

1 GARY S. WINUK
Chief of Enforcement
2 ZACHARY W. NORTON
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. 11/1053
13)
14) STIPULATION, DECISION and
RONALD SMITH AND FRIENDS OF) ORDER
RON SMITH)
15)
16 Respondents.)
17

18 Complainant Gary S. Winuk, Enforcement Chief of the Fair Political Practices Commission, and
19 Respondents Ronald Smith and Friends of Ron Smith agree that this Stipulation will be submitted for
20 consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

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

24 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
25 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
26 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
27 the right to personally appear at any administrative hearing held in this matter, to be represented by an
28 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 Ronald Smith and Friends of Ron Smith
4 violated the Political Reform Act by failing to timely file semi-annual campaign statements in violation
5 of Section 84200, subdivision (b), of the Government Code. This count is described in Exhibit 1, which
6 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and
7 accurate summary of the facts in this matter.

8 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
9 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount
10 of One Thousand Five Hundred Dollars (\$1,500). A cashier's check from Respondents in said amount,
11 made payable to the "General Fund of the State of California," is submitted with this Stipulation as full
12 payment of the administrative penalty, to be held by the State of California until the Commission issues
13 its decision and order regarding this matter. The parties agree that in the event the Commission refuses
14 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
15 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
16 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
17 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
18 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
19 shall be disqualified because of prior consideration of this Stipulation.
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21 Dated: _____
22 Gary S. Winuk, Chief of Enforcement
23 Fair Political Practices Commission

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25 Dated: _____
26 Respondent Ronald Smith, Individually
27 and on behalf of the Friends of Ron Smith,
28 Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Ronald Smith and the Friends of Ron
3 Smith,” FPPC No. 11/1053, including all attached exhibits, is hereby accepted as the final decision and
4 order of the Fair Political Practices Commission, effective upon execution below by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent Ronald Smith is currently a member of the West Basin Municipal Water District Board (“Board”), and was re-elected in the November 2, 2010 election. Respondent Friends of Ron Smith (“Respondent Committee”) qualified as a candidate controlled recipient committee under the Political Reform Act (the “Act”)¹ on or about August 20, 2006, when Respondent Smith filed a statement of organization in connection with his candidacy for the Board in the 2006 election. Respondent Smith is also the treasurer for the Committee. Respondents failed to timely file two semi-annual campaign statements in connection with the November 2010 election.

For the purposes of this Stipulation, Respondents violation is stated as follows:

COUNT 1: Respondents Ronald Smith and Friends of Ron Smith failed to file semi-annual campaign statements for the reporting periods January 1, 2011 through June 30, 2011, by the August 1, 2011 due date, and July 1, 2011 through December 31, 2011, by the January 31, 2012 due date, in violation of Government Code Sections 84200, 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.

Section 82013, subdivision (a), defines a “committee” to include any person who receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly known as a “recipient committee.” A committee controlled directly or indirectly by a candidate, or that acts jointly with a candidate, is known as a candidate-controlled committee. (Section 82016.) Under the Act’s campaign reporting system, candidate-controlled committees are required to file specified campaign statements and reports disclosing contributions received and expenditures made.

Duty to File Semi-Annual Campaign Statements

Section 84200, subdivision (a) requires all candidates and committees pursuant to Section 82013, subdivision (a), to file semi-annual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

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.

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

SUMMARY OF THE FACTS

Respondent Friends of Ron Smith qualified as a candidate controlled recipient committee on or about August 20, 2006, when Respondent Ronald Smith filed a statement of organization in connection with his candidacy for the Board in the 2006 election. Respondent Smith is also the treasurer for the Committee. Respondent Smith is currently a member of the West Basin Municipal Water District Board and was re-elected in the November 2, 2010 election, having held this position since 2006. Respondents Friends of Ron Smith and Ronald Smith failed to timely file two semi-annual campaign statements in connection with the November 2010 election.

COUNT 1

Failure to Timely File Semi-Annual Campaign Statements

As a candidate for the West Basin Municipal Water District Board in the November 2, 2010 election, Respondents Ronald Smith and his candidate controlled committee, Friends of Ron Smith, had a duty to file semi-annual campaign statements for the reporting periods January 1 through June 30, 2010 (on or before August 1, 2011), and July 1 through December 31, 2011 (on or before January 31, 2012). Respondents failed to file these required semi-annual campaign statements by the due dates. By failing to timely file the semi-annual campaign statements, Respondents violated Section 84200, subdivision (a).

CONCLUSION

This matter consists of one count, which carries a maximum possible administrative penalty of five thousand dollars (\$5,000).

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. The Enforcement Division also considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6), which include: 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; whether there was a pattern of violations; and whether upon learning of the violation the Respondent voluntarily filed amendment to provide full disclosure. Additionally, liability under the Act is governed in significant part by the provisions of Section 91001, subdivision (c), which requires the Commission to consider whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith, in applying remedies and sanctions.

Other similar cases regarding a violation of Section 84200, subdivision (a) that have been recently approved by the Commission include:

In the Matter of Rachel Neville, Neville for Water Board, and Mark Neville, Treasurer, FPPC No. 08/120 (Default Decision), had a similar fact pattern; the failure to file semi-annual campaign statement count addressed a failure to file a statement that was due after the relevant election. The commission approved settlement of this case, with a \$1,000 penalty for this violation, on November 12, 2010.

In the Matter of Marco Robles, Committee to Elect Marco A. Robles, and Rosa Lira, Treasurer, FPPC No. 08/329 had a similar fact pattern; the failure to file semi-annual campaign statement count addressed a failure to file a statement that was due after the relevant election. The committee cooperated fully with filing obligations and terminated. The commission approved settlement of this case, with a \$1,000 penalty for this violation, on February 11, 2010.

The failure to file campaign statements is a serious violation of the Act because it deprives the public of important information about a committee's contributors and financial activities. In this matter, Respondent failed to file two consecutive semi-annual campaign statements, and therefore deprived the public of information regarding Respondent Committee's contributors and financial activities for a year.

Respondents' violations of the Act were deliberate at worst and negligent at best. Due to previous enforcement actions against Respondents, Respondents should have been aware of their duties under the Act to file campaign statements.

Respondents have demonstrated a pattern of violating the Act. On April 21, 2009, Enforcement sent a Warning Letter to Respondents for failure to file a semi-annual campaign statement for the period July 1, 2008 through December 31, 2008. Subsequently, on June 9, 2011, Respondents Ronald Smith and Friends of Ron Smith were fined \$200 in a one count streamlined stipulation for failure to file a semi-annual campaign statements; covering January 1, 2010, through June 30, 2010, which was also due in connection with the 2010 election.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the Respondent's patter of behavior, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of One Thousand Five Hundred Dollars (\$1,500) is recommended.