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7  
8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**  
9 **STATE OF CALIFORNIA**

10  
11 In the Matter of:

FPPC No. 12/607

12 WILLIAM LEE and COMMITTEE TO  
13 ELECT WILLIAM LEE MARINA  
COAST WATER DISTRICT  
14 NOVEMBER 2, 2010,

STIPULATION, DECISION, AND ORDER

15 Respondents.

16  
17 **STIPULATION**

18 Complainant, the Fair Political Practices Commission (Commission), and respondents William  
19 Lee and Committee to Elect William Lee Marina Coast Water District November 2, 2010 (Respondents)  
20 hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices  
21 Commission at its next regularly scheduled meeting.

22 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this  
23 matter and to reach a final disposition without the necessity of holding an additional administrative  
24 hearing to determine the liability of Respondents.

25 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural  
26 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of  
27 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to  
28 personally appear at any administrative hearing held in this matter, to be represented by an attorney at

1 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to  
2 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over  
3 the hearing as a hearing officer, and to have the matter judicially reviewed.

4 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing  
5 to deposit campaign contributions and make campaign expenditures from Respondents' campaign bank  
6 account in violation of Government Code section 85201, subdivisions (c) and (e), and not maintaining  
7 adequate campaign records in violation of Government Code section 84104, all as described in Exhibit  
8 1. Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1  
9 is a true and accurate summary of the facts in this matter.

10 Respondents agree to the issuance of the Decision and Order, which is attached hereto.  
11 Respondents also agree to the Commission imposing an administrative penalty in the total amount of  
12 Four Thousand Five Hundred Dollars (\$4,500). Respondents submitted with this Stipulation a cashier's  
13 check from Respondents in said amount, made payable to the "General Fund of the State of California,"  
14 as full payment of the administrative penalty that shall be held by the State of California until the  
15 Commission issues its Decision and Order regarding this matter. The parties agree that in the event the  
16 Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen (15)  
17 business days after the Commission meeting at which the Stipulation is rejected, all payments tendered  
18 by Respondents in connection with this Stipulation shall be reimbursed to Respondents. Respondents  
19 further stipulate and agree that in the event the Commission rejects the Stipulation, and a full evidentiary  
20 hearing before the Commission becomes necessary, neither any member of the Commission, nor the  
21 Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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23 Dated: \_\_\_\_\_  
24 Gary S. Winuk, on behalf of the Enforcement Division  
25 Fair Political Practices Commission

26 Dated: \_\_\_\_\_  
27 William Lee, individually and on behalf of Committee  
28 to Elect William Lee Marina Coast Water District  
November 2, 2010

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**DECISION AND ORDER**

The foregoing Stipulation of the parties “In the Matter of William Lee and Committee to Elect William Lee Marina Coast Water District November 2, 2010,” FPPC No. 12/607, 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 Chair.

IT IS SO ORDERED.

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

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**EXHIBIT 1**

**INTRODUCTION**

Respondent William Lee (“Respondent Lee”) ran for a director position on the Marina Coast Water District (“District”) Board in 2010. Respondent Committee to Elect William Lee Marina Coast Water District November 2, 2010 (“Respondent Committee”) was his committee. Under the Political Reform Act (the “Act”)<sup>1</sup>, a candidate is required to deposit all campaign contributions and make all campaign expenditures from a single campaign bank account, and must maintain adequate accounting records of campaign activity. As set forth below, Respondents violated the Act by using Respondent Lee’s personal bank account to deposit campaign contributions and make campaign expenditures rather than the campaign account, and not maintaining adequate campaign records.

For purposes of this Stipulation, the proposed violations of the Act are as follows:

**COUNT 1:** Respondents failed to deposit campaign contributions into their campaign bank account and failed to make campaign expenditures from their campaign bank account in violation of Section 85201, subdivisions (c) and (e).

**COUNT 2:** Respondents failed to maintain detailed accounts, records, bills and receipts necessary to prepare campaign statements and to establish campaign statements were properly filed in violation of Section 84104.

**SUMMARY OF THE LAW**

**Campaign Bank Account**

Section 85201 requires every candidate or committee to establish a campaign bank account prior to accepting any contributions. A candidate must deposit all campaign contributions received in the campaign bank account and make all campaign expenditures from the account. (Section 85201, subdivisions (c) and (e).) Money in a campaign account shall be spent only on expenses associated with the candidate’s election. (Regulation §18524, subdivision.)

**Campaign Recordkeeping**

Section 84104 places a duty on a candidate to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements and to establish that campaign statements

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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.

were properly filed. Regulation §18401 details what documents a candidate must retain. Generally, for any contributions received or expenditures made, the candidate must retain source documents sufficient to show continuous computation of campaign account balances. Examples of such documents include copies of checks, check registers, deposit slips, etc. Larger contributions and expenditures require the candidate to retain additional documentation. Regulation §18401, subdivision (b)(2) provides that candidates for local offices shall retain the required records for four years from the date of the election.

## **SUMMARY OF THE FACTS**

In 2010, Respondent Lee ran for a director position on the District's Board of Directors. He won one of the available seats on the Board. An investigation of Respondents' campaign by the Enforcement Division of the Fair Political Practices Commission ("Commission") revealed that Respondents' failed to use the campaign bank account for all contributions and expenditures, and failed to maintain adequate records and accounts of the campaign, both of which are violations of the Act.

