

1 GARY S. WINUK
Chief of Enforcement
2 GALENA WEST
Commission Counsel IV
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
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12 In the Matter of) FPPC No. 12/724
13)
14) STIPULATION, DECISION and
CALIFORNIA ASSOCIATION OF) ORDER
HIGHWAY PATROLMEN AND JON H.)
15 HAMM,)
16)
Respondents.)
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19 Complainant Fair Political Practices Commission, and Respondents California Association of
20 Highway Patrolmen and Jon H. Hamm agree that this Stipulation will be submitted for consideration by
21 the Fair Political Practices Commission at its next regularly scheduled meeting.

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

25 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
26 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
27 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
28 the right to personally appear at any administrative hearing held in this matter, to be represented by an
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 California Association of Highway Patrolmen
4 and Jon H. Hamm violated the Political Reform Act by failing to timely file a preelection campaign
5 statement for the reporting period January 1, 2010, through March 17, 2010 by the March 22, 2010 due
6 date, in violation of Section 84200.5, subdivision (d), and 84200.7, of the Government Code (1 count);
7 understating the balance of cash on campaign statements, in violation of Section 84211, subdivision (e),
8 of the Government Code (1 count); and failing to timely report contributions received on campaign
9 statements, in violation of Section 84211, subdivisions (a) and (d), of the Government Code (1 counts).
10 All counts are described in Exhibit 1, which is attached hereto and incorporated by reference as though
11 fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

12 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
13 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount
14 of Six Thousand Five Hundred Dollars (\$6,500). A cashier's check from Respondents in said amount,
15 made payable to the "General Fund of the State of California," is submitted with this Stipulation as full
16 payment of the administrative penalty, to be held by the State of California until the Commission issues
17 its decision and order regarding this matter. The parties agree that in the event the Commission refuses
18 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
19 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
20 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
21 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
22 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
23 shall be disqualified because of prior consideration of this Stipulation.

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Dated: _____

Gary Winuk, Enforcement Chief,
on behalf of the
Fair Political Practices Commission

Dated: _____

Jon H. Hamm, Respondent,
Individually, and on behalf of,
California Association of Highway Patrolmen

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of California Association of Highway Patrolmen and Jon H. Hamm,” FPPC No. 12/724, 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 Chairman.

IT IS SO ORDERED.

Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent California Association of Highway Patrolmen (“Respondent Committee”) is a general purpose committee sponsored by the California Association of Highway Patrolmen. At all time relevant, Respondent Jon H. Hamm (“Respondent Hamm”) served as treasurer of Respondent Committee. This case arose from Franchise Tax Board (“FTB”) audit of Respondent Committee for the period January 1, 2009 through December 31, 2010. During the period covered by the audit, Respondent Committee reported receiving contributions of approximately \$902,041 and making expenditures of approximately \$697,174.

As a general purpose committee under the Political Reform Act¹ (the “Act”), Respondents have a duty to timely file campaign statements, disclose accurately the cash held by the committee, and disclose information regarding contributions. However, Respondents violated the Act’s requirements for: (1) failing to timely file a preelection campaign statement, (2) failing to timely report accurate cash balances, and (3) failing to timely report contributions.

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

COUNT 1: Respondents California Association of Highway Patrolmen and Jon H. Hamm failed to timely file a first preelection campaign statement for the reporting period January 1, 2010, through March 17, 2010 by the March 22, 2010 due date, in violation of Section 84200.5, subdivision (d), and 84200.7, of the Government Code.

COUNT 2: Respondents California Association of Highway Patrolmen and Jon H. Hamm failed to timely disclose the accurate balance of cash for ten consecutive reporting periods beginning January 1, 2009 through December 31, 2010, by up to approximately \$98,459, in violation of Section 84211, subdivision (e), of the Government Code.

COUNT 3: Respondents California Association of Highway Patrolmen and Jon H. Hamm failed to timely report contributions received during four consecutive reporting periods beginning May 23, 2010 through December 31, 2010, totaling approximately \$151,239, in violation of Section 84211, subdivisions (a) and (d), of the Government Code.

