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

12 In the Matter of) FPPC No. 12/287
13)
14 JACOB ANGEL, and JACOB ANGEL FOR)
PENINSULA HEALTH CARE DISTRICT)
15 2012,)
16 Respondents.) (Gov. Code §§ 11506 and 11520)
17)

18
19 Complainant, the Fair Political Practices Commission, hereby submits this Default Decision and
20 Order for consideration at its next regularly scheduled meeting.

21 Respondents Jacob Angel, and Jacob Angel For Peninsula Health Care District 2012 have been
22 provided information as to their rights to a probable cause hearing and an administrative hearing under
23 the Political Reform Act, Administrative Procedure Act, and all other relevant laws. Respondents have
24 chosen to waive all such rights to a probable cause hearing and administrative hearing and to allow this
25 matter to proceed to a default decision.

26 In this case, Respondents Jacob Angel, and Jacob Angel For Peninsula Health Care District 2012
27 violated the Political Reform Act as described in Exhibit 1, which are attached hereto and incorporated
28 by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the law and

1 evidence in this matter. This Default Decision and Order is submitted to the Commission to obtain a
2 final disposition of this matter.

3
4 Dated: _____

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

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8 **DECISION AND ORDER**

9 The Commission issues this Default Decision and Order and imposes an administrative penalty
10 of Two Thousand Dollars (\$2,000) upon Respondents Jacob Angel, and Jacob Angel For Peninsula
11 Health Care District 2012, payable to the “General Fund of the State of California.”

12 IT IS SO ORDERED, effective upon execution below by the Chair of the Fair Political Practices
13 Commission at Sacramento, California.

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15 Dated: _____

16 Ann Ravel, Chair
17 Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Jacob Angel (Respondent Angel) was a candidate for Peninsula Health Care District, in the November 6, 2012 election, but he withdrew from the election as of May 1, 2012. Respondent Jacob Angel For Peninsula Health Care District 2012 (Respondent Committee) was Respondent Angel's candidate controlled committee. At all relevant times, Kimberly S. Griffin was treasurer of Respondent Committee.

This matter arose out of a complaint filed by Ms. Griffin on May 4, 2012.

The Political Reform Act (the "Act"),¹ requires candidates, their controlled committees, and the treasurers of those committees, to establish and use a designated campaign bank account in which to deposit contributions and make expenditures. Additionally, candidates, committees and treasurers are required to maintain adequate campaign records.

In this matter, Respondents 1) failed to establish and use a single designated campaign bank account, and 2) failed to maintain sufficient campaign records.

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

COUNT 1: Respondents Jacob Angel, and Jacob Angel For Peninsula Health Care District 2012, failed to establish a campaign bank account upon the filing of a statement of intention, failed to deposit all campaign contributions into, and failed to make all expenditures from a single, designated campaign bank account for Respondent Jacob Angel For Peninsula Health Care District 2012, during calendar years 2011 and 2012, in violation of Government Code Section 85201, subdivisions (a), (c), and (e).

COUNT 2: Respondents Jacob Angel, and Jacob Angel For Peninsula Health Care District 2012, failed to maintain the detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to comply with the campaign reporting provisions of the Act, during calendar years 2011 and 2012, in violation of Government Code Section 84104.

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.

PROCEDURAL HISTORY

Respondents have been informed of the charges set forth herein and their rights to a probable cause hearing and an administrative hearing under the Political Reform Act, the Administrative Procedure Act, and all other relevant laws. However, Respondents have agreed to waive these rights, and Respondents are aware that by doing so, the Enforcement Division will proceed with this default recommendation to the Commission, which, if approved by the Commission, will result in Respondent being held liable for the penalty amount of \$2,000.

A certified copy of Respondent's written waiver in this regard is submitted herewith as Exhibit A and incorporated herein by reference as if in full.

NATURE OF DEFAULT PROCEEDINGS

In this situation, where Respondents have waived their rights to a probable cause conference and an administrative hearing, the Commission may take action based upon the Respondents' express admissions or upon other evidence, and affidavits may be used as evidence without any notice to the Respondent. (Section 11520, subdivision (a).)

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.

One Bank Account Requirement

To ensure full disclosure of campaign activity and to guard against improper use of campaign funds, the Act requires campaign funds to be segregated from nonpolitical, personal accounts and kept in a single, designated campaign bank account. (Section 85201.) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state. (Section 85201, subd. (a).) The Act requires that all contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee be deposited in the account. (Section 85201, subd. (c).) Additionally, all campaign expenditures must be made from the account. (Section 85201, subd. (e).)

Duty to Maintain and Retain Campaign 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.

