

EXHIBIT 1

INTRODUCTION

Respondent Independent Coalition of Educators Sponsored by the California Association of Private Postsecondary Schools (“Respondent Committee”) is a state general purpose committee. At all relevant times, Respondent Robert Johnson (“Respondent Johnson”) served as treasurer of Respondent Committee. This case arose from Franchise Tax Board (“FTB”) audits of Respondent Committee for the periods January 1, 2009, through December 31, 2010. During the periods covered by the audit, Respondent Committee reported receiving contributions of approximately \$72,000 and making expenditures of approximately \$40,352.

As a general purpose committee under the Political Reform Act¹ (the Act”), Respondents have a duty to timely file campaign statements and abide by contribution limits. However, Respondents failed to timely file campaign statements and failed to abide by contribution limits.

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

COUNT 1: Respondent Independent Coalition of Educators Sponsored by the California Association of Private Postsecondary Schools, and its treasurer Respondent Robert Johnson, failed to timely file a preelection statement for the January 1, 2010, through March 17, 2010, reporting period, by March 22, 2010, the March 18, 2010, through May 22, 2010, reporting period, by May 27, 2010, and the July 1, 2010, through September 30, 2010, reporting period, by October 5, 2010, in violation of Government Code section 84200.5.

COUNT 2: Respondent Independent Coalition of Educators Sponsored by the California Association of Private Postsecondary Schools, and its treasurer Respondent Robert Johnson, failed to timely file a preelection statement for the January 1, 2012, through March 17, 2012, reporting period, by the March 22, 2012, and the March 18, 2012, through May 19, 2012, reporting period, by May 24, 2012, in violation of Government Code section 84200.5.

COUNT 3: On or about August 31, 2009, Respondent Independent Coalition of Educators Sponsored by the California Association of Private Postsecondary Schools, and its treasurer Respondent Robert Johnson, impermissibly accepted a contribution in excess of the \$6,500 contribution limit from a single person for the purpose of

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.

making contributions to candidates for elective state office, in violation of Government Code section 85303, subdivision (a).

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 82027.5, subdivision (b), defines a “state general purpose committee” as a committee to support or oppose candidates or measures voted on in a state election, or in more than one county.

Every state general purpose committee is required to file a preelection statement for each period in which it makes contributions or independent expenditures totaling \$500 or more. (Section 84200.5, subd. (e).) For the period ending March 17, a preelection statement must be filed no later than March 22.² (Section 84200.7, subd. (a)(1).) Subsequently, another preelection statement for the reporting period ending 17 days before the June election must be filed no later than 12 days before the June election. (Section 84200.7, subd. (a)(2).) For the period ending September 30, a preelection statement must be filed no later than October 5.³ (Section 84200.7, subd. (b)(1).) Subsequently, another preelection statement for the reporting period ending 17 days before the November election must be filed no later than 12 days before the election. (Section 84200.7, subd. (b)(2).)

All filing obligations continue until the committee is terminated by filing a statement of termination (Form 410) with the Secretary of State (the “SOS”) and a copy with the local filing officer receiving the committee’s original campaign statements. (Section 84214; Regulation 18404.)

² Under Regulation 18116, whenever the Act requires that a statement or report (other than late contribution reports required by Section 84203, late independent expenditure reports required by Section 84204, or notice by the contributor of a late in-kind contribution required by Section 84203.3) be filed prior to or not later than a specified date or during or within a specified period, and the deadline falls on a Saturday, Sunday or official state holiday, the filing deadline for such a statement or report shall be extended to the next regular business day.

³ Under Regulation 18116, whenever the Act requires that a statement or report (other than late contribution reports required by Section 84203, late independent expenditure reports required by Section 84204, or notice by the contributor of a late in-kind contribution required by Section 84203.3) be filed prior to or not later than a specified date or during or within a specified period, and the deadline falls on a Saturday, Sunday or official state holiday, the filing deadline for such a statement or report shall be extended to the next regular business day.

Duty to Abide by Contribution Limits

The Act imposes limits on the amount of contributions a committee may accept. Section 85303, subdivision (a), prohibits a committee, other than a political party committee, from accepting contributions in excess of \$5,000 per calendar year from a single person if the committee accepts contribution for the purpose of making contributions to candidates for elective state office. Section 82024 defines “elective state office” to include the offices of a member of the Legislature. Section 83124 requires the Fair Political Practices Commission (the “Commission”) to biennially adjust the contribution limit in Section 85303 to reflect changes in the Consumer Price Index. For 2009, the contribution limit for contributions to a committee, other than a political party committee, from a single person for the purpose of making contributions to candidates for elective state office was \$6,500 per calendar year. (Regulation 18545, subd. (a)(7).)

Regulation 18534 outlines the specifics regarding how committees are to keep funds separate in order to be in compliance with the statute. Regulation 18534, subdivision (b), states that committees “must make all contributions to candidates for elective state office, and to other committees for the purpose of making contributions to candidates for elective state office, from a bank account maintained and designated as an ‘all purpose’ committee account [and][c]hecks drawn on this account must include the words ‘all purpose’ in the title of the account appearing on the checks.” Any contributions accepted above the limit (\$6,500) must be placed into a separate account not used for candidate for elective state office support and must be labeled as “restricted use” funds. (Regulation 18534, subd. (c).)

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 the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under Section 8311.65 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 general purpose committee. At all times relevant to this matter, Respondent Johnson has served as Respondent Committee’s treasurer.

COUNTS 1 and 2

Failure to Timely File Preelection Statements

As a general purpose committee and its treasurer, Respondents were required to file a preelection statement with the SOS by its respective deadline for each period in which Respondent Committee made contributions or independent expenditures of \$500 or more.

