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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. 12/585  
13 )  
SCOTT MANN and SCOTT MANN FOR )  
14 MENIFEE MAYOR 2012 ) STIPULATION, DECISION and  
15 Respondents. ) ORDER  
16 )  
17 )

18 Complainant Gary S. Winuk, Enforcement Chief of the Fair Political Practices Commission, and  
19 Respondents Scott Mann and Scott Mann for Meniffee Mayor 2012 agree that this Stipulation will be  
20 submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled  
21 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 the Respondent, 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

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

4 It is further stipulated and agreed that Respondents Scott Mann and Scott Mann for Menifee  
5 Mayor 2012 violated the Political Reform Act by (1) failing to disclose nonmonetary contributions  
6 totaling \$982.25 received on or about June 14, 2012 through June 30, 2012, from Menifee Taxpayers  
7 Association, on a first pre-election campaign statement and a semi-annual campaign statement, in  
8 violation of Section 84211, subdivision (f) of the Government Code. (1 count). This count is described  
9 in Exhibit 1, which is attached hereto and incorporated by reference as though fully set forth herein.  
10 Exhibit 1 is a true and accurate summary of the facts in this matter.

11 Respondents agree to the issuance of the Decision and Order, which is attached hereto.  
12 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount  
13 of One Thousand Five Hundred Dollars (\$1,500). A cashier's check from Respondents in said amount,  
14 made payable to the "General Fund of the State of California," is submitted with this Stipulation as full  
15 payment of the administrative penalty, to be held by the State of California until the Commission issues  
16 its decision and order regarding this matter. The parties agree that in the event the Commission refuses  
17 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the  
18 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in  
19 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and  
20 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the  
21 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,  
22 shall be disqualified because of prior consideration of this Stipulation.

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25 Dated: \_\_\_\_\_

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

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Dated: \_\_\_\_\_

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Respondent Scott Mann Individually and  
on behalf of Scott Mann for Menifee Mayor 2012,  
Respondent



## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Scott Mann was a successful candidate for Mayor of Menifee in the November 6, 2012 election. Respondent Scott Mann for Mayor of Menifee 2012 (Respondent “Committee”) was Respondent Mann’s candidate controlled committee.

“Menifee Taxpayers’ Association” qualified as a general purpose committee under the Political Reform Act (the “Act”).<sup>1</sup> Respondent Scott Mann formed the Menifee Taxpayers’ Association on or about July 1, 2010, when he filed a Statement of Organization with SOS, naming himself as principal officer and treasurer, and served in this capacity prior to his candidacy for mayor.

On July 13, 2013, Menifee Taxpayers’ Association filed a Form 460, covering January 1, 2012 through June 30, 2012. The form disclosed expenditures made in support of Respondent Scott Mann, and was signed by Respondent as treasurer and principal officer.

On or about July 6, 2012, Respondent Mann filed a Statement of Organization for “Scott Mann for Mayor of Menifee 2012.”

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

**COUNT 1:** Respondents Scott Mann and Scott Mann for Menifee Mayor 2012 failed to disclose nonmonetary contributions totaling \$982.25 received on or about June 14, 2012 through June 30, 2012, from Menifee Taxpayers Association, on a first pre-election campaign statement and a semi-annual campaign statement, in violation of Section 84211, subdivision (f) of the Government Code.

### **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 affecting election campaigns are fully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

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 known as a “recipient committee.” A committee controlled directly or indirectly by a candidate, or that acts jointly with a candidate, is known as a candidate-controlled committee. (Section

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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.

82016.) Under the Act's campaign reporting system, candidate-controlled committees are required to file specified campaign statements and reports disclosing contributions received and expenditures made.

### **Duty to Report Nonmonetary Contributions**

Section 84211, subdivision (a), requires a committee to disclose in each of its campaign statements the total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received. A contribution can be monetary or nonmonetary. 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).) A nonmonetary contribution is "made" by the contributor, and "received" by the committee, on the earlier of the following dates: (1) the date the funds are expended by the contributor for goods or services, if the specific expenditure is made at the behest of the committee; or (2) the date the committee or its agent obtains possession or control of the goods or services, or the date the committee otherwise receives the benefit of the expenditure. (Regulation 18421.1, subd. (f).)

Section 84211, subdivision (f), requires a committee to report in 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. In this matter, "cumulative amount" means the amount of contributions received in the calendar year. (Section 82018, subdivision (a).)

### **SUMMARY OF THE FACTS**

On or about June 14, 2012, Menifee Taxpayers' Association paid Perris Valley Printing Co. a total of \$322.17 for the production of 5,000 post cards endorsing Scott Mann for Mayor of Menifee. On or about June 16, 2012, the Menifee Taxpayers' Association paid \$228 to the "Easy Livin" newsletter for advertisements endorsing Scott Mann for Mayor of Menifee, to appear in the July, August, and September issues. On or about June 30, 2012, the Menifee Taxpayers' Association paid Wee Tole-U-Sew \$432.08 for the production of t-shirts which were screen printed with the phrase "Scott Mann for Mayor of Menifee." Menifee Taxpayers' Association reported these expenditures on timely filed campaign statements. However, Respondents failed to report the receipt of these nonmonetary contributions on statements that were filed for Scott Mann for Mayor of Menifee 2012. This case was opened as the result of a complaint.

## COUNT 1

### **Failure to Report Nonmonetary Contributions**

Respondent was at all relevant times a candidate for the office of Menifee Mayor, with a candidate controlled campaign committee, Scott Mann for Mayor of Menifee 2012. Between June 14, 2012 and June 30, 2012, nonmonetary contributions totaling \$982.25 were made by Menifee Taxpayers' Association, but were never disclosed on Respondent Committee's campaign statements. By failing to disclose the receipt of nonmonetary contributions, Respondents violated Government Code Section 84211 subdivision (f).

### **CONCLUSION**

This matter consists of one count, which carries a maximum possible 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.

Regarding Count 1, recent stipulations for violations of 84211 (f) generally settle for \$1,500 per count, depending upon various factors, including whether the failure appears negligent or deliberate, and the amount of non-disclosed contributions. Other similar cases approved recently by the Commission for violations of Section 84211(f) include:

*In the Matter of Hector Delgado and Friends of Hector Delgado*, FPPC No. 03/133. Respondents, a candidate for South El Monte City Council and his controlled committee, failed to disclose the source of a contribution of \$100 or more, in a post-election semi-annual campaign statement, in violation of Government Code Section 84211, subdivision (f). A \$1,500 penalty for this violation was approved by the Commission on January 10, 2008.

*In the Matter of Hugo A. Argumedo, Charmaine Faulkner, and Friends of Hugo A. Argumedo*, FPPC No. 04/237. Respondents, a candidate for Commerce City Council, his controlled committee, and the committee treasurer, failed to disclose occupation and employer information for fifteen contributions from individuals in the amount of \$100 or more, in violation of Government Code Section 84211, subdivision (f). A \$1,500 penalty for this violation was

approved by the Commission on December 10, 2009.

The public harm inherent in this type of violation, where pertinent information is not disclosed by the committee, is that the public is deprived of a means to discover the identity of contributors, the amounts contributed, and the nature of the campaign expenses. In this case, Respondents did file the required statements to disclose expenditures and monetary contributions before the election, and contend that the violation was unintentional. Respondent cooperated fully with the investigation. The vast majority of the receipts and expenditures, totaling approximately \$40,000, were properly disclosed.

### **PROPOSED PENALTY**

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the Respondent's pattern of behavior, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of One Thousand Five Hundred Dollars (\$1,500) for Count One is recommended.