Candidate Liability

Under Sections 81004, subdivision (b), 84100, and 84213, and Regulation 18427, subdivisions (a), (b) and (c), it is the duty of a 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. The 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 Jacob Angel (Respondent Angel), was a 20-year old candidate for Peninsula Health Care District, in the November 6, 2012 election, but he withdrew from the election as of May 1, 2012. Respondent Jacob Angel For Peninsula Health Care District 2012 (Respondent Committee) was Respondent Angel's candidate controlled committee. At all relevant times, Kimberly S. Griffin was treasurer of Respondent Committee.

After receiving redacted bank records from Respondent Angel for the campaign bank account, Ms. Griffin was concerned that the money in the account had not been used for campaign purposes. Thus, on April 27, 2012, Ms. Griffin obtained bank statements directly from the bank, which showed that campaign funds had largely been expended for personal use.² Ms. Griffin immediately closed the account with a zero balance, and she advised Respondent Angel to withdraw from the election. Respondent Angel withdrew from the election as of May 1, 2012. In May 2012, Ms. Griffin filed a complaint with the Commission against Respondent Angel and Respondent Committee.

The evidence shows that Respondent Angel filed his candidate intention statement on April 4, 2011. However, Respondent Angel did not establish a campaign bank account until January 3, 2012, despite reporting receiving contributions and making expenditures at least as early as January 2011.

² The expenditures were in amounts too small to violate the personal benefit prohibition. "Substantial personal benefit" means an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars (\$200) to a candidate. Section 89511, Subd. (b)(3).

Respondent Committee filed one campaign statement for the so-called reporting period of August 16, 2011 – March 20, 2012, which was filed on March 20, 2012, with the San Mateo County Elections Office. Both Respondent Angel and Ms. Griffin signed the campaign statement. In the campaign statement, Respondent Committee reported receiving contributions totaling \$836. No other campaign statement was filed. According to bank records, approximately \$2000 was deposited into the campaign bank account January through April 2012. Also, Respondent Angel and Ms. Griffin confirmed that \$1000 was received in 2011 from Ms. Griffin, but only \$500 of Ms. Griffin’s contribution was reported, and the funds were not deposited into the campaign bank account.

In the campaign statement filed, Respondent Committee reported expenditures totaling \$822. According to bank records, approximately \$2000 was spent January through April 2012. The campaign bank account was closed in May 2012. Respondent Angel and Ms. Griffin confirmed that Respondent Angel reimbursed Ms. Griffin’s \$1000 contribution in 2012 after the bank account was closed. Ms. Griffin provided a copy of her deposit records for the reimbursement she received.

Bank records were obtained, but complete records were not provided for contributions received and expenditures made such as invoices, receipts, and copies of contributor checks.

During the four months the bank account was open, Respondent Committee’s bank records show numerous expenditures for personal items such as coffee, gas, meals, groceries, and movie rentals, the account was overdrawn on at least 15 separate dates, and nine checks/on-line payments were returned unpaid. Respondent Angel claims that someone other than himself was using the debit card for the account without his knowledge or permission. Respondent Angel claims that he wrote his PIN on the back of his campaign debit card, and then lost the card – twice. The bank records do show that three debit cards were issued to Respondent Angel over the course of four months, but many of the places where the expenditures were made were the same regardless of which card was used.

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

Count 1

(Failure to Establish and Use a Single, Designated Campaign Bank Account)

The evidence obtained during the investigation showed that Respondent Angel received his first campaign contribution on January 27, 2011, filed his statement of intention on April 4, 2011, and failed to establish a campaign bank account until January 3, 2012, nearly one year after receiving his first contribution. Thus, Respondents did not timely establish, and did not use a campaign bank account until January 3, 2012.

By failing to establish and use a single, designated campaign bank account, Respondents violated Government Code Section 85201, subdivisions (a), (b), (d) and (e).

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Count 2

(Failure to Maintain Complete Campaign Records)

Respondents had a duty 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. During the investigation, Enforcement Division staff requested all campaign records for Respondent Angel's campaign. Respondents provided some very limited records, and bank records were provided by the financial institution in which Respondent Angel established the campaign bank account.

However, Respondents received some contributions before establishing a bank account, and many that were received after the bank account was established, could not be verified because Respondents failed to keep any records regarding contributor information. Additionally, most of the campaign expenditures were not supported by an invoice, receipt, or other source documentation, and thus, also could not be verified. The lack of records precluded a determination of who contributed to Respondent Angel's campaign, the purpose for the various expenditures made, whether additional reports were required to be filed, or whether other violations were committed. By failing to maintain complete campaign records, Respondents violated Government Code Section 84104.

