ending on November 4, 2008, due on or about August 11, 2008, in violation of Government Code Section 85309, subdivision (b).

COUNT 9: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$47,500 during the 90-day election cycle ending on November 4, 2008, due on or about August 12, 2008 through August 18, 2008, in violation of Government Code Section 85309, subdivision (b).

COUNT 10: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$36,000 during the 90-day election cycle ending on November 4, 2008, due on or about August 20, 2008 through August 29, 2008, in violation of Government Code Section 85309, subdivision (b).

COUNT 11: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$58,000 during the 90-day election cycle ending on November 4, 2008, due on or about August 31, 2008, in violation of Government Code Section 85309, subdivision (b).

COUNT 12: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$82,551 during the 90-day election cycle ending on November 4, 2008, due on or about September 2, 2008 through September 17, 2008, in violation of Government Code Section 85309, subdivision (b).

COUNT 13: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$46,642 during the 90-day election cycle ending on November 4, 2008, due on or about September 18, 2008 through September 30, 2008, in violation of Government Code Section 85309, subdivision (b).

COUNT 14: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$15,675 during the 90-day election cycle ending on November 4, 2008, due on or about October 2, 2008 through October 18, 2008, in violation of Government Code Section 85309, subdivision (b).

### **\$5,000 Online Reports**

COUNT 15: On or about July 21, 2008, outside the 90-day election cycle, Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer received contributions of \$5,000 or more, totaling \$40,000, and failed to disclose the contributions within 10 business days of receipt in an online campaign report, in violation of Government Code Section 85309, subdivision (d).

COUNT 16: On or about August 5, 2008, outside the 90-day election cycle, Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer received contributions of \$5,000 or more, totaling \$55,000, and failed to disclose the contributions within 10 business days of receipt in an online campaign report, in violation of Government Code Section 85309, subdivision (d).

### **Anonymous Contribution**

COUNT 17: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to properly dispose of an anonymous \$10,000 contribution, received on or about October 28, 2008, in violation of Section 84304 of the Government Code.

### **\$100 or More Contributor Information**

COUNT 18: Respondents ProtectMarriage.com – Yes on 8, A Project of California Renewal and David Bauer failed to disclose occupation and/or employer information for persons who contributed \$100 or more on campaign statements for 188 individual contributors for contributions received totaling \$61,945, in violation of Section 84211, subdivision (f), 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 receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act, therefore, establishes a campaign reporting system designed to accomplish this purpose of disclosure.

### **Duty to File Campaign Statements**

Section 82013, subdivision (a), defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly known as a “recipient committee.” Section 82047.5 defines a “primarily formed committee” to include “a committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose... [a] single measure....” Under the Act’s campaign reporting system, state primarily formed ballot measure committees are required to file specified campaign statements and reports disclosing contributions received and expenditures made by certain deadlines with the Secretary of State’s office (“SOS”). (See Sections 84200 – 84209.) A “contribution” is a payment made for political purposes. (Section 82015.)

### **Duty to File Late Contribution Reports**

Under Section 84203, subdivisions (a) and (b), when a committee makes or receives a late contribution, the committee must disclose the contribution in a late contribution report within 24 hours of making or receiving the contribution. Section 82036, subdivision (b), defines a “late contribution,” in relevant part, as a contribution which totals in the aggregate one thousand dollars (\$1,000) or more that is made to or received by a committee formed or existing primarily to support or oppose a candidate or measure before the date of any state election but after the closing date of the last campaign statement required to be filed before the election. Under Sections 84200.7 and 84200.8, the late contribution reporting period of an election covers the last 16 days before the election. Section 84203, subdivision (e), provides that paper copies are not required when this information has been disclosed online pursuant to Section 85309, subdivisions (a) or (b).

### **Duty to File Reports Online**

In order to maximize the availability of information regarding campaign disclosure to the public, the Act requires any candidate, officeholder, committee, or other person who is required to file statements, reports, or other documents in connection with a state elective office to file them *online* or *electronically* when the total cumulative reportable amount of contributions received,

expenditures made, loans made, or loans received is \$50,000 or more<sup>2</sup>. (Section 84605, subd. (a).) Once a person or entity is required to file online or electronically, the person or entity is required to file all subsequent reports online or electronically as well. (Section 84605, subd. (g).) Persons filing online or electronically are also required to continue to file required disclosure statements and reports in paper format, which continue to be the official filing for audit and other legal purposes until the Secretary of State determines the online or electronic disclosure system is operating securely and effectively. (Section 84605, subd. (i).)