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. The law referenced in this Exhibit is the Act as it was in effect in 2008.

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.” Under the Act’s campaign reporting system in effect at the time of the audit, state general purpose committees were required to file specified campaign statements and reports disclosing contributions received and expenditures made by certain deadlines by filing an original and one copy with the Secretary of State’s office, one copy with the Registrar-Recorder of Los Angeles County, and one copy with the Registrar of Voters of the City and County of San Francisco. (Section 84215, subd. (a).)

Duty to File Preelection Campaign Statements

In addition to the semiannual campaign statements, Section 84200.5, subdivision (d), requires state general purpose committees to file preelection campaign statements (in accordance with the timelines in Section 84200.7) “if it makes contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the preelection statement.” For elections held in June or November of an even number year, Section 84200.7 specifies the time for filing the preelection statements. For a June election, for the period ending March 17, a preelection statement shall be filed no later than March 22. (Section 84200.7, subd. (a)(1).)

Duty to Report The Balance of Cash

The campaign statement must contain “[t]he balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.” (Section 84211, subd. (e).) The cash balance at the beginning and ending of the reporting period is reported as the “Beginning Cash Balance” and the “Ending Cash Balance” on the “Summary Page,” which provides an overview of a committee’s finances. For the purposes of computing the Beginning and the Ending Cash Balance, a committee must accurately report cash receipts (i.e., monetary contributions) and cash payments on the Summary Page for each reporting period.

Duty to Disclose Contributions on Campaign Statements

Section 82015 defines a contribution as a payment made for political purposes. Section 84211, subdivision (a), requires committees to disclose the total amount of contributions received during the period covered by the campaign statement. Additionally, Section 84211,

subdivision (d), requires a committee to disclose on each of its campaign statements the total amount of contributions received during the period from persons who had given a cumulative amount of less than \$100. "Cumulative amount" means the amount of contributions received in the calendar year. (Section 82018, subd. (a).)

Generally, a monetary contribution is "received" on the date the committee, or the agent of the committee, obtains possession or control of the check or other negotiable instrument by which the contribution is made. (Regulation 18421.1, subd. (c).) For sponsored committees, Regulation 18421.1, subdivision (d), provides the rules for reporting contributions collected "by means of payroll deductions or membership dues by a membership organization for its sponsored committee." The contribution is received by the committee "on the earlier of the following: (1) The date that the committee obtains actual possession or control of the contribution; (2) Within 60 days after the receipt of the payment by the committee's sponsor."

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 of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under Sections 83116.5 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 general purpose committee. At all time relevant, Respondent Hamm served as treasurer of Respondent Committee. As a general purpose committee under the Act, Respondents have a duty to timely file campaign statements, to timely disclose accurately the balance of cash held by the committee, and to timely report contributions. However, Respondents failed to fulfill these duties.

COUNT 1

Failure to Timely File Preelection Campaign Statement

In addition to the semi-annual campaign statements, Section 84200.5, subdivision (d), requires state general purpose committees to file preelection campaign statements "if it makes contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the preelection statement." Respondents' bank records and campaign statements show that during the reporting period of January 1, 2010 through March 17, 2010, Respondents received approximately \$113,944 in contributions and made approximately \$95,120 in expenditures. Respondents were required to report this activity on the first preelection campaign statement for that reporting period, which was due March 22, 2010. Records from the Secretary of State's office revealed that Respondents did not file this statement until August 2, 2010, 133 days late.

By failing to timely file a preelection campaign statement by the filing due date, Respondents violated Sections 84200.5, subdivision (d), and 84200.7 of the Government Code.

