

1 GARY S. WINUK
Chief of Enforcement
2 MILAD DALJU
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 In the Matter of) FPPC No. 14/416
11 EDWARD J. SANCHEZ)
12 Respondent.) STIPULATION, DECISION and
13) ORDER
14)
15)

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17 Complainant Gary S. Winuk, Chief of the Enforcement Division of the Fair Political Practices
18 Commission, and respondent Edward J. Sanchez (“Respondent”) hereby agree that this Stipulation will
19 be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled
20 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 Respondent.

24 Respondent understand, and hereby knowingly and voluntarily waives, 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 Respondent’s 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 on or about October 3, 2005, Respondent, acting as an
4 agent or intermediary for his employer Gary A. Husk and Jamieson & Gutierrez, Inc., a.k.a. Husk
5 Partners, Inc., made a \$300 contribution to Jerry Sanders for Mayor in his own name so that the identity
6 of the true donor was not reported, in violation of Government Code sections 84300, subd. (c), 84301,
7 and 84302 (1 count). Exhibit 1 is attached hereto and incorporated by reference as though fully set forth
8 herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

9 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
10 Respondent also agrees to the Commission imposing upon him an administrative penalty in the amount
11 of \$4,500. A cashier's check from Respondent in said amount, made payable to the "General Fund of
12 the State of California," is submitted with this Stipulation as full payment of the administrative penalty,
13 to be held by the State of California until the Commission issues its decision and order regarding this
14 matter. The parties agree that in the event the Commission refuses to accept this Stipulation, it shall
15 become null and void, and within fifteen (15) business days after the Commission meeting at which the
16 Stipulation is rejected, all payments tendered by Respondent in connection with this Stipulation shall be
17 reimbursed to Respondent. Respondent further stipulates and agrees that in the event the Commission
18 rejects the Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither
19 any member of the Commission, nor the Executive Director, shall be disqualified because of prior
20 consideration of this Stipulation.

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22 Dated: _____

Gary S. Winuk
Chief of Enforcement
Fair Political Practices Commission

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26 Dated: _____

Edward J. Sanchez, Respondent

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DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Edward J. Sanchez”, FPPC No. 14/416, 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 Chair.

IT IS SO ORDERED.

Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

At all relevant times, Respondent Edward J. Sanchez (“Respondent”) was a registered lobbyist in Arizona and an employee of Jamieson & Gutierrez, Inc., a.k.a. Husk Partners, Inc., (“J &G”), a public affairs firm owned and operated by Gary A. Husk and based in Phoenix, Arizona.

On or about October 3, 2005, Respondent made \$300 contribution to Jerry Sanders for Mayor in his own name without disclosing that the true donor was Mr. Husk and J&G, in violation of the Political Reform Act (“Act”)¹.

For the purposes of this Stipulation, Respondent’s violation of the Act is stated as follows:

COUNT 1: On or about October 3, 2005, Respondent, acting as an agent or intermediary for his employer Gary A. Husk and Jamieson & Gutierrez, Inc., a.k.a. Husk Partners, Inc., made a \$300 contribution to Jerry Sanders for Mayor in his own name so that the identity of the true donor was not reported, in violation of Government Code sections 84300, subd. (c), 84301, and 84302.

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.

Need for 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.

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).)

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 Section 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.

Requirement that the True Source of Political Contributions be Disclosed

In order to obtain disclosure of the true source of campaign contributions, Section 84302 provides that no person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution both his own full name and street address, occupation, and the name of his employer, if any, or his principle place of business if he is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principle place of business if self-employed, of the other person.

Additionally, Section 84301 prohibits contributions being made, directly or indirectly, by any person in a name other than that by which the contributor is identified for legal purposes. Section 84300, subdivision (c), prohibits the making of contributions of \$100 or more unless the contributions are made by way of a written instrument containing the names of both the actual donor and the real payee.

San Diego's Local Contribution Limits and Bans

In 2005, San Diego's Municipal Code prohibited a candidate for Mayor from accepting more than \$300 from any single contributor, any single contributor from contributing more than \$300 to any candidate for Mayor, any business entity from making any contributions to any candidate for Mayor, and any candidate for Mayor from accepting any contributions from any business entity. (San Diego Municipal Code sections 27.2935, subd. (a), and 27.2950, subds. (a)-(b).)

SUMMARY OF THE FACTS

Jerry Sanders was a candidate for mayor of San Diego in the November 8, 2005, election, and Jerry Sanders for Mayor was his candidate-controlled committee. In September 2005, Mr. Husk requested that Respondent make a \$300 contribution to Jerry Sanders for Mayor. Around the same time, J&G issued Respondent a check for \$300 as reimbursement for the contribution Mr. Husk requested Respondent make to Jerry Sanders for Mayor.

On or about October 3, 2005, J&G held, at its office, a fundraiser for Jerry Sanders for Mayor, which both Respondent and Mr. Husk attended. At the fundraiser, Respondent issued Jerry Sanders for Mayor a \$300 check from his personal checking account, and Mr. Husk also issued Jerry Sanders for Mayor a \$300 check. Neither Respondent, Mr. Husk, nor J&G, disclosed to Jerry Sanders for Mayor that Mr. Husk and J&G were the true source of the \$300 contribution Respondent made to Jerry Sanders for Mayor on or about October 3, 2005. On its campaign statement, Jerry Sanders for Mayor reported Respondent as the source of the contribution received from Respondent, but did not report that Mr. Husk and J&G were the true source of the contribution.

Jerry Sanders was successful in the November 8, 2005, election, and remained mayor of San Diego until 2012.

Therefore, Respondent committed the following violation of the Act:

Count 1

On or about October 3, 2005, Respondent, acting as an agent or intermediary for Mr. Husk and J&G, made a \$300 contribution to Jerry Sanders for Mayor in his own name without informing Jerry Sanders for Mayor that the true source of the contribution was Mr. Husk and J&G, in violation of Sections 84300, subd. (c), 84301, and 84302.

CONCLUSION

This matter involves a single count of violating the Act, which carries a maximum administrative penalty of \$5,000 per count.

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 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(s) 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 amendments to provide full disclosure. The facts are required to be considered by the Commission under Regulation 18361.5.

Making campaign contributions without disclosing the true source of the contribution is one of the most serious violations of the Act as it denies the public of information about the candidate's financial support. That is particularly true where, as here, the total contribution by Gary A. Husk and J&G exceeded the local contribution limit and violated the ban on contributions from business entities. Exceeding the contribution limit and violating the ban on contributions from business entities provides unfair advantages to candidates who receive these contributions and could result in undue influence by contributors over elected officials who receive the contributions.

The typical administrative penalties for violations similar to those committed by Respondent have been at or near the maximum penalty of \$5,000 per violation.

On June 20, 2013, the Commission approved a \$4,500 per count penalty against the owner of a business for using his own name, his wife's name, and the name of two of his employees, to make contributions to two candidates for Mayor, without disclosing that the true source of the contributions, who was a business partner and friend of the respondent, for the purpose of allowing the true source to exceed the \$500 contribution limit. (*In the Matter of Daniel Chun*, FPPC No. 13/325.)

On June 17, 2014, the Commission fined Mr. Husk and J&G, in a default decision, \$5,000 for making a \$300 contribution to Jerry Sanders for Mayor through Respondent without disclosing the true source of the contribution, in violation of Sections 84301 and 84300, subdivision (c). (*In the Matter of Gary A. Husk and Jamieson and Gutierrez, Inc.*, FPPC No. 13/1140.)

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5 and consideration of penalties in prior enforcement actions, the imposition of a \$4,500 penalty on Respondent Edward J. Sanchez is recommended.