Respondent Committee made contributions totaling \$2,477 during the January 1, 2010, through March 17, 2010, reporting period, and therefore Respondents were required to file a preelection statement with the SOS by the March 22, 2010, deadline. By failing to file a preelection statement with the SOS for the January 1, 2010, through March 17, 2010, reporting period, by March 22, 2010, Respondents violated Section 84200.5 of the Act.

Respondent Committee made contributions totaling \$5,500 during the March 18, 2010, through May 22, 2010, reporting period, and therefore Respondents were required to file a preelection statement with the SOS by the May 27, 2010, deadline. By failing to file a preelection statement with the SOS for the March 18, 2010, through May 22, 2010, reporting period, by May 27, 2010, Respondents violated Section 84200.5 of the Act.

Respondent Committee made contributions totaling \$13,500 during the July 1, 2010, through September 30, 2010, reporting period, and therefore Respondents were required to file a preelection statement with the SOS by the October 5, 2010, deadline. By failing to file a preelection statement with the SOS for the July 1, 2010, through September 30, 2010, reporting period, by October 5, 2010, Respondents violated Section 84200.5 of the Act.

Respondent Committee made contributions totaling \$14,800 during the January 1, 2012, through March 17, 2012, reporting period, and therefore Respondents were required to file a preelection statement with the SOS by the March 22, 2012, deadline. By failing to file a preelection statement with the SOS for the January 1, 2012, through March 17, 2012, reporting period, by March 22, 2012, Respondents violated Section 84200.5 of the Act.

Respondent Committee made contributions totaling \$17,800 during the March 18, 2012, through May 19, 2012, reporting period, and therefore Respondents were required to file a preelection statement with the SOS by the May 24, 2012, deadline. By failing to file a preelection statement with the SOS for the March 18, 2012, through May 19, 2012, reporting period, by May 24, 2012, Respondents violated Section 84200.5 of the Act.

COUNT 3

Receiving a Contribution in Excess of the Contribution Limit

Respondent Committee, as a general purpose committee other than a political party committee, was limited to receiving contributions totaling \$6,500 per person during the 2009 calendar year for the purpose of making contributions to candidates for elective state office and Respondents had a duty to keep this money separate from money to be used on non-candidate support. This amount was to be placed in a separate account that was labeled as an “all purpose” account, meaning the money could have been used for any purpose. Any money received above this amount should have been segregated into another account and labeled “restricted use” funds, so that those funds were not used to make contributions to candidates for elective state office.

On or about August 31, 2009, Respondents accepted a \$10,000 contribution from American Career College for the purpose of making contributions to candidates for elective state office, in violation of Section 85303, subdivision (a), of the Act. Respondents deposited the entire contribution into the Respondent Committee’s designated bank account. The bank account

was not labeled “all purpose”, as required by the Act, and Respondents used the contribution to make contributions to candidates for elective state office.

CONCLUSION

This matter consists of three counts of violating the Act, which carries a maximum administrative 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): 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(s) demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether upon learning of the violation the respondent voluntarily filed amendments to provide full disclosure. The facts are required to be considered by the Commission under Regulation 18361.5.

Counts 1 and 2: Failing to timely file preelection statements is a serious violation of the Act as it deprives the public of important information about Respondent Committee’s financial activities. In this matter, Respondent failed to timely file three required preelection statements.

Recent fines approved by the Commission include:

In the Matter of Davis Democratic Club and Elizabeth R. Weir, FPPC No. 08/390. In March 2012, the Commission approved a fine of \$2,000 for the respondents’ failure to timely file a preelection statement. In mitigation, the respondents had no history of enforcement actions, and agreed to an early resolution of the matter.

In the Matter of Republican Central Committee of San Luis Obispo County, FPPC No. 11/441. In May 2012, the Commission approved a fine of \$2,000 for the respondents’ failure to timely file a preelection statement. In mitigation, the respondents had no history of enforcement actions, and agreed to an early resolution of the matter.

In this matter, Respondents did not file the preelection statements until after being contacted by Commission regarding this matter. However, Respondents have no history of enforcement actions, have cooperated in the investigation, and have agreed to an early resolution of the matter. Additionally, Respondents self-reported the violations in Count 2.

After consideration of the factors of Regulation 18361.5, and consideration of penalties in prior enforcement actions, the imposition of a \$2,000 fine per count for Counts 1 and 2 is recommended.

Count 3: The conduct of accepting a contribution in excess of the contribution limit harms the integrity of the election process. In this matter, Respondents accepted a single contribution over the contribution limit.

Recent fines approved by the Commission include:

In the Matter of Monterey County Republican Central Committee and Chris Steinbruner, FPPC No. 08/761. In October 2011, the Commission approved a fine of \$4,000 for a political party committee's acceptance of \$59,800 in contributions over the contribution limit from a single source for the purpose of making contributions to support candidates for elective state office. In mitigation, the respondents agreed to an early resolution of the matter. In aggravation, the respondents had received a warning letter prior to the violation for the same type of violation.

In three prior cases involving a committee that accepted a contribution over the contribution limit, the Commission imposed the maximum fine of \$5,000 per count. However, in all those cases, the respondent committee also made contributions in excess of the contribution limit. In this matter, Respondent Committee did not make any contributions over the contribution limit, which significantly mitigated the impact of the violation. Additionally, Respondents cooperated in the investigation, have no history of enforcement actions, have agreed to an early resolution of the matter, and the amount of contributions Respondents accepted over the contribution limit was very low.

After consideration of the factors of Regulation 18361.5, and consideration of penalties in prior enforcement actions, the imposition of a \$2,500 fine for Count 3 is recommended.

Accordingly, the imposition of a total administrative fine of \$6,500 is recommended.

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