### **Duty to Report Contributions of \$1,000 or More Received During the Election Cycle**

A primarily formed ballot measure committee who is required to file reports pursuant to Section 84605 shall file online or electronically with the SOS a report disclosing receipt of a contribution of \$1,000 or more received during an election cycle. This campaign report shall disclose the same information required by subdivision (a) of Section 84203<sup>3</sup> and shall be filed within 24 hours of receipt of the contribution. (Section 85309, subd. (b).) “Election cycle” for the purposes of Section 85309 means the period of time commencing 90 days prior to an election and ending on the date of the election. (Section 85204.)

### **Duty to Report Contributions of \$5,000 or More Received Outside the Election Cycle**

A primarily formed ballot measure committee who is required to file reports pursuant to Section 84605 shall file online or electronically with the SOS within 10 business days a report disclosing receipt of a contribution of \$5,000 or more that is received at any other time than during the election cycle. (Section 85309, subdivision (d).) This campaign report must disclose specified information regarding the contribution. (*Ibid.*)

### **Prohibition Against Anonymous Contributions**

Section 84304 states that “[n]o person shall make an anonymous contribution or contributions to a candidate, committee or any other person totaling one hundred dollars (\$100) or more in a calendar year.” In addition, any “anonymous contribution of one hundred dollars (\$100) or more shall not be kept by the intended recipient” but shall be “promptly paid” to the General Fund of the State.

### **Duty to Disclose Contributor Information on Campaign Statements**

Section 84211, subdivision (f), requires a committee to report on each of its campaign statements the following information about a person if the cumulative amount of contributions received from that person is \$100 or more and a contribution has been received from that person during the reporting period covered by the campaign statement: (1) the contributor’s full name; (2)

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<sup>2</sup> Although the current threshold to qualify as an electronic filer is \$25,000 under Section 84605, in 2008, the qualifying threshold was \$50,000. All law sections referred to in this Exhibit reflect the law as it was in effect at the time of the violation.

<sup>3</sup> Section 84203, subdivision (a), requires that recipients of contributions must report “his or her full name and street address, the date and amount of the late contribution, and whether the contribution was made in the form of a loan. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.”

the contributor's street address; (3) the contributor's occupation; (4) the name of the contributor's employer, or if self-employed, the name of the contributor's business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor. Section 84211, subdivision (g), includes these same requirements for a person if the cumulative amount of loans received from that person is \$100 or more. "Cumulative amount" means the amount of contributions received in the calendar year. (Section 82018, subd. (a).)

**Liability of Committee Treasurers**

As provided in Section 84100, every committee shall have a treasurer. Under 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. 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 Committee is a state primarily formed committee formed to support Proposition 8 in the November 4, 2008 General Election. At all time relevant, Respondent Bauer served as treasurer of Respondent Committee, which is sponsored by California Renewal.

**COUNTS 1-6**

**Failure to Timely File Late Contribution Reports**

For the November 4, 2008 General Election, Respondents were required to file late contribution reports within 24 hours of receiving or making contributions of \$1,000 or more during the late reporting period, October 19, 2008 through November 3, 2008. Respondents failed to timely file 14 late contribution reports for that election for contributions *received* aggregating \$1,000 or more from a single source.

Respondents, as electronic filers, were required to file these reports electronically. The following late contribution reports were not timely filed on paper<sup>4</sup> or electronically:

<b>Count</b>	<b>Name of Contributor</b>	<b>Amount Not Disclosed Timely on LCR</b>	<b>Date LCR Threshold Reached</b>	<b>Total Amount Not Reported</b>
<b>1</b>	Anthony Celaya	\$2,500	10/20/08	\$11,099
	Lynn Markham	\$1,000	10/21/08	
	Mauricio Vela	\$1,000	10/23/08	

<sup>4</sup> Pursuant to Section 84203, subdivision (e), paper copies are not required when this information has been disclosed online pursuant to Section 85309, subdivisions (a) or (b).

