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

10
11 In the Matter of:

FPPC No. 13/208

12
13 **RON SMITH and FRIENDS OF RON**
SMITH,

STIPULATION, DECISION, and ORDER

14 Respondents.
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17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Ron Smith and Friends of Ron Smith hereby agree that this Stipulation will be submitted
20 for 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 by this
22 matter and to reach a final disposition without the necessity of holding an additional administrative
23 hearing to determine the liability of Respondents.

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

9 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
10 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
11 Two Thousand Dollars (\$2,000). A cashier's check from Respondents in said amount, made payable to
12 the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
13 administrative penalty, and shall be held by the State of California until the Commission issues its
14 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to
15 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.

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22 Dated: _____ Gary S. Winuk, on Behalf of the Enforcement Division
23 Fair Political Practices Commission

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25 Dated: _____ Ronald Smith, individually and on behalf of Friends of
26 Ron Smith, Respondents

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Ron Smith and Friends of Ron Smith,”
3 FPPC No. 13/208, including all attached exhibits, is hereby accepted as the final decision and order of
4 the Fair Political Practices Commission, effective upon execution below by the Chairman.

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6 IT IS SO ORDERED.

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8 Dated: _____

_____ Sean Eskovitz, Vice Chair

9 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent Ronald Smith (“Respondent Smith”) is currently a member of the West Basin Municipal Water District Board (“Board”). 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.

This matter arose from a referral sent by the Los Angeles County Registrar-Recorder/County Clerk stating that Respondents had failed to timely file a semi-annual campaign statement covering the period from July 1, 2012 to December 31, 2012. The subsequent investigation by the Fair Political Practices Commission’s (the “Commission”) Enforcement Division (“Enforcement Division”) confirmed that Respondents had indeed failed to file the semi-annual statement due on January 31, 2013.

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

COUNT 1: Respondents Ronald Smith and Friends of Ron Smith failed to timely file a semi-annual statement for the period ending December 31, 2013, by the January 31, 2013 due date, in violation of Government Code Section 84200, subdivision (a).

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act’s provisions as they existed at the time of the violation.

Liberal Construction and Vigorous Enforcement of the Political Reform Act

When the Act was enacted, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities. (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

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.

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 18109 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.

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

7 **Duty to File Semi-Annual Campaign Statements**

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

11 **Treasurer and Candidate Liability:**

12 Under Sections 81004, subdivision (b), 84100, and 84213, and Regulation 18427,
13 subdivisions (a), (b) and (c), it is the duty of a committee’s treasurer and candidate to ensure that the
14 committee complies with all of the requirements of the Act concerning the receipt and expenditure of
15 funds, and the reporting of such funds. A committee’s treasurer and candidate may be held jointly and
16 severally liable, along with the committee, for any reporting violations committed by the committee
17 under Sections 83116.5 and 91006.

18 **SUMMARY OF THE FACTS**

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

24 Respondents Friends of Ron Smith and Ronald Smith failed to timely file the semi-annual
25 campaign statement for the period ending on December 31, 2012, by the due date of January 31, 2013.
26 The statement was finally filed with the Los Angeles County Registrar-Recorder on November 12, 2013,
27 over nine months late. During the non-reported period, Respondent Committee did not receive any
28 contributions or make any expenditures.

The Commission has prosecuted Respondents on two prior occasions for three total violations
related to failing to timely file semi-annual statements.

COUNT 1

Failure to Timely File Required Semi-Annual Statement

As a registered candidate controlled committee, Friends of Ron Smith, had a duty to file the
semi-annual campaign statement for the reporting period from July 1, 2012 through December 31, 2012,

1 due on January 31, 2013. Respondents failed to file this required semi-annual campaign statement by
2 the January 31, 2013 due date. By failing to timely file the semi-annual campaign statements,
3 Respondents violated Section 84200, subdivision (a).

4 **CONCLUSION**

5 This matter consists of one count of violating the Act, which carries a maximum administrative
6 penalty of five thousand dollars (\$ 5,000) per count.

7 In determining the appropriate penalty for a particular violation of the Act, the Commission
8 considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
9 emphasis on serving the purposes and intent of the Act. Additionally, the Commission considers the
10 facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5,
11 subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the
12 voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent
13 demonstrated good faith in consulting with Commission staff; and whether there was a pattern of
14 violations.

15 The Enforcement Division considers failure to file required semi-annual statements to be a
16 serious violation of the Act as it undermines one of its central purposes – transparency. Without timely
17 disclosure of semi-annual statements the public is deprived of important information concerning the
18 campaign’s contributors and financial activities.

19 Recent mainline stipulations show that violations arising from a failure to timely file a semi-
20 annual report generally settle within the range of \$1,000 to 2,000 per count, depending upon various
21 factors, including: (a) whether the statement was filed late or not filed at all; (b) whether the
22 Respondent had a prior history of violating the Act; and (c) the relative number and size of the
23 contributions and expenditures made during the period covered by the statement.

24 **AGGRAVATING FACTORS**

25 In aggravation, Respondent Smith has a demonstrated pattern of violating the Act. Also, given
26 that Respondent Smith has been fined for this same offense on two other occasions, it is clear that he
27 was well aware of his filing requirements and simply disregarded them.

28 **MITIGATING FACTORS**

29 In mitigation, Respondent did not receive any contributions or make any expenditures during the
30 unreported period.

31 Other similar cases regarding a violation of Section 84200 that have been recently approved by
32 the Commission include:

- 33 - *In the Matter of Sal Torres, Friends of Sal Torres, and Leslie Torres FPPC No. 13/064*
34 (Approved August 22, 2013). Respondent, Sal Torres, a candidate for re-election to the Daly

1 City Council in the November 6, 2012 election, and his candidate controlled committee,
2 Friends of Sal Torres, failed to timely file a semi-annual campaign statement covering the
3 period October 21, 2012, through December 31, 2012, due January 31, 2013, in violation of
4 Government Code Section 84200, subdivision (a). Respondent had prior violations for
5 failing to file campaign reports. **The Commission approved a \$1,000 fine for the
6 violation.**

- 7 - *In the Matter of Ronald Smith and Friends of Ron Smith*, FPPC Case No. 11/1053 (Approved
8 December 13, 2012). Respondent Ronald Smith, as a candidate for re-election to the West
9 Basin Municipal Water District Board in the November 2, 2010 election, and his candidate
10 controlled committee, Friends of Ron Smith, failed to timely file two semi-annual campaign
11 statements, in violation of Government Code Sections 84200, subdivision (a). Respondent
12 had prior violations for failing to file campaign reports. **The Commission approved a
13 \$1,500 fine for the violation.**

14 For these reasons an administrative penalty in the amount of two thousand dollars (\$2,000) for
15 Count 1 is recommended.

16 **PROPOSED PENALTY**

17 After consideration of the factors of Regulation 18361.5, including whether the behavior in
18 question was inadvertent, negligent or deliberate and the presence or absence of good faith, as well as
19 consideration of penalties in prior enforcement actions, the imposition of a penalty of two thousand
20 dollars (\$2,000) is recommended.