

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. 10/558
13)
POWERPAC.ORG VOTER FUND)
14 AND LISA LE) STIPULATION, DECISION and
ORDER
15 Respondents.)
16)
17)

18 Complainant, the Fair Political Practices Commission, and Respondents PowerPAC.org Voter
19 Fund and Treasurer Lisa Le agree that this Stipulation will be submitted for consideration by the Fair
20 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 PowerPAC.org Voter Fund and Lisa Le
4 violated the Political Reform Act by (1) failing to disclose required information about a contributor of
5 \$100 or more, in a Late Independent Expenditure Report, in violation of Government Code Section
6 84211, subdivision (f) (1 count). This count is described in Exhibit 1, which is attached hereto and
7 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
8 the facts in this matter.

9 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
10 Respondent also agrees to the Commission imposing upon them an administrative penalty in the amount
11 of Three Thousand Dollars (\$3,000). A cashier's check from Respondents in said amount, made
12 payable to the "General Fund of the State of California," is submitted with this Stipulation as full
13 payment of the administrative penalty, to be held by the State of California until the Commission issues
14 its decision and order regarding this matter. The parties agree that in the event the Commission refuses
15 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
16 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
17 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
18 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
19 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
20 shall be disqualified because of prior consideration of this Stipulation.

21
22 Dated: _____
23 Gary S. Winuk, Chief of Enforcement
24 Fair Political Practices Commission

25 Dated: _____
26 Respondent Lisa Le, Individually
27 and on behalf of PowerPAC.org Voter Fund
28

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of PowerPAC.org Voter Fund and Lisa
3 Le,” FPPC No. 10/558, including all attached exhibits, is hereby accepted as the final decision and order
4 of the Fair Political Practices Commission, effective upon execution below by the Chair.

5
6 IT IS SO ORDERED.

7
8 Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent PowerPAC.org Voter Fund (“Respondent PowerPAC Committee”) was the sponsored committee of Respondent PowerPAC.org. At all relevant times to this matter, Respondent Lisa Le was the treasurer of Respondent PowerPAC Committee. This case arose from a complaint concerning the PowerPAC Committee’s activity prior to the November 2010 election.

The Act requires disclosure of contributions of \$100 or more, including specific information about the contributor.

In this matter, Respondents failed to disclose the contributor information for a \$60,000 contribution made to Respondent PowerPAC Committee, so that information identifying the contributor was not provided before the election. On or about June 4, 2010, Laurene Powell Jobs provided \$70,000 to PowerPAC.org, which in turn transferred \$60,000 to the Committee the following day. Respondent PowerPAC Committee reported the contribution as originating from PowerPAC.org, not Ms. Jobs, on a Late Independent Expenditure Report.

For the purposes of this Stipulation, Respondents’ violation of the Political Reform Act (the “Act”)¹, is stated as follows:

COUNT 1: In a pre-election statement filed on or about June 5, 2010, Respondents PowerPAC.org Voter Fund and Treasurer Lisa Le failed to disclose required information about a contributor of \$100 or more, in a Late Independent Expenditure Report, in violation of Section 84211, subdivision (f), of the Government Code.

SUMMARY OF THE LAW

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 referred to as a “recipient committee.”

Duty to Disclose Contributions

Section 84211 prescribes that certain information must be disclosed on campaign statements filed by a committee, including information about the contributions received and the expenditures made by the committee. Section 82015 defines a contribution as a payment made

¹The 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.

for political purposes. A contribution can be monetary or nonmonetary. A monetary contribution is “received” on the date the candidate or committee, or the agent of the candidate or committee, obtains possession or control of the check or other negotiable instrument by which the contribution is made. (Regulation 18421.1, subd. (c).)

Section 84211, subdivision (f), requires a committee to report on each of its campaign statements the following information about a person if the cumulative amount of contributions received from that person is \$100 or more and a contribution has been received from that person during the reporting period covered by the campaign statement: (1) the contributor’s full name; (2) the contributor’s street address; (3) the contributor’s occupation; (4) the name of the contributor’s employer, or if self-employed, the name of the contributor’s business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor. “Cumulative amount” means the amount of contributions received in the calendar year. (Section 82018, subd. (a).)