### **Campaign Bank Account**

Respondents' campaign bank account records for the account with JP Morgan Chase Bank listed on Respondents' Statement of Organization (Form 410) reflect less activity during the time leading up to the 2010 election than Respondents reported on their campaign statements. Respondents' 2010 campaign statements indicate they received \$4,499 in contributions and made expenditures of approximately \$4,492 during the course of the campaign. But Respondents' campaign bank account and expenditures from the account totaled less than \$1,000 each. Campaign funds were instead deposited into Respondent Lee's personal checking account and many of the campaign expenditures were paid with funds withdrawn from Respondent Lee's personal account.

### **Count 1**

#### **Failure to Deposit Contributions and Make Expenditures from Campaign Bank Account**

Respondents failed to deposit campaign contributions into their campaign bank account and failed to make campaign expenditures from their campaign bank account in violation of Section 85201, subdivisions (c) and (e).

### **Campaign Recordkeeping**

The Enforcement Division of the Commission requested campaign records from Respondents in connection with its investigation in this case. Respondents stated that they did not have any records other than campaign statements. The Enforcement Division subpoenaed Respondent Committee's campaign bank account statements and Respondent Lee's personal bank account statements from their banks but was unable to obtain any of the source documents that the Act requires Respondents to maintain.

**Count 2**  
**Failure to Maintain Campaign Records**

Respondents failed to maintain detailed accounts, records, bills and receipts necessary to prepare campaign statements and to establish campaign statements were properly filed in violation of 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.

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 Respondents demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

**Campaign Bank Account**

Recent similar cases decided by the Commission for violations involving campaign bank accounts include:

- *In the Matter of George Eads and Committee to Elect George Eads Marina Coast Water District November 2, 2010*, FPPC No. 10/930: The respondent failed to establish a campaign account, and deposited all campaign contributions and made all campaign expenditures from his personal checking account. On February 28, 2013, in a default decision, the Commission imposed a fine of \$2,500 for the respondent's failure to maintain a campaign bank account.
- *In the Matter of George Barich*, FPPC No. 09/774: The respondent was a multi-term city councilman who ran for reelection in 2008. During the campaign, he violated the Act by failing to establish a campaign bank account, and deposited campaign contributions into, and making campaign expenditures from, his personal checking account. The respondent had no prior violations of the Act. On January 28, 2011, the Commission approved a penalty of \$3,000 for this violation.
- *In the Matter of Maria G Lopez, Campaign to Elect Maria Lopez, and Adolph J. Lopez*, FPPC No. 06/379: The respondent, a candidate elected to a local school board, made campaign expenditures of \$4,263 directly from her personal bank account even though she had a campaign account. The respondent had no prior violations of the Act. On

October 8, 2009, the Commission approved a default judgment against respondents that imposed a penalty of \$3,000 for paying campaign expenditures from a personal bank account.

Failure to use a campaign account for campaign expenditures and contributions makes it difficult to track and account for campaign funds, and ensure compliance with the Act. Comingling campaign funds and personal funds also increases the risk that campaign funds will be used for personal purposes and vice versa. Respondent Lee deposited campaign contributions and made campaign expenditures from his personal checking account, making it difficult to determine the purposes for which he used the campaign contributions.

### **Campaign Recordkeeping**

Recent similar cases decided by the Commission related to recordkeeping violations include:

- *In the Matter of George Eads and Committee to Elect George Eads Marina Coast Water District November 2, 2010*, FPPC No. 10/930: The respondent shredded all of his campaign records shortly after the election thereby violating the recordkeeping requirements of the Act. On February 28, 2013, in a default decision, the Commission imposed a fine of \$2,000 for his failure to maintain campaign records.
- *Michael Glover, Michael G. Glover for Assembly 2008, and Committee to Elect Mike Glover for 70<sup>th</sup> AD, 2010*, FPPC No. 09/615: On multiple occasions, the respondents failed to produce campaign records when requested by Commission staff. In a default decision on March 15, 2012, the Commission imposed a penalty of \$3,000 for the recordkeeping violation.
- *Arturo Chacon and Art Chacon for Water Board 2010*, FPPC No. 08/652: The respondents failed to retain records for a number of contributions received and expenditures made by the campaign resulting in two counts for violating Section 84104. On February 10, 2011, the Commission approved a penalty of \$2,000 per count for the recordkeeping violations.

Destruction of campaign records causes significant public harm because it deprives the Commission and the public of information necessary to determine whether the candidate properly reported campaign activity. This is especially true in a case like this one where the Respondents' campaign funds were comingled with personal funds.

In the present matter, there appears to have been no intent to deceive the voting public. Respondents demonstrated good faith in cooperating with Commission staff to resolve this matter. Respondents had no prior history of violating the Act and limited experience with campaign reporting.

## **PROPOSED PENALTY**

After considering the factors of Regulation 18361.5, including the intent of the parties in committing the violations, as well as consideration of penalties in prior enforcement actions, the recommended penalties are as follows: For Count 1, a penalty of \$2,500 and for Count 2, a penalty of \$2,000. The total recommended penalty is \$4,500.

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