COUNT 2
Failure to Disclose Accurate Balance of Cash

Respondents had a duty to disclose the balance of cash on hand at the beginning and end of the period covered by the campaign statement. (Section 84211, subd. (e).) However, Respondents failed to timely disclose accurate balance of cash. Respondents understated the balance of cash on ten campaign statements filed for the reporting periods for calendar years 2009 and 2010, by up to approximately \$98,459. Amendments were filed January 13, 2012 to disclose accurate cash balances after Respondents received Franchise Tax Board’s audit notification. Respondents were issued a Franchise Tax Board audit finding regarding the failure to accurately reflect cash balances in 2002 and issued a warning letter from the Commission. The chart below shows each reporting period, the amount reported as the beginning cash balance, the amount reported as the ending cash balance, and the approximate amounts that should have been reported according to the bank records.

Reporting Period	Reported Beginning Cash Balance	Accurate Beginning Cash Balance	Reported² Ending Cash Balance	Accurate Ending Cash Balance
01/1/09 – 03/30/09	\$387,950	\$401,950	\$464,424	\$479,224
04/01/09 – 06/30/09	\$462,424	\$479,224	\$470,818	\$491,118
07/01/09 – 09/30/09	\$470,818	\$491,118	\$557,681	\$581,981
10/01/09 – 12/31/09	\$560,681	\$581,981	\$640,312	\$665,512
01/01/10 – 03/17/10	\$644,212	\$665,512	\$662,036	\$684,336
03/18/10 – 05/22/10	\$662,036	\$684,336	\$629,468	\$651,768
05/23/10 – 06/30/10	\$629,468	\$651,768	\$590,955	\$652,352
07/01/10 – 09/30/10	\$626,052	\$652,352	\$621,245	\$682,244
10/01/10 – 10/16/10	\$621,245	\$682,244	\$556,914	\$655,373
10/17/10 – 12/31/10	\$632,073	\$655,373	\$540,222	\$608,003

² In addition, on multiple occasions during the periods shown above the inaccurate ending cash balance of the current statement would not match the inaccurate beginning cash balance on the subsequent statement.

By failing to accurately disclose the balance of cash on hand, Respondents violated Section 84211, subdivision (e) of the Government Code.

COUNT 3
Failure to Timely Report Contributions Received

Respondents had a duty to timely report the total amount of contributions received during the period covered by the campaign statement as well as the total amount of contributions received during the period from persons who had given a cumulative amount of less than \$100. However, according to Respondents’ bank records and campaign statements that were amended after the Franchise Tax Board’s audit, Respondents failed to report monetary contributions received from their sponsor, the California Association of Highway Patrolmen, collected through membership dues. This is significant since all of Respondent Committee’s funds are collected in this manner. Also, in a previous case, Respondents were sent a warning letter from the Commission based on the same findings of a Franchise Tax Board audit. These contributions were not reported on four campaign statements but were correctly reported on amendments filed after the audit, the details of which are listed on the chart below.

Reporting Period	Contributions Received	Contributions Reported	Difference
05/23/10 - 06/30/10	\$38,171	\$73	\$38,098
07/01/10 - 09/30/10	\$112,804	\$75,106	\$37,698
10/01/10 - 10/16/10	\$37,461	\$0	\$37,461
10/17/10 - 12/31/10	\$75,513	\$37,531	\$37,982
TOTAL:	\$263,949	\$112,710	\$151,239

By failing to timely report the contributions, Respondents violated Section 84211, subdivisions (a) and (d), of the Government Code.

CONCLUSION

This matter consists of three 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 Respondent demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

Preelection Campaign Statements: The typical administrative penalty for failing to timely file a preelection campaign statement has been in the middle of the penalty range, depending on the circumstances. Failing to timely file a preelection statement deprives the public of important information about Respondents' financial activities before an election. In this matter, Respondent failed to timely file one preelection statement disclosing approximately \$113,944 in contributions received and approximately \$95,120 in expenditures made, which includes approximately \$93,200 in contributions made to candidates or committees. Recent fines approved by the Commission include:

• ***In the Matter of Davis Democratic Club and Elizabeth R. Weir, FPPC No. 08/390.*** Respondents, a county general purpose committee in Yolo County, and its treasurer, failed to file two pre-election campaign statements in a timely manner, which was combined into one count. The penalty per relevant count was \$2,000. Approved by the Commission on March 15, 2012.

