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

10
11 In the Matter of) FPPC No. 12/089
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13)
14) STIPULATION, DECISION and
15) ORDER
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Respondents.

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondents Warren P. Willis, and Warren Willis for Senate 2010, 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, pursuant to Section 83116 of the Government Code.

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 Sections 18361.1 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 attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the

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

3 It is further stipulated and agreed that Respondents Warren P. Willis, and Warren Willis for
4 Senate 2010 violated the Political Reform Act by failing to timely file a statement of organization in
5 violation of Government Code Section 84101, subdivision (a) (1 count); failing to timely file a pre-
6 election campaign statement in violation of Government Code Sections 84200.5, subdivision (a), and
7 84200.7, subdivision (a) (1 count); and making/receiving candidate loans in excess of the outstanding
8 balance limit of \$100,000 in violation of Government Code Section 85307, subdivision (b) (1 count).
9 All counts are described in Exhibit 1, which is attached hereto and incorporated by reference as though
10 fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

11 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
12 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount
13 of Ten Thousand Dollars (\$10,000). A cashier's check from Respondents in said amount, made payable
14 to the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
15 administrative penalty, to be held by the State of California until the Commission issues its Decision and
16 Order regarding this matter. The parties agree that in the event the Commission refuses to accept this
17 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
18 meeting at which the Stipulation is rejected, all payments tendered by Respondents in connection with
19 this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and agree that in the
20 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
21 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
22 disqualified because of prior consideration of this Stipulation.

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24 Dated: _____

Gary S. Winuk, Chief of Enforcement
Fair Political Practices Commission

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27 Dated: _____

Warren P. Willis, Respondent, individually and on behalf
of Warren Willis for Senate 2010, Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of In the Matter of Warren P. Willis, and Warren Willis for Senate 2010, FPPC No. 12/089,” 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: _____

Ann Ravel, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Warren P. Willis (Respondent Willis) was a successful candidate for California State Senate, 30th District, in the June 8, 2010 primary election and he was an unsuccessful candidate in the November 2, 2010 general election. Respondent Warren Willis for Senate 2010 (Respondent Committee) was Respondent Willis' candidate controlled committee. At all relevant times, Respondent Willis was treasurer of Respondent Committee.

This matter arose out of an audit performed by the Political Reform Audit Program of the Franchise Tax Board (FTB) for the period of January 1, 2010, through December 31, 2010. During the period covered by the audit, Respondent Committee reported receiving total contributions of approximately \$181,044, and making total expenditures of approximately \$180,268. The Audit Report was submitted to the Enforcement Division on January 31, 2012.

The Political Reform Act (the "Act"),¹ requires candidates, their controlled committees, and the treasurers of those committees, to file campaign reports and statements at specific times disclosing information regarding the committee, contributions received and expenditures made by the committee. Additionally, a candidate may make personal loans to his/her campaign committee as long as the outstanding balance does not exceed \$100,000.

In this matter, Respondents 1) failed to timely file a statement of organization, 2) failed to timely file a pre-election campaign statement; and 3) made/received candidate loans in which the outstanding balance exceeded the \$100,000 limit.

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

COUNT 1: Respondents Warren P. Willis, and Warren Willis for Senate 2010, failed to file a statement of organization by the April 19, 2010 due date, in violation of Government Code Section 84101, subdivision (a).

COUNT 2: Respondents Warren P. Willis, and Warren Willis for Senate 2010, failed to file a pre-election campaign statement by the May 27, 2010 due date, for the reporting period of January 1 through May 22, 2010, in violation of 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 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.

Sections 84200.5, subdivision (a), and 84200.7, subdivision (a).

COUNT 3: Respondents Warren P. Willis, and Warren Willis for Senate 2010 accepted, and Respondent Warren P. Willis made, on or about October 19 and 21, 2010, two personal loans from Respondent Warren P. Willis to Respondent Warren Willis for Senate 2010, in the amount of \$15,000 each, which caused the outstanding balance of personal loans made by Respondent Warren P. Willis to Respondent Warren Willis for Senate 2010 to exceed the \$100,000 threshold by \$25,000, in violation of Government Code Section 85307, subdivision (b).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that contributions 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.

The following reflects the Act as it was in effect at the time of the relevant violations.

Duty to File a Statement of Organization

Section 82013, subdivision (a) of the Act includes within the definition of “committee” any person or combination of persons who receives contributions of \$1,000 or more during a calendar year. This type of committee is commonly referred to as a “recipient committee.”

Under Section 82016, a recipient committee which is controlled directly or indirectly by a candidate, or which acts jointly with a candidate in connection with the making of expenditures, is a “controlled committee.” A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee. (Section 82016, subd. (a).)

