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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
10

11 In the Matter of:

12 REGINALD BYRON JONES-SAWYER
13 SR. and REGINALD JONES-SAWYER
FOR ASSEMBLY 2012,

14 Respondents.

FPPC No. 14/22

STIPULATION, DECISION AND ORDER

15
16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
18 Respondents Reginald Byron Jones-Sawyer Sr. and Reginald Jones-Sawyer for Assembly 2012, hereby
19 agree that this Stipulation will be submitted for consideration by the Fair Political Practices Commission
20 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 additional administrative
23 hearing to determine the liability of Respondents, 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 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 appear personally at any administrative hearing held in this matter, to be represented by an attorney at
28 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to

1 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
2 the hearing as a hearing officer, and to have the matter judicially reviewed.

3 As described in Exhibit 1, it is further stipulated and agreed that Respondents Reginald Byron
4 Jones-Sawyer Sr. and Reginald Jones-Sawyer for Assembly 2012 committed two violations of the
5 Political Reform Act. Exhibit 1, which is attached hereto and incorporated by reference as though fully
6 set forth herein, is a true and accurate summary of the facts in this matter.

7 Respondents agree to the issuance of the Decision and Order, which is attached hereto. Also,
8 Respondents agree to the Commission imposing upon them an administrative penalty in the amount of
9 \$10,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General
10 Fund of the State of California—is/are submitted with this Stipulation as full payment of the
11 administrative penalty described above, and same shall be held by the State of California until the
12 Commission issues its Decision and Order regarding this matter. The parties agree that in the event the
13 Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen (15)
14 business days after the Commission meeting at which the Stipulation is rejected, all payments tendered
15 by Respondents in connection with this Stipulation shall be reimbursed to Respondents. Respondents
16 further stipulate and agree that in the event the Commission rejects the Stipulation and a full evidentiary

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1 hearing before the Commission becomes necessary, neither any member of the Commission, nor the
2 Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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5 Dated: _____

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

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9 Dated: June 4, 2014 _____

10 Reginald Byron Jones-Sawyer Sr., individually and on
11 behalf of Reginald Jones-Sawyer for Assembly 2012,
Respondents

12 **DECISION AND ORDER**

13 The foregoing Stipulation of the parties "In the Matter of Reginald Byron Jones-Sawyer Sr. and
14 Reginald Jones-Sawyer for Assembly 2012," FPPC No. 14/22, including all attached exhibits, is hereby
15 accepted as the final decision and order of the Fair Political Practices Commission, effective upon
16 execution below by the Chair.

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18 IT IS SO ORDERED.

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20 Dated: _____

21 Joann Remke, Chair
Fair Political Practices Commission

Original copy of manuscript
June 4, 2014

EXHIBIT 1

INTRODUCTION

This case arose from a Franchise Tax Board audit report, which covered the period of time from January 1, 2011 through December 31, 2012.

In 2011 and 2012, Respondent Reginald Byron Jones-Sawyer Sr. was a successful candidate for the California State Assembly, 59th District. Respondent Reginald Jones-Sawyer for Assembly 2012 was his candidate controlled committee.

This case involves multiple violations of the Political Reform Act (the “Act”).¹ For purposes of this Stipulation, Respondents’ violations are set forth as follows:

Count 1: On or about December 29, 2011, Respondents Reginald Byron Jones-Sawyer Sr. and Reginald Jones-Sawyer for Assembly 2012 accepted an over-the-limit contribution from Maria Ann Chachere in the form of a loan in the amount of \$50,000 in violation of Section 85301, subdivision (a), which prohibits the acceptance of over-the-limit contributions.

Count 2: On or about January 27, 2012, Respondents Reginald Byron Jones-Sawyer Sr. and Reginald Jones-Sawyer for Assembly 2012 filed a semi-annual campaign statement for the period ending December 31, 2011 with the Secretary of State, which reported receipt of the contribution that is the subject of Count 1. However, instead of reporting that Maria Ann Chachere was the true source of funds, Respondents reported the contribution as a loan from Respondent Reginald Byron Jones-Sawyer Sr. to his own committee. In this way, Respondents Reginald Byron Jones-Sawyer Sr. and Reginald Jones-Sawyer for Assembly 2012 violated Section 84211, subdivisions (f) and (g), which requires truthful reporting of information about the sources of contributions received.