CONCLUSION

This matter consists of two counts of violating the Act, which carry a maximum administrative penalty of Five Thousand Dollars (\$5,000) per count for a total of Ten Thousand Dollars (\$10,000).

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.

Failing to establish and use one campaign bank account for all campaign activity (Count 1) and failing to maintain the required campaign records (Count 2) makes it difficult, and in some instances, impossible, to verify who contributed to the campaign, the purpose for the

various expenditures made, whether additional reports were required to be filed, or whether other violations of the Act were committed.

In this matter, Respondents failed to timely establish and use one bank account for all campaign activity, and Respondents failed to maintain required records, making it difficult to impossible for enforcement staff to determine whether Respondents further violated the Act's requirements. Thus, these violations show a serious breach of the public trust. It should be noted that Respondent Angel was a young, first-time candidate who was likely in over his head. However, Respondent Angel describes himself as a "political organizer," and as someone interested in establishing a career in politics, he should have been more pro-active in learning his obligations and requirements under the Act. The amount of campaign funds/activity revealed during this investigation is small, but because Respondents didn't use one bank account, and kept inadequate records, more money could have been involved in this campaign that cannot be verified. Additionally, the bank statements show that many of Respondents' campaign expenditures were made for personal use, and even though these expenditures did not meet the threshold for a prohibition under the Act, using campaign funds for other than political purposes is a serious breach of the trust of the contributors and of the public. These violations, taken as whole, show a pattern of negligent conduct which resulted in a significant lack of disclosure and deprived the public of information regarding Respondents' campaign activity.

In mitigation, Respondents have no prior history of violating the Act, and have cooperated with the investigation of this matter.

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

Failure to Establish and Use a Single, Designated Campaign Bank Account:

- ***In the Matter of Larry McCallon, FPPC No. 09/042.*** Respondent, a candidate for the San Bernardino County Republican Central Committee, failed to use a single, designated campaign bank account for campaign expenses totaling \$2,800, in violation of Government Code Section 85201 (1 count). Penalty per relevant count: \$2,000. Approved by the Commission April 2010.
- ***In the Matter of Janet Nguyen, et al., FPPC No. 07/378.*** Respondent, candidate for the Orange County Board of Supervisors, and her controlled committee, failed to use a single, designated campaign bank account for legal defense contributions totaling \$12,500, in violation of Government Code Section 85201 (1 count). Penalty per relevant count: \$1,250. Approved by the Commission December 2007.

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Failure to Maintain Campaign Records:

- ***In the Matter of Jennifer Rodriguez, et al., FPPC No. 05/158.*** Respondents, a candidate for Bell Gardens City Council, her controlled committee and its treasurers, failed to maintain required campaign records, in violation of Government Code Section 84104 (1 count). Penalty per relevant count: \$1,500. Approved by the Commission June 2010.
- ***In the Matter of Marco Robles, Committee to Elect Marco A. Robles, and Rosa Lira, FPPC No. 08/329.*** Respondents, a candidate for Pomona City Council, his controlled committee and its treasurer, failed to maintain required campaign records, in violation of Government Code Section 84104 (1 count). Penalty per relevant count: \$1,000. Approved by the Commission February 2010.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, the aggravating and mitigating factors involved, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of Two Thousand Dollars (\$2,000) is recommended: One Thousand Dollars (\$1,000) each for Counts One and Two.

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EXHIBIT A

EXHIBIT 1 IN SUPPORT OF DEFAULT, DECISION AND ORDER
FPPC NO. 12/287

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**FAIR POLITICAL PRACTICES COMMISSION
ENFORCEMENT DIVISION**

WAIVER OF RIGHT TO PROBABLE CAUSE CONFERENCE AND ADMINISTRATIVE HEARING

1. I, the undersigned, am a Respondent in FPPC Case No. 12/287. I am representing myself individually, and Jacob Angel For Peninsula Health Care District 2012 (Respondent Committee), as its controlling candidate, in this matter.
2. I acknowledge that I understand my and Respondent Committee's rights to a Probable Cause Hearing and Administrative Hearing under the Political Reform Act, Administrative Procedures Act, and all other relevant laws.
3. Except as otherwise provided in paragraph 2, I hereby waive my and Respondent Committee's rights to a Probable Cause Hearing and Administrative Hearing and understand and agree that my and Respondent Committee's case will proceed to a default recommendation by the Enforcement Division to the Fair Political Practices Commission at the Commission's next regularly scheduled hearing date.

Dated: March 8th 2013

Jacob Angel, Respondent, individually and on
behalf of Jacob Angel For Peninsula Health Care
District 2012

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