Under the Act’s campaign reporting system, Section 84101, subdivision (a) provides that every committee shall file a statement of organization within ten days after it qualifies as a committee. As such, a candidate controlled recipient committee must file a statement of organization within ten days after it receives any contribution that brings the total amount of the contributions that it has received to \$1,000 or more. The committee shall file the original of the statement of organization with the Secretary of State, and a copy of the statement of organization with the local filing officer with whom the committee is required to file the originals of its campaign reports under Section 84215.

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Duty to File Pre-election Campaign Statements

Section 84200.5, subdivision (a) requires all candidates for state office being voted upon in a statewide primary election or general election of an even-numbered year, and their controlled committees, to file pre-election campaign statements as specified in Section 84200.7.

Section 84200.7, subdivision (a) provides for the filing of two pre-election campaign statements covering two reporting periods prior to elections held in June of an even-numbered year. The reporting period for the first pre-election campaign statement ends March 17. This first pre-election campaign statement must be filed no later than March 22. (Section 84200.7, subd. (a)(1).) The reporting period for the second pre-election campaign statement runs from March 18 through 17 days before the election. This second pre-election campaign statement must be filed no later than 12 days before the election. (Section 84200.7, subd. (a)(2).)

Limit on Outstanding Balance of Loans by a Candidate to His Campaign

Section 85307 states that a candidate for elective state office may not personally loan to his or her campaign, including the proceeds of a loan obtained by the candidate from a commercial lending institution, an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). (Section 85307, subdivision (b).) “Elective state office” includes a Member of the Legislature. (Section 82024.)

Treasurer and Candidate Liability

Under Sections 81004, subdivision (b), 84100, and 84213, and Regulation 18427, subdivisions (a), (b) and (c), it is the duty of a committee’s treasurer and candidate 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 and candidate 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 18316.6.)

SUMMARY OF THE FACTS

Respondent Warren P. Willis (Respondent Willis) was a successful candidate for California State Senate, 30th District, in the June 8, 2010 primary election and he was an unsuccessful candidate in the November 2, 2010 general election. Respondent Warren Willis for Senate 2010 (Respondent Committee) was Respondent Willis’ candidate controlled committee. At all relevant times, Respondent Willis was treasurer of Respondent Committee.

The evidence shows that Respondent Willis filed his candidate intention statement on March 15, 2010. Additionally, Respondent Committee qualified as a committee under the Act on April 9, 2010. However, Respondent Committee did not file its statement of organization until July 30, 2010, almost two months after the primary election. During calendar year 2010, Respondent Committee reported receiving total contributions of approximately \$181,044, and making total expenditures of approximately \$180,268.

The evidence obtained during the audit and investigation of this matter shows that Respondents committed three violations of the Act, as follows:

Count 1

(Failure to Timely File a Statement of Organization)

Respondents had a duty to file a statement of organization within 10 days of qualifying as a committee pursuant to Government Code Sections 82013, 82016, and 84101. Respondent Committee qualified as a committee on April 9, 2010. Thus, Respondents were required to file a statement of organization no later than April 19, 2010. Respondents filed Respondent Committee's statement of organization on July 30, 2010, almost two months after the primary election, and nearly four months after it was due. By failing to timely file the statement of organization, Respondents violated Government Code Section 84101.

Count 2

(Failure to Timely File Pre-Election Statements)

Respondents had a duty to file a pre-election campaign statement for the reporting period of January 1 through May 22, 2010, by the May 27, 2010 due date. However, Respondents did not file the pre-election campaign statement until August 4, 2010, nearly two months after the primary election, and more than two months after it was due. By failing to timely file the pre-election campaign statement, Respondents violated Sections 84200.5, subdivision (a), and 84200.7, subdivision (a).

Count 3

(Making/Receipt of Candidate Loans Exceeding the Outstanding Balance Limit of \$100,000)

On or about October 19 and 21, 2010, Respondent Committee received, and Respondent Willis made, two personal loans from Respondent Willis to Respondent Committee in the amount of \$15,000 each.

When the loan on October 19, 2010 was made, Respondent Willis already had an outstanding balance of \$95,000 personally loaned to Respondent Committee. This new loan raised the outstanding balance of personal loans made by Respondent Willis to Respondent Committee to \$110,000. When the loan on October 21, 2010 was made, Respondent Willis already had an outstanding balance of \$110,000 personally loaned to Respondent Committee. This new loan raised the outstanding balance of personal loans made by Respondent Willis to Respondent Committee to \$125,000. At the time, the maximum outstanding balance allowed by law was \$100,000. (Section 85307, subd. (b).)

By making/receiving candidate loans in which the outstanding balance exceeded the \$100,000 limit as described above, Respondents violated Government Code Section 85307, subdivision (b).

CONCLUSION

This matter consists of three counts of violating the Act, which carry a maximum administrative penalty of Five Thousand Dollars (\$5,000) per count for a total of Fifteen Thousand Dollars (\$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, upon learning of the violation, the violator voluntarily provided amendments to provide full disclosure.

