

1 GARY S. WINUK
Chief of Enforcement
2 MILAD DALJU
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
Sacramento, CA 95814
Telephone: (916) 322-5660

5 Attorneys for Complainant
6
7

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

11
12 In the Matter of) FPPC No. 14/258
13)
14 GREEN TECHNOLOGY LEADERSHIP) STIPULATION, DECISION and
GROUP PAC, NO ON PROP 23, and RITA) ORDER
15 COPELAND, TREASURER,)
16 Respondents.)
17

18 Complainant, the Fair Political Practices Commission, and respondents Green Technology
19 Leadership Group PAC, No on Prop 23, and Rita Copeland (collectively “Respondents”) agree that this
20 Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next
21 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 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 the respondent's 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 failed to timely report payments made to
5 three subvendors during the October 1 through October 16, 2010, reporting period, in violation of
6 Government Code sections 84211, subdivision (k), and 84303 (1 count), and failed to timely report three
7 expenses made during the October 1 through October 16, 2010, reporting period, in violation of
8 Government Code sections 84200.5 and 84211, subdivisions (b), (i), and (k) (1 count).

9 All counts are described in Exhibit 1, which is attached hereto and incorporated by reference as
10 though fully set forth herein. 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 \$4,500. A cashier's check from Respondents in said amount, made payable to the "General Fund of
14 the State of California," is submitted with this Stipulation as full payment of the administrative penalty,
15 to be held by the State of California until the Commission issues its decision and order regarding this
16 matter. The parties agree that in the event the Commission refuses to accept this Stipulation, it shall
17 become null and void, and within fifteen business days after the Commission meeting at which the
18 Stipulation is rejected, all payments tendered by Respondents in connection with this Stipulation shall be
19 reimbursed to Respondents. Respondents further stipulate and agree that in the event the Commission
20 rejects the Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither
21 any member of the Commission, nor the Chief of Enforcement, shall be disqualified because of prior
22 consideration of this Stipulation.

23 Dated: _____

Gary Winuk, Enforcement Chief,
On behalf of Fair Political Practices Commission

24
25
26 Dated: _____

Rita Copeland, Respondent, Individually and on behalf of
Respondent Green Technology Leadership Group PAC, No on Prop 23

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Green Technology Leadership Group PAC, No on Prop 23, and Rita Copeland, Treasurer” FPPC No. 14/258, 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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

INTRODUCTION

Respondent Green Technology Leadership Group PAC, No on Prop 23 (“Respondent Committee”) was a state general purpose committee primarily formed to oppose Proposition 23 in the November 2, 2010, election, and Respondent Rita Copeland (“Respondent Copeland”) was, at all relevant times, Respondent Committee’s treasurer. As a state general purpose committee and its treasurer, Respondent Committee and Respondent Copeland (collectively “Respondents”) had a duty under the Political Reform Act¹ (the Act”) to timely and accurately report contributions received and expenditures made.

This case arose from the Franchise Tax Board’s (“FTB”) audit of Respondent Committee for the January 1, 2010, through December 31, 2010, period. The FTB audit and subsequent investigation by the Fair Political Practices Commission’s (the “Commission”) Enforcement Division (the “Enforcement Division”) revealed that Respondents failed to timely report information regarding subvendors and accrued expenses, as required by the Act.

For the purposes of this Stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: Respondent Green Technology Leadership Group PAC, No on Prop 23, a state general purpose committee, and its treasurer Respondent Rita Copeland failed to timely report payments made to three subvendors, totaling \$151,500, during the October 1 through October 16, 2010, reporting period, in violation of Government Code sections 84200.5, 84211, subdivision (k), and 84303.

COUNT 2: Respondent Green Technology Leadership Group PAC, No on Prop 23, a state general purpose committee, and its treasurer Respondent Rita Copeland failed to timely report accrued expenses, totaling \$33,820.50, made during the October 1 through October 16, 2010, reporting period, in violation of Government Code sections 84200.5 and 84211, subdivisions (b), (i), and (k).

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 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.

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).)

Duty to File Campaign Statements

Section 82013, subdivision (a), includes within the definition of “committee” any person or combination of persons who receives contributions of \$1,000 or more during a calendar year. This type of committee is commonly referred to as a “recipient committee.”

Under the Act, there are different kinds of recipient committees, defined by the type of election activity in which they engage. A recipient committee that is formed or exists primarily to support or oppose candidates or measures voted on in a state election, or in more than one county, is defined, at Section 82027.5, subdivision (b), as a “state general purpose committee.”

Every recipient committee is required to file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31. (Section 84200, subd. (a).)

Every recipient committee must also file a preelection statement for each period in which it makes contributions or independent expenditures totaling \$500 or more. (Section 84200.5, subd. (i).) For the period ending September 30, a preelection statement must be filed no later than October 5.² (Section 84200.7, subd. (b)(1).) Subsequently, another preelection statement for the reporting period ending 17 days before the November election must be filed no later than 12 days before the election. (Section 84200.7, subd. (b)(2).)

In 2010, a state general purpose committee was required to file an original and a copy of all required campaign statements with the Secretary of State, a copy with the Registrar-Recorder of Los Angeles County, and a copy with the Registrar of Voters of the City and County of San Francisco. (Section 84215, subd. (a).)

² Under Regulation 18116, whenever the Act requires that a statement or report (other than late contribution reports required by Section 84203, late independent expenditure reports required by Section 84204, or notice by the contributor of a late in-kind contribution required by Section 84203.3) be filed prior to or not later than a specified date or during or within a specified period, and the deadline falls on a Saturday, Sunday or official state holiday, the filing deadline for such a statement or report shall be extended to the next regular business day.

Required Reporting of Expenditures

Section 82025 defines “expenditure” as a payment, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. “An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.” (Section 82025.)

Section 84211, subdivisions (b) and (i), require committees to disclose on each campaign statement: (1) the total amount of expenditures made during the period covered by the campaign statement; and (2) the total amount of expenditures made during the period covered by the campaign statement to persons who have received \$100 or more.

Pursuant to Section 84211, subdivision (k), for each person to whom an expenditure of \$100 or more has been made during the period covered by the campaign statement, the following information must be disclosed on the campaign statement: (1) the recipient’s full name; (2) the recipient’s street address; (3) the amount of each expenditure; and (4) the description of the consideration for which each expenditure was made.

Required Reporting of Accrued Expenses

Pursuant to Regulation 18421.6, subdivision (a), accrued expenses owed by a recipient committee which remain outstanding shall be reported on each campaign statement until extinguished. Such accrued expenses must be reported as of the date on which the goods or services are received, except that any obligation incurred for a regularly recