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3 **FAIR POLITICAL PRACTICES COMMISSION**
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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. 14/853
13)
14 SANDRA A. VOLTA JOHNSON, SANDRA)
JOHNSON FOR CITY COUNCIL 2012, and) STIPULATION, DECISION and
15 KIMBERLY UNDERWOOD,) ORDER
16 Respondents.)
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18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Sandra A. Volta Johnson, Sandra Johnson for City Council 2012, and Kimberly
20 Underwood agree that this Stipulation will be submitted for consideration by the Fair Political Practices
21 Commission at its next regularly scheduled 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 Sandra A. Volta Johnson, Sandra Johnson for City Council 2012, and Kimberly Underwood
26 understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in
27 Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1 through 18361.9
28 of Title 2 of the California Code of Regulations. This includes, but is not limited to, the right to

1 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
2 Sandra A. Volta Johnson's, Sandra Johnson for City Council 2012's, and Kimberly Underwood's own
3 expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to
4 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a
5 hearing officer, and to have the matter judicially reviewed.

6 It is further stipulated and agreed that Sandra A. Volta Johnson, Sandra Johnson for City
7 Council 2012, and Kimberly Underwood violated the Political Reform Act by failing to disclose on
8 campaign statements occupation and employer information for approximately 20 individual
9 contributors, in violation of Section 84211, subdivision (f) (1 count). This count is described in Exhibit
10 1, which is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a
11 true and accurate summary of the facts in this matter.

12 Sandra A. Volta Johnson, Sandra Johnson for City Council 2012, and Kimberly Underwood
13 agree to the issuance of the Decision and Order, which is attached hereto. Sandra A. Volta Johnson,
14 Sandra Johnson for City Council 2012, and Kimberly Underwood also agree to the Commission
15 imposing upon them an administrative penalty in the amount of \$1,500. A cashier's check from Sandra
16 A. Volta Johnson, Sandra Johnson for City Council 2012, and Kimberly Underwood in said amount,
17 made payable to the "General Fund of the State of California," is submitted with this Stipulation as full
18 payment of the administrative penalty, to be held by the State of California until the Commission issues
19 its decision and order regarding this matter. The parties agree that in the event the Commission refuses
20 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
21 Commission meeting at which the Stipulation is rejected, all payments tendered by Sandra A. Volta
22 Johnson, Sandra Johnson for City Council 2012, and Kimberly Underwood in connection with this
23 Stipulation shall be reimbursed to Sandra A. Volta Johnson, Sandra Johnson for City Council 2012, and
24 Kimberly Underwood. Sandra A. Volta Johnson, Sandra Johnson for City Council 2012, and Kimberly
25 Underwood further stipulate and agree that in the event the Commission rejects the Stipulation, and a
26 full evidentiary hearing before the Commission becomes necessary, neither any member of the
27 Commission, nor the Executive Director, shall be disqualified because of prior consideration of this
28 Stipulation.

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Dated: _____

Galena West, Acting Chief of Enforcement
Fair Political Practices Commission

Dated: _____

Sandra A. Volta Johnson, Respondent, individually,
and on behalf of, Sandra Johnson for City Council 2012,
Respondent

Dated: _____

Kimberly Underwood, Respondent, individually,
and on behalf of Sandra Johnson for City Council 2012,
Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Sandra A. Volta Johnson, Sandra
3 Johnson for City Council 2012, and Kimberly Underwood,” FPPC No. 14/853, including all attached
4 exhibits, is hereby accepted as the final decision and order of the Fair Political Practices Commission,
5 effective upon execution below by the Chair.

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7 IT IS SO ORDERED.

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9 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Sandra A. Volta Johnson was a Lancaster City Council member and a successful candidate for re-election to that office in the April 10, 2012 General Municipal Election. Respondent Sandra Johnson for City Council 2012 was her candidate controlled committee. Respondent Kimberly Underwood served as treasurer. Sandra Johnson for City Council 2012 terminated effective July 26, 2012.

This case arose from a Franchise Tax Board (“FTB”) audit of Sandra Johnson for City Council 2012 for the period January 1, 2011 through June 30, 2012. During the period covered by the audit, Sandra Johnson for City Council 2012 reported receiving contributions of approximately \$52,301 and making expenditures of approximately \$27,747.

The Political Reform Act¹ (the “Act”) requires committees to timely file campaign statements and reports and disclose particular information. However, Sandra Johnson, Sandra Johnson for City Council 2012, and Kimberly Underwood failed to disclose occupation and employer information for contributions received.

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act’s provisions as they existed in 2011 and 2012.

An express purpose of the Act is to ensure that contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters will be better informed and improper practices inhibited.² To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish the purposes of disclosure.

Duty to Failure to Disclose Occupation and Employer Information

For contributions totaling \$100 or more candidates and their controlled committees are required to itemize on each semi-annual and pre-election campaign statement the following information about the contributor: his or her full name and street address; his or her occupation, and the name of his or her employer, or if self-employed, the name of his or her business; the date and amount of each contribution; and the cumulative amount of contributions received from the contributor.³

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. The Regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations.

² Section 81002, subdivision (a).

³ Section 84211, subdivision (f).

Liability of Committee Treasurers

Every committee must have a treasurer.⁴ It is the duty of a committee's treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds.⁵ A committee's treasurer may be held jointly and severally liable with the committee for any reporting violations.⁶

SUMMARY OF THE FACTS

FTB's audit found, and the Enforcement Division of the Fair Political Practices Commission confirmed, that the Committee, by in large, complied with the Act's campaign reporting requirements. However, Sandra Johnson, Sandra Johnson for City Council 2012, and Kimberly Underwood failed to disclose occupation and/or employer information for 20 individual contributors for contributions received during the time period covered by the audit, totaling \$14,600. This represents approximately 28% of the total contributions received.

VIOLATION

Count 1: Failure to Disclose Occupation and Employer Information

Sandra A. Volta Johnson, Sandra Johnson for City Council 2012, and Kimberly Underwood failed to disclose on campaign statements occupation and employer information for approximately 20 individual contributors, in violation of Section 84211, subdivision (f).

CONCLUSION

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

In determining the appropriate penalty for a particular violation of the Act, the Commission 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 Commission considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d): 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3) whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated good faith in consulting with Commission staff; 5) whether there was a pattern of violations; and 6) whether, upon learning of the violation, the violator voluntarily provided amendments to provide full disclosure.

⁴ Section 84100.

⁵ Section 84100 and Regulation 18427, subd. (a).

⁶ Sections 83116.5 and 91006.

The Commission also considers penalties in prior cases involving similar violations. Recent similar cases where the respondents failed to disclose contributor occupation and employer information include:

- *In the Matter of Mike Stoker, Stoker for Assembly 2010, and Trent Benedetti*, FPPC 12/090. Respondents failed to timely disclose the occupation and employer information for persons who contributed \$100 or more on a total of 23 contributions over four reporting periods. The total amount of these contributions was \$4,783; which was approximately 1% of the total amount of all contributions received by the committee. On December 13, 2012, the Commission approved a stipulation in which respondents admitted to two counts for failure to timely report occupation and employer information and agreed to pay a penalty of \$1,000 per count.
- *In the Matter of Joe Yee, Friends of Joe Yee for City Council 2012, and Lynda Otto*; FPPC No. 12/820. Respondents failed to disclose occupation and employer information for 60 contributions over six reporting periods. The total amount of these contributions was \$11,525; which was approximately 7% of the total amount of all contributions received by the committee. On February 20, 2014, the Commission approved a \$1,500 penalty for this violation.

In the present case, Sandra A. Volta Johnson, Sandra Johnson for City Council 2012, and Kimberly Underwood failed to disclose occupation and employer information for approximately 20 individual contributors for contributions received over three successive reporting periods totaling \$14,600; representing approximately 28% of the total contributions received. Like the *In the Matter of Joe Yee et. al.* case, this is a significant amount of the total contributions received, and is part of a pattern of non-disclosure; as occupation and employer information was not provided for individual contributors on three successive campaign statements.

In mitigation, a review of the audit report and papers indicates no evidence of deliberate concealment of the contribution or intent to deceive the public, just a misunderstanding of the law by a group with little prior experience with the Act. The Enforcement Division confirmed the FTB's audit findings showing that Sandra A. Volta Johnson, Sandra Johnson for City Council 2012, and Kimberly Underwood substantially complied with the Act's campaign reporting requirements during the audit period, and do not have a prior enforcement history.

PROPOSED PENALTY

After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant factors, a penalty of \$1,500 is recommended.

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