With respect to failure to file a statement of organization (Count 1), the public harm caused by this type of violation is that people may not know that a committee has been formed, nor can they ascertain the basic information regarding the committee. The public harm inherent in campaign reporting violations (Count 2) is that the public is deprived of time-sensitive information regarding the sources and amounts of contributions and expenditures made in support of a candidate. As for the making/receipt of over-the-limit personal loans to a committee (Count 3), the public harm inherent in this type of violation is that a candidate may be more beholden to contributors to his/her campaign if he/she has also loaned a substantial amount of money to his/her campaign and expects the campaign to pay back the loaned amount.

In this matter, Respondents filed Respondent Committee's statement of organization and pre-election campaign statement nearly two months after the primary election, giving the public no way to research Respondent Willis' campaign, or the sources and amounts of contributions and expenditures for Respondent Committee until well after the primary election occurred. Additionally, Respondent Willis loaned Respondent Committee \$25,000 over the outstanding balance limit for candidate loans, and 55% of the total contributions received for Respondent Willis' campaign was in the form of loans from Respondent Willis.

In mitigation, however, Respondent Willis was a first time candidate, and he was unaware of the reporting requirements of the Act before the June 8, 2010 primary election. After unexpectedly winning the primary, Respondent Willis sought out the advice of a professional campaign consultant, who advised him regarding the disclosure requirements of the Act, including Respondents' duty to file the late statement of organization and the pre-election campaign statement. Respondents properly filed all subsequent campaign statements, and the voting public had access to Respondents' campaign information as required before the

November 2, 2010 general election. Additionally, both Respondent Willis and his campaign consultant were unaware of the limit for candidate loans to the campaign before the FTB audit in this matter. Thus, Respondents' violations appear to be negligent, not intentional.

Respondents have no prior history of violating the Act, and have been cooperative with the Enforcement Division during its investigation.

Recent penalties approved by the Commission concerning similar violations of the Act include:

Failure to Timely File Statements of Organization:

- ***In the Matter of Chico Democrats 08, and Michael Worley, FPPC No. 09/537.*** Respondents, a state general purpose committee, and its treasurer, failed to file a statement of organization within 10 days of qualifying as a recipient committee, in violation of Government Code Section 84101, subdivision (a) (1 count). Penalty per relevant count: \$2,500. Approved by the Commission January 2011.
- ***In the Matter of Friends of Rancho Santa Fe Schools, and Richard Burdge, FPPC Nos. 06/455.*** Respondents, a primarily formed ballot measure committee and its treasurer, failed to file a statement of organization within 10 days of qualifying as a recipient committee, in violation of Government Code Section 84101, subdivision (a) (1 count). Penalty per relevant count: \$2,500. Approved by the Commission May 2009.

Failure to Timely File Pre-election Campaign Statements:

- ***In the Matter of Edwin Jacinto; FPPC No. 10/225 (Default).*** Respondent, a candidate for Lynwood City Council, failed to file two pre-election campaign statements in a timely manner, in violation of Government Code Sections 84200.5, and 84200.7 (2 counts). Penalty per relevant count: \$3,500. Approved by Commission June 2011.
- ***In the Matter of Tina Baca Del Rio, and Friends of Tina Baca Del Rio, FPPC No. 08/423.*** Respondents, an incumbent candidate for Commerce City Council, and her controlled committee, failed to file two pre-election campaign statements before Respondent Baca Del Rio's recall election in a timely manner, in violation of Government Code Sections 84200.5 and 84200.7 (2 counts). Penalty per relevant count: \$3,500. Respondents also failed to file two pre-election campaign statements before Respondent's subsequent re-election in a timely manner, in violation of Government Code Sections 84200.5 and 84200.8 (2 counts). Penalty per relevant count: \$4,000. Approved by the Commission April 2011.

Making and Receipt of Over-the-Limit Personal Loans by Candidate:

There is one prior enforcement action regarding Section 85307:

- *In the Matter of Mary Ann Andreas, Andreas for Assembly, Marta Baca, and Phyllis Nelson, FPPC No. 06/77.* Respondents, a candidate for the California State Assembly, 80th District, her controlled committee, and the committee treasurer, made/accepted an over-the-limit personal loan to the committee to exceed the \$100,000 threshold by \$40,000, in violation of Government Code Section 85307 (1 count). Penalty per relevant count: \$2,250. Approved by the Commission June 2010.

PENALTY

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of an agreed upon penalty as follows:

Count	Description	Penalty
1	Failure to Timely File Statement of Organization	\$2,500
2	Failure to Timely File Pre-election Campaign Statement	\$3,500
3	Making and Receipt of Over-the-Limit Personal Loans by Candidate	\$4,000
	Total Agreed Upon Penalty	\$10,000

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