• ***In the Matter of Stonewall Democratic Club of Greater Sacramento, William Guy Crouch, and Christopher Welton, FPPC No. 12/103.*** Respondents, a general purpose committee, and its treasurers, failed to file a pre-election campaign statements in a timely manner for one count. The penalty per relevant count was \$2,000. Approved by the Commission on August 22, 2013.

In this matter, Respondents contend that the late filing was an inadvertent oversight and no evidence was found to indicate that these violations were anything but negligent. After consideration of the factors of Regulation 18361.5, and consideration of penalties in prior enforcement actions, the imposition of a \$2,000 penalty is recommended.

Balance of Cash: When inaccurate cash balances have been addressed, the stipulated administrative penalty has been in the low-to-middle range of the available penalties. Recent cases include:

• ***In the Matter of Dan Hamburg, Dan Hamburg for Supervisor 2010 committee and Geoffrey Baugher, FPPC Nos. 10/751 and 10/981.*** Respondents failed to report accurate cash balances for a year and a half for one count. The penalty per relevant count was \$2,500. Approved by the Commission on April 25, 2013.

• ***In the Matter of Davis Democratic Club and Elizabeth R. Weir, FPPC No. 08/390.*** Respondents, a county general purpose committee in Yolo County, and its treasurer, failed to accurately report cash balances for multiple years for one count. The penalty per relevant count was \$2,500. Approved by the Commission on March 15, 2012.

In this matter, the failure to accurately disclose cash balances was found in every reporting period covered by the audit period. In addition, Respondents were issued an audit finding regarding the failure to accurately reflect cash balances in 2002 and issued a warning letter from the Commission. Respondent contends that as of July 1, 2013, the internal policy

creating this problem has been amended to correct the issue. A penalty of \$2,500 for this violation is recommended.

Required Information Regarding Contributions Received: The public harm inherent in campaign reporting violations is that the public is deprived of important information such as the contributors to the committee and how much money is being transferred from the sponsor to the committee. Recent similar cases where the respondents failed to timely report contributions received on their campaign statements include:

• ***In the Matter of Fernando Vasquez, Vasquez for Downey Council 2010, and Jane Leiderman, Treasurer, FPPC No. 11/057.*** Respondents failed to report 17 contributions received totaling \$7,696 over two preelection reporting periods for two counts. Respondents filed amended statements disclosing the contributions approximately three months after the election. The penalty for each count was \$2,000. Approved by the Commission on March 15, 2012.

• ***In the Matter of In the Matter of League of California Cities CITIPAC, aka League of California Cities CITIPAC, Supporting Proposition 22, and Dan Harrison” FPPC No. 12/727.*** Respondents failed to report contributions totaling 80% of all contributions received during a single, preelection reporting period for one count. Respondents filed amended statements after the election. The penalty for this count was \$3,000. Approved by the Commission on February 28, 2013.

In this matter, Respondents failed to timely report the total amount of contributions received during the period from persons who had given a cumulative amount of less than \$100 reflecting transfers from the sponsor of over \$150,000. Although the public harm is lessened in that these contributions were under \$100 and therefore require less information regarding the individual contributors to be disclosed, money from the sponsor was the sole source of funding for this committee from which Respondents made approximately \$93,200 in contributions to various candidates and committees during the preelection period. In addition, Respondents were issued an audit finding regarding the failure to accurately disclose contributions received from its sponsor in 2002 and issued a warning letter from the Commission. Respondent contends that as of July 1, 2013, the internal policy creating this problem has been amended to correct this issue as well. Therefore, a penalty of \$2,000 is recommended.

Accordingly, the facts of this case justify imposition of a total proposed administrative penalty of \$6,500.

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