	Rose Adams	\$2,500	10/23/08	
	Julie Christensen	\$1,000	10/24/08	
	Pamela K. Smith	\$1,000	10/24/08	
	Randy Barnaby	\$1,000	10/24/08	
	Elaine Schader	\$1,099	10/24/08	
2	Bonnie Namminga	\$1,000	10/25/08	\$25,340
	Bruce A. Mettler	\$1,000	10/25/08	
	Douglas W. Roberts	\$1,000	10/25/08	
	Frank J. Bourbeau	\$1,000	10/25/08	
	Gene Willis TTEE	\$1,000	10/25/08	
	James Hirst	\$1,000	10/25/08	
	John M. Murray	\$1,000	10/25/08	
	Joy Yang	\$1,000	10/25/08	
	Leslie K. Shih	\$1,000	10/25/08	
	Rose Ann Swank	\$1,000	10/25/08	
	Ruth E. Assily	\$1,000	10/25/08	
	Ryan M. Trimble	\$1,500	10/25/08	
	Helen A. Atherton	\$1,640	10/25/08	
	St. Luke Knights Of Columbus Council 10512	\$1,700	10/25/08	
	Maranatha Chapel	\$2,000	10/25/08	
	Lloyd Pace	\$2,500	10/25/08	
Diablo Investment Co.	\$5,000	10/25/08		
3	Conrad B. Horne	\$1,000	10/26/08	\$28,625
	Craig Garrick	\$1,000	10/26/08	
	J.R. Cagle	\$1,000	10/26/08	
	Pamela K. Lindersmith	\$1,000	10/26/08	
	Marilyn Ng	\$1,200	10/26/08	
	Tamara Richey	\$3,000	10/26/08	
	Douglas R. Skeen	\$1,000	10/27/08	
	Katherine Kirts	\$1,000	10/27/08	
	Kimberly Hulka	\$1,000	10/27/08	
	Linda Prows	\$1,000	10/27/08	
	Thomas W. Wood	\$1,000	10/27/08	
	Charles R. Horrocks	\$1,000	10/27/08	
	Sheila Kunz	\$1,000	10/27/08	
	Raymond A. Rowe	\$1,100	10/27/08	
	Penny W. Belt	\$1,200	10/27/08	
	Keiko Chun	\$5,125	10/27/08	

	Sharon J. Rubow	\$6,000	10/27/08	
4	Brendan Eich	\$1,000	10/28/08	\$43,100
	Christopher Evans	\$1,000	10/28/08	
	Claire Bell	\$1,000	10/28/08	
	Gwendolyn Young	\$1,000	10/28/08	
	Lawrence R. Taylor	\$1,000	10/28/08	
	Richard S. Magleby	\$1,000	10/28/08	
	Sandi Smith	\$1,000	10/28/08	
	Janny Leung Wong	\$1,100	10/28/08	
	Dean Gardner Investments	\$5,000	10/28/08	
	<b>Unknown contributor via wire transfer</b>	\$10,000	10/28/08	
	Lisa M. Titensor	\$10,000	10/28/08	
	The Cardon Group LLC	\$10,000	10/28/08	
	5	David Furlong	\$1,000	
Kevin S. Crust		\$1,000	10/29/08	
Star Festini		\$1,000	10/29/08	
Duane M. Bates		\$1,040	10/29/08	
Gary C. Wong		\$1,050	10/29/08	
Joy Yang		\$1,250	10/29/08	
Rod Morley		\$1,810	10/29/08	
Claire K.T. Reiss TTEE		\$500,000	10/29/08	
6	Brent B. Fox	\$1,000	10/30/08	\$38,110
	Gary Zambrano	\$1,000	10/30/08	
	Jerry E. Callister	\$1,000	10/30/08	
	Law Offices Of Matt H. Morris	\$1,000	10/30/08	
	Tracy P. Hatch	\$1,000	10/30/08	
	David A. Watson, D.D.S.	\$1,220	10/30/08	
	Rod South	\$5,000	10/30/08	
	Direct Communications Rockland	\$6,000	10/30/08	
	Patricia P. Lichfield	\$9,500	10/30/08	
	Gregory A. Laushine	\$1,000	10/31/08	
	Laura Fisher	\$1,000	10/31/08	
	Sterling Starr	\$1,000	11/01/08	
	Hardester Family Partnership	\$2,500	11/01/08	
	Julian Byron Ely	\$1,000	11/02/08	
	Tevita Tuifua	\$1,440	11/02/08	
	Mark Lum	\$1,450	11/02/08	

	Deborah Gately	\$1,000	11/03/08	
	Franklin Keeney	\$1,000	11/03/08	

By failing to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more, Respondents violated Sections 84203 and 84605, subdivision (a), six times.