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 violations.

¹ The 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 (“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.

Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

When the Political Reform 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.

One of the purposes of the Act is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited. (Section 81002, subd. (a).) Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.” (Section 81002, subd. (f).)

Definition of Controlled Committee

Section 82013, subdivision (a), defines a “committee” to include any person or combination of persons who receives contributions totaling \$1,000 or more in a calendar year. This type of committee commonly is referred to as a “recipient committee.” Under Section 82016, a recipient committee which is controlled directly or indirectly by a candidate, or which acts jointly with a candidate in connection with the making of expenditures, is a “controlled committee.” A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee. (Section 82016, subd. (a).)

Definition of Contribution

“Contribution” includes any payment—even a loan—except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that the payment is not made for political purposes. (Sections 82015, subd. (a), and 82044.)

Required Filing of Campaign Statements

At the core of the Act’s campaign reporting system is the requirement set forth in Sections 84200, et seq. that committees, including candidate controlled committees, must file campaign statements and reports for certain reporting periods and by certain deadlines.

Required Reporting of Contributions Received

Among other things, campaign statements must include certain information about contributions that are received by the candidate/committee.

In this regard, Section 84211, subdivision (f), provides that if the cumulative amount of contributions (including loans) received from a person is \$100 or more, and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following must be reported: (1) the person’s full name; (2) his or her street address; (3)

his or her occupation; (4) the name of his or her employer, or if self-employed, the name of the business; (5) the date and amount received for each contribution received during the period covered by the campaign statement, and if the contribution is a loan, the interest rate for the loan; and (6) the cumulative amount of contributions.

Also, Section 84211, subdivision (g), provides that if the cumulative amount of loans received from or made to a person is \$100 or more, and a loan has been received from or made to a person during the period covered by the campaign statement, or is outstanding during the period covered by the campaign statement, all of the following must be reported: (1) the person's full name; (2) his or her street address; (3) his or her occupation; (4) the name of his or her employer, or if self-employed, the name of the business; (5) the original date and amount of each loan; (6) the due date and interest rate of the loan; (7) the cumulative payment made or received to date at the end of the reporting period; (8) the balance outstanding at the end of the reporting period; and (9) the cumulative amount of contributions.

Campaign Contribution Limits

The Act imposes campaign contribution limits with respect to the making and receiving of certain contributions. However, these limits are adjusted periodically, and different limits apply depending upon who is contributing and who is receiving. (See Section 85301, subdivision (a), as well as Section 83124 and Regulation 18545, which prohibit the making and acceptance of over-the-limit contributions and which provide for the adjustment of contribution limits.)

In 2011 and 2012, an individual wishing to contribute to a candidate for California State Assembly could not contribute more than \$3,900 per election. (Regulation 18545.) However, at that time, a candidate for California State Assembly could loan up to \$100,000 to his own committee. (Section 85307, subd. (b).)

Joint and Several Liability

If two or more parties are responsible for a violation of the Act, they are jointly and severally liable. (Section 91006.)

SUMMARY OF THE FACTS

As stated above, in 2011 and 2012, Respondent Reginald Byron Jones-Sawyer Sr. was a successful candidate for the California State Assembly, 59th District. Respondent Reginald Jones-Sawyer for Assembly 2012 was his candidate controlled committee, and Maria Ann Chachere was his significant other.

Count 1

On or about December 29, 2011, Respondents Reginald Byron Jones-Sawyer Sr. and Reginald Jones-Sawyer for Assembly 2012 accepted an over-the-limit contribution from Ms.

Chachere in the form of a loan in the amount of \$50,000. At the time, Respondents were not allowed to accept contributions from Ms. Chachere in excess of \$3,900 per election.

However, Respondent Reginald Byron Jones-Sawyer Sr. was allowed to loan up to \$100,000 to his own committee. When Ms. Chachere made the loan, which she intended to be used for political/campaign purposes, Respondent Reginald Byron Jones-Sawyer Sr. asked her to make the check payable to him personally. Thereafter, he deposited the check for \$50,000 into his own, personal checking account and issued another check in the same amount to his committee. As described in more detail in Count 2, instead of reporting that Ms. Chachere was the true source of funds, Respondents reported the contribution as a loan from Respondent Reginald Byron Jones-Sawyer Sr. to his own committee.

In approximately June/July 2012, the committee repaid \$50,000 to Respondent Reginald Byron Jones-Sawyer Sr. He deposited the funds into his own, personal checking account and issued another check in the same amount to Ms. Chachere.

In this way, Respondents Reginald Byron Jones-Sawyer Sr. and Reginald Jones-Sawyer for Assembly 2012 violated Section 85301, subdivision (a), which prohibits the acceptance of over-the-limit contributions.

Count 2

On or about January 27, 2012, Respondents Reginald Byron Jones-Sawyer Sr. and Reginald Jones-Sawyer for Assembly 2012 filed a semi-annual campaign statement for the period ending December 31, 2011 with the Secretary of State, which reported receipt of the contribution that is the subject of Count 1. However, instead of reporting that Ms. Chachere was the true source of funds, Respondents reported the contribution as a loan from Respondent Reginald Byron Jones-Sawyer Sr. to his own committee.

In this way, Respondents Reginald Byron Jones-Sawyer Sr. and Reginald Jones-Sawyer for Assembly 2012 violated Section 84211, subdivisions (f) and (g), which requires truthful reporting of information about the sources of contributions received.

CONCLUSION

This matter consists of two counts. The maximum penalty that may be imposed per count is \$5,000. Thus, the maximum penalty that may be imposed is \$10,000. (See Section 83116, subd. (c).)

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. Additionally, the Enforcement Division considers the facts and circumstances of the violation in the context of the following factors set forth in Regulation 18361.5, subdivision (d)(1) through (6):

- (1) The seriousness of the violation;
- (2) The presence or absence of any intention to conceal, deceive or mislead;
- (3) Whether the violation was deliberate, negligent or inadvertent;
- (4) Whether the violator demonstrated good faith by consulting the Commission staff or any other government agency in a manner not constituting a complete defense under Government Code section 83114(b);
- (5) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
- (6) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

Regarding Counts 1 and 2, accepting over-the-limit contributions is a serious violation of the Act—even more so when the violation is concealed by false campaign reporting. These types of violations give an unfair advantage to one side in an election, and they deprive the public of important information about the true source of campaign contributions. Recently, the Commission imposed the maximum penalty of \$5,000 per count for persons who knowingly participated in the making of over-the-limit contributions and false reporting. (See *In the Matter of Bill Berryhill, Tom Berryhill, Bill Berryhill For Assembly - 2008, Berryhill For Assembly 2008, Stanislaus Republican Central Committee (State Acct.), and San Joaquin County Republican Central Committee/Calif. Republican Victory Fund*, FPPC No. 10/828, approved Apr. 24, 2014.)

In this case, it is respectfully submitted that a similar penalty of \$5,000 per count is warranted. Although Respondents cooperated with the Enforcement Division and agreed to an early settlement of this matter, Respondents knew or should have known that the loan in the amount of \$50,000 from Ms. Chachere was an over-the-limit contribution and that Respondent Reginald Byron Jones-Sawyer Sr. was not the true source of funds. This was not the first time that Respondent Reginald Byron Jones-Sawyer Sr. ran for public office. He had reason to be aware of the Political Reform Act when he ran for California State Assembly in 2010.

PROPOSED PENALTY

Based upon the facts stated above, an agreed upon penalty of \$10,000 is recommended.

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