Liability of Committee Treasurers

Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (c), it is the duty of a committee’s treasurer 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 may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

Respondent PowerPAC.org Voter Fund is a state general purpose committee; sponsored by PowerPAC.org. At all relevant times to this matter, Respondent Le was the treasurer of Respondent Committee.

PowerPAC.org Voter Fund has been filing as a committee since 2006, when it filed a Statement of Organization. It receives the majority of its funding from its sponsor, and makes expenditures in support of various candidates across the state. The Committee has been sponsored by PowerPAC.org since its formation.

According to statements provided by Respondents, leadership for PowerPAC.org had discussed a range of upcoming programs with Laurene Powell Jobs as part of its efforts to solicit donations. June 4, 2010, Ms. Jobs provided \$70,000 to PowerPAC.org, which in turn transferred \$60,000 to the Committee the following day, and reported the transfer as a distribution of its treasury funds on a Late Independent Expenditure Report. Although PowerPAC.org initially believed the money was a donation to the sponsor organization, Ms. Jobs intended it to be a political contribution, for use by PowerPAC.org Voter Fund, and reported it as such on her next major donor report. Respondents voluntarily amended the campaign statements to report the contributor information.

COUNT 1

Failure to Disclose Contributor Information

Respondents had a duty to disclose activity for each reporting period including: (1) all contributions made, (2) all contributions received, (3) specific information for all persons who contributed \$100 or more to Respondent Committee, and (4) specific information for all persons who received \$100 or more from Respondent Committee. According to Respondent Committee's campaign statements, Respondents reported a contribution of \$60,000 from PowerPAC.org on a Late Independent Expenditure Report on June 4, 2010. However, it was the intent of the donor to make a political contribution to the Committee, rather than a donation to the sponsoring organization. As such, Respondents were required to report donor information for the contribution on a campaign statement, but failed to do so.

By failing to properly report contributor information concerning \$60,000 in contributions received on a Late Independent Expenditure Report, Respondents violated Section 84211 subdivision (f), of the Government Code.

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum 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.

Reporting of Contributions: Respondents had a duty to disclose for each reporting period specific information regarding all contributions received of \$100 or more. (Section 84211, subdivision (f).) The public harm inherent in disclosure violations is that the public is deprived of important information, such as the sources and amounts of contributions to a campaign. The information regarding the source of the \$70,000 in contributions received should have been reported before the election.

Other similar cases regarding improperly reported contributions recently approved by the Commission include:

In the Matter of Mary Ann Andreas et al., FPPC No. 06/077. This case involved ten counts of various reporting and limits violations. Included in this were two counts of failure to report contributions received, one campaign statement was due before the General Election. For one reporting period, a total of 42 contributions received of \$100 or more, totaling approximately \$37,600 were not reported. As for the second reporting period, a total of 34 contributions of \$100 or more totaling approximately \$26,863 were not reported. The total of all contributions not reported was less than 6% of the contributions received during the audit period. There was no evidence found that this activity was deliberate. A \$2,500 per count penalty was approved by the Commission on June 10, 2010.

In the Matter of Arturo Chacon and Art Chacon for Water Board 2010, FPPC No. 08/652. This case involved 13 counts of various reporting, recordkeeping and use of cash violations. Three counts of failure to report contributions received were included. All three campaign statements requiring the disclosure were due after the November 7, 2006 election, and were filed reporting no contributions received. A \$2,500 per count penalty for the two counts, which included higher amounts not reported (approximately \$22,000 and \$12,000) while a \$2,000 penalty for the remaining count, which dealt with a lower amount of contributions not reported (approximately \$3,000) was approved by the Commission on February 10, 2011.

In this case, Respondents' actions were similar to the cases above in that none of these cases appear to include anything more than negligent behavior. In addition, Respondents' did report the receipt of the contribution by the Committee, but failed to report the contributor information properly. However, the present case is different in that this does not appear to be a pattern of behavior or part of a bigger disclosure issue. In addition, Respondents voluntarily amended the campaign statements to report the contributor information. Therefore, imposition of an administrative penalty in the amount of Three Thousand Dollars (\$3,000) is recommended.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the presence or absence of good faith, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of Three Thousand Dollars (\$3,000) is recommended.