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

11
12 In the Matter of) FPPC No. 13/1324
13)
14 AMERICAN DREAM FUND AND CAROL) STIPULATION, DECISION and
FORD, TREASURER,) ORDER
15 Respondents.)
16)
17)

18 Complainant, the Fair Political Practices Commission, and respondents American Dream Fund
19 and Carol Ford (collectively “Respondents”) agree that this Stipulation will be submitted for
20 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 in this
22 matter and to reach a final disposition without the necessity of holding an administrative hearing to
23 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 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 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 violated the Political Reform Act by failing
4 to timely file with the San Mateo County Clerk a preelection statement by September 26, 2013, for the
5 July 1 through September 21, 2013, reporting period, and another preelection statement by October 24,
6 2013, for the September 22 through October 19, 2013, reporting period, in violation of Government
7 Code section 84200.5, subdivision (c) (1 count).

8 All counts are described in Exhibit 1, which is attached hereto and incorporated by reference as
9 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

10 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
11 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount
12 of \$2,500. A cashier's check from Respondents in said amount, made payable to the "General Fund of
13 the State of California," is submitted with this Stipulation as full payment of the administrative penalty,
14 to be held by the State of California until the Commission issues its decision and order regarding this
15 matter. The parties agree that in the event the Commission refuses to accept this Stipulation, it shall
16 become null and void, and within 15 business days after the Commission meeting at which the
17 Stipulation is rejected, all payments tendered by Respondents in connection with this Stipulation shall be
18 reimbursed to Respondents. Respondents further stipulate and agree that in the event the Commission
19 rejects the Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither
20 any member of the Commission, nor the Executive Director, shall be disqualified because of prior
21 consideration of this Stipulation.

22 Dated: _____
23 Gary Winuk, Enforcement Chief,
24 On behalf of the
25 Fair Political Practices Commission

26 Dated: _____
27 Carol Ford, Respondent
28 On behalf of herself and
The American Dream Fund, Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of American Dream Fund and Carol Ford,
3 Treasurer” FPPC No. 13/1324, including all attached exhibits, is hereby accepted as the final decision
4 and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

5
6 IT IS SO ORDERED.

7 Dated: _____

8 _____
9 Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent American Dream Fund (“Respondent Committee”) is, and was at all relevant times, a committee that was primarily formed to support two candidates in the November 5, 2013, election for the Belmont-Redwood Shores School District Board. As a committee primarily formed to support two candidates being voted upon in the November 5, 2013, election in San Mateo County, Respondent Committee and its treasurer Respondent Carol Ford (“Respondent Ford”) were required by Political Reform Act (the “Act”)¹ to file campaign statements with the San Mateo County Clerk.

For the purposes of this Stipulation, Respondent Committee and Respondent Ford’s (collectively “Respondents”) violation of the Act is stated as follows:

COUNT 1: Respondent American Dream Fund and its treasurer Respondent Carol Ford failed to timely file with the San Mateo County Clerk a preelection statement by September 26, 2013, for the July 1 through September 21, 2013, reporting period, and another preelection statement by October 24, 2013, for the September 22 through October 19, 2013, reporting period, in violation of Government Code section 84200.5, subdivision (c).

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.

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).)

The definition of “committee” includes any person or combination of persons who receives contributions of \$1,000 or more during a calendar year. (Section 82013, subd. (a).) A committee that is formed or exists primarily to support or oppose a group of specific candidates being voted upon in the same city, county, or multicounty election is defined, at Section 82047.5, subdivision (c), as a “primarily formed committee.”

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.

Duty to File Preelection Statements

Under the Act's campaign reporting system, candidates and committees are required to file periodic campaign statements and reports disclosing their financial activities. Section 84215, subdivision (c), requires that all committees primarily formed to support candidates to be voted upon within one county but not within a single city must file all required campaign statements and reports with the elections official of the county.

Committees primarily formed to support candidates in the November 5, 2013, election were required to file a preelection statement by September 26, 2013, for the July 1 through September 21, 2013, reporting period, and another preelection statement by October 24, 2013, for the September 22 through October 19, 2013, reporting period. (Sections 84200.5, subd. (c), and 84200.8., subds. (a)-(b).)

Treasurer Liability

Under Sections 81004, subdivision (b), and 84100, and Regulation 18427, subdivision (a), a committee's treasurer has the duty to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Pursuant to Sections 83116.5 and 91006, the treasurer of a committee may be held jointly and severally liable, along with the committee, for the committee's violations.

SUMMARY OF THE FACTS

Between July 1 and December 31, 2013, Respondent Committee received approximately \$4,456 in contributions, spent approximately \$4,178 to support candidates Amy Koo and Herbert Neuman in the November 5, 2013, election for Belmont-Redwood Shores School District Board, and spent approximately \$125 to support candidate Alan Sarver in the November 5, 2013, election for Sequoia Union High School District Board. Respondent Committee qualified as a committee on or about August 1, 2013, when the amount of contributions it received reached \$1,000.

On or about May 7, 2014, Respondents filed with the San Mateo County Clerk a semiannual statement for the July 1 through December 31, 2013, reporting period.

COUNT 1

Failure to Timely File Preelection Statements

As a committee primarily formed to support two candidates for the Belmont-Redwood Shores School District Board in the November 5, 2013, election, and its treasurer, Respondents had a duty to file with the San Mateo County Clerk a preelection statement by September 26, 2013, for the July 1 through September 21, 2013, reporting period, and another preelection statement by October 24, 2013, for the September 22 through October 19, 2013, reporting period.

Respondents failed to file with the San Mateo County Clerk a preelection statement by September 26, 2013, for the July 1 through September 21, 2013, reporting period, and a preelection statement by October 24, 2013, for the September 22 through October 19, 2013, reporting period, in violation of Section 84200.5, subdivision (c).

According to Respondents, they were not aware of their duty to file the two preelection statements because they believed, at the time, that Respondent Committee was a state general purpose

committee. Respondents would not have been required to file preelection statements for the November 5, 2013, election if Respondent Committee had been a state general purpose committee.

CONCLUSION

This matter consists of a single count of violating the Act, which carries a maximum administrative penalty of \$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. 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.

Failing to file preelection statements is a serious violation of the Act because it deprives the public of important information about Respondent Committee's financial activities. Recent fines approved by the Commission for failing to timely file preelection statements include:

In the Matter of Timothy Park, FPPC No. 13/243. In January 2014, the Commission approved a fine of \$2,000 for the respondent's failure to timely file a preelection statement. The respondent, an independent expenditure committee that made a single independent expenditure totaling approximately \$2,275 in connection to a city council election, had no history of violating the Act, cooperated with the investigation, and agreed to an early resolution of the matter.

In the Matter of Jass Singh, the Committee Against the Recall of Jass Singh MHCSD Director, and Renu Singh, FPPC No. 12/805. In January 2014, the Commission approved a fine of \$2,000 for the respondents' failure to timely file a preelection statement. The respondents had no history of violating the Act, cooperated with the investigation, and agreed to an early resolution of the matter.

In this matter, Respondents have no history of violating the Act, cooperated with the investigation, and agreed to an early resolution of the matter. Also, according to Respondents, their failure to file the preelection statements was inadvertent and due to their belief that Respondent Committee was a state general purpose committee and therefore not required to file preelection statements for that particular election. However, Respondent failed to file any campaign statements prior to the pertinent election, thereby denying the public all information regarding Respondent Committee's contributions and expenditures towards the election.

PROPOSED PENALTY

Accordingly, the imposition of a total administrative penalty of \$2,500 is recommended.

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