**COUNTS 7-14**  
**Failure to Report Contributions of \$1,000 or More Online**

During the 90-day period before the November 4, 2008 General Election, from August 6, 2008, through November 4, 2008, Respondents were required to disclose each contribution of \$1,000 or more in an online campaign report filed within 24 hours of receipt.

In this matter, Respondents failed to disclose 188<sup>5</sup> contributions of \$1,000 or more totaling \$582,306 during this reporting period within 24 hours of receipt in online campaign reports. The following contributions were not reported in 47 separate online reports:

Count	Number of Contributions Received	Due Date (47 Dates)	Amount of Contributions	Total Amount Not Reported
<b>7</b>	<b>4</b>	08/06/08	\$11,000	<b>\$24,000</b>
	<b>2</b>	08/07/08	\$3,500	
	<b>1</b>	08/09/08	\$2,500	
	<b>4</b>	08/10/08	\$7,000	
<b>8</b>	<b>49</b>	08/11/08	\$109,500	<b>\$109,500</b>
<b>9</b>	<b>3</b>	08/12/08	\$11,000	<b>\$47,500</b>
	<b>4</b>	08/13/08	\$12,500	
	<b>3</b>	08/14/08	\$10,000	
	<b>1</b>	08/15/08	\$1,000	
	<b>5</b>	08/17/08	\$12,000	
	<b>1</b>	08/18/08	\$1,000	
<b>10</b>	<b>3</b>	08/20/08	\$4,500	<b>\$36,000</b>
	<b>1</b>	08/21/08	\$1,000	
	<b>7</b>	08/24/08	\$14,000	
	<b>5</b>	08/26/08	\$9,500	
	<b>1</b>	08/28/08	\$1,000	
	<b>3</b>	08/29/08	\$6,000	
<b>11</b>	<b>21</b>	08/31/08	\$58,000	<b>\$58,000</b>

<sup>5</sup> This total includes nine nonmonetary contributions received during this time period. Respondents, and the committee who had obligations to notify Respondents within 48 hours of making these contributions, both state that no notice was provided to Respondents regarding these contributions until after these reports were due. These nonmonetary contributions were reported on the pre-election and post-election campaign statements filed by Respondents and are not reflected in this chart.

12	2	09/02/08	\$2,000	\$82,551
	3	09/03/08	\$4,300	
	3	09/04/08	\$18,201	
	7	09/07/08	\$15,950	
	1	09/10/08	\$2,000	
	2	09/11/08	\$7,000	
	1	09/12/08	\$3,100	
	1	09/14/08	\$1,000	
	1	09/16/08	\$2,000	
	2	09/17/08	\$27,000	
13	2	09/18/08	\$3,000	\$46,642
	2	09/21/08	\$2,200	
	1	09/22/08	\$1,500	
	1	09/23/08	\$1,000	
	5	09/25/08	\$6,500	
	1	09/26/08	\$1,000	
	5	09/27/08	\$10,442	
	2	09/28/08	\$6,000	
	5	09/29/08	\$9,000	
	3	09/30/08	\$6,000	
14	1	10/02/08	\$1,000	\$15,675
	1	10/04/08	\$1,025	
	1	10/05/08	\$1,000	
	1	10/10/08	\$1,000	
	2	10/12/08	\$2,000	
	2	10/13/08	\$3,500	
	1	10/14/08	\$1,250	
	1	10/17/08	\$2,500	
	1	10/18/08	\$2,400	

By failing to file online campaign reports disclosing contributions of \$1,000 or more received during the election cycle, as set forth above, Respondents committed eight violations of Government Code Section 85309, subdivision (b).

**COUNTS 15 & 16**  
**Failure to File a \$5,000 Online Report**

Respondents were required to disclose each contribution of \$5,000 or more received at a time other than during an election cycle in an online campaign report filed within 10 business days of receipt. According to Respondent Committee's records, Respondent Committee received contributions of \$5,000 or more on or about July 21, 2008 and August 5, 2008. Respondents failed

to disclose these contributions on \$5,000 online reports. The unreported contributions are shown in the following table, according to the Count to which they correspond.

<b>Count</b>	<b>Contributor</b>	<b>Date Received</b>	<b>Amount</b>	<b>Total Amt Not Timely Reported</b>
15	Debra S. White	07/21/08	\$5,000	\$40,000
	Jason Roberts	07/21/08	\$5,000	
	John M. Moffat	07/21/08	\$10,000	
	Jonathan Tenney	07/21/08	\$5,000	
	Sharon Bogh	07/21/08	\$5,000	
	Woodside Living Trust	07/21/08	\$5,000	
	Verla A. Sorensen	07/21/08	\$5,000	
16	Glen B. Collyer	08/05/08	\$5,000	\$55,000
	Joseph M. Welch	08/05/08	\$10,000	
	Mark Ballif	08/05/08	\$10,000	
	Nu Acoustics – A Corporation	08/05/08	\$5,000	
	Paul T. Stevens	08/05/08	\$5,000	
	Ronald L. Lakey	08/05/08	\$5,000	
	S.W. Hutchings	08/05/08	\$5,000	
	Stephen E. Jones	08/05/08	\$5,000	
	Tammy Harris	08/05/08	\$5,000	

By failing to file online campaign reports disclosing contributions of \$5,000 or more received outside the election cycle, on or about July 21, 2008 and August 5, 2008, totaling \$95,000, Respondents violated of Section 85309, subdivision (d), two times.

#### COUNT 17

#### **Failure to Properly Dispose of Anonymous Contributions**

As anonymous contributions are prohibited under the Act under Section 84304, Respondents had a duty to promptly pay to the General Fund (through the Secretary of State) the value of any anonymous contributions received. Respondents' bank records show that on approximately October 28, 2008, Respondent Committee received a \$10,000 wire transfer from an unknown contributor. Respondents did not refund this contribution nor pay this amount to the General Fund. Respondents kept the contribution, and, as indicated in Count 4, did not disclose this contribution.

By failing to properly dispose of the anonymous contribution, Respondents violated Section 84304 of the Government Code.

#### COUNT 18

#### **Failure to Disclose Required Contributor Information**

Respondents had a duty to disclose occupation and employer information for persons who contributed \$100 or more in a calendar year. However, Respondents failed to disclose occupation and/or employer information for 188 persons for the following five reporting periods: January 1, 2008 – March 31, 2008; April 1, 2008 - June 30, 2008; July 1, 2008 – September 30, 2008; October 1, 2008 – October 18, 2008; and October 19, 2008 – December 31, 2008. The total amount of contributions made by these 188 individuals totaled approximately \$61,945, which is less than 1% of the total contributions received by Respondent Committee during these five reporting periods surrounding the election. These contributions should have been returned since the information was not obtained within 60 days of the receipt by Respondents. According to records maintained by the Secretary of State, Respondents filed these campaign statements, but did not disclose the required information regarding the 188 contributors.

By failing to disclose required contributor information for contributions of \$100 or more, Respondents violated Section 84211, subdivisions (f), of the Government Code.

### CONCLUSION

This matter consists of eighteen counts of violating the Act, which carry a maximum administrative penalty of five thousand dollars (\$5,000) per count.

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)-(6): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

Late Contribution Reports: The public harm inherent in disclosure violations is that the public is deprived of important information prior to the election, such as the sources and amounts of contributions to a campaign and the expenditures of the committee. In this case, Respondents failed to timely file 14 late contribution reports for that election for contributions received aggregating \$1,000 or more from a single source. The total amount of contributions not timely reported on these reports is approximately \$654,424, which is approximately 2% of the total contributions received by Respondent Committee during the audit period. The amounts not reported vary and the majority of these contributions were not reported by the contributors since most were received from individuals, not other committees.

Although there are no cases that are similar in size and amount of contributions received that have been considered by the Commission in the recent past, *In the Matter of Abel Maldonado, Abel Maldonado for Senate, Christopher J. Raymer, and Chris Steinbruner*, FPPC No. 10/070, a two million dollar campaign for State Controller, the Commission approved a \$2,000 penalty per count for \$75,000 in late contributions received, which totaled almost 4% of the total contributions received by that committee during the audit period. The Commission also approved a \$3,000 penalty for contributions of smaller amounts, though they made up a large percentage of the amount raised by that committee (*In the Matter of Arturo Chacon and Art Chacon for Water Board 2010*, FPPC No. 08/652). Both of these previous cases also dealt with multiple other reporting violations.

After taking the specific facts of this case into consideration, including the fact that the 14 required reports have been compressed into these six counts, a fine amount of \$3,000 per violation is appropriate for these late contribution reports not timely filed for contributions received.

\$1,000 Reports: Respondents failed to disclose 188 contributions of \$1,000 or more totaling \$582,306 during 90-day period before the November 4, 2008 General Election within 24 hours of receipt in online campaign reports. Contributions were not reported in 47 separate online reports. With regard to the \$1,000 online reporting violations, the typical administrative penalty for failing to file online reports within 24 hours disclosing contributions of \$1,000 or more received during the election cycle have historically resulted in penalties around \$2,000, depending on the facts of the case. *In the Matter of Abel Maldonado, et al*, FPPC No. 10/070, mentioned above, the Commission adopted a penalty of \$2,000 per count for failing to report 40 contributions in eight separate online campaign election cycle reports, totaling \$61,600. The counts were charged per day. *In the Matter of No on 54: Teachers, Workers, Healthcare, Civil Liberties & Entertainment Groups and Abdi Soltani*, FPPC No. 05/527, the Commission, at the September 11, 2008 Commission meeting, imposed penalties ranging from \$1,500 - \$2,500 on a committee that raised and spent over \$5.2 million and failed to report seven contributions totaling \$90,282 within 24 hours of receipt in an online report. The counts were charged per day and the penalty amount varied based on the amount not reported that day. In this matter, 47 required reports have been combined into these eight counts totaling between \$15,675 and \$109,500. Therefore, a penalty amount of \$2,500 per count is appropriate.

\$5,000 Reports: In this matter, Respondent Committee received contributions of \$5,000 or more on or about July 21, 2008 and August 5, 2008. Respondents failed to disclose these contributions on \$5,000 online reports which would have shown a total of \$40,000 received in increments of \$5,000 or more on July 21, 2008 and a total of \$55,000 received on August 5, 2008. *In the Matter of Abel Maldonado, et al*, FPPC No. 10/070, mentioned above, the Commission adopted a penalty of \$2,000 per count for four counts consisting of 18 contributions received totaling \$721,572. *In the Matter of Michael Glover, Michael G. Glover for Assembly, Glover for Assembly 2008, Committee to Elect Mike Glover for 70th AD, 2010, and Doris Neel*, FPPC No. 09/615, approved in part by the Commission as a default decision on April 11, 2011, the Commission approved a penalty of \$1,500 for the missing \$5,000 online report which would have disclosed a \$27,000 loan the Respondent gave to his own campaign. In this matter, a fine amount of \$2,000 for each of the two reports that were missed which would have disclosed 16 contributions of \$5,000 or more is appropriate.

Anonymous Contribution: In this matter, on October 28, 2008, Respondent Committee received a \$10,000 wire transfer from an unknown contributor. Respondents did not refund this contribution nor pay this amount to the General Fund. Respondents kept the contribution, and, as indicated in Count 4, did not disclose this contribution. Although the Commission has not addressed this specific violation since 2004, when the Commission (*In the Matter of Armando Rea, et al.*, FPPC No. 97/352) instituted the maximum fine, accepting a contribution anonymously, not reporting the contribution, and then not returning the contribution is activity in direct conflict with the disclosure dictates of the Act and hides the true source of a campaign contribution. For these reasons, a fine amount of \$5,000 is recommended for this violation.

Occupation and Employer Information: Penalties for violations regarding disclosure of contributor information have varied widely based on the circumstances. *In the Matter of San*

*Bernardino County Safety Employees' Benefit Association, Local PAC; Colin McKenzie; and William Abernathie*, FPPC No. 08/113, a \$3,000 fine was levied by the Commission at the February 11, 2010 meeting regarding the non-reporting of a large amount of members who reached the \$100 threshold through dues payments to the committee. At that same meeting, *In the Matter of Marco Robles, Committee to Elect Marco A. Robles, and Rosa Lira*, FPPC No. 08/329, was approved with a \$1,000 penalty for missing occupation and employer information for a less sophisticated committee who failed to disclose multiple contributors over several reporting periods but amended promptly when requested to do so. Here, Respondents failed to disclose occupation and/or employer information for 188 persons for five reporting periods who contributed \$100 or more, totaling \$61,945, which is less than 1% of the total contributions received by Respondent Committee during these five reporting periods surrounding the election. In light of the multiple reporting periods included in this count but taking into consideration the relatively low total amount and percentage of all contributions received during these periods, a penalty of \$2,000 is proposed for this lack of reporting.

Accordingly, the facts of this case justify imposition of a total administrative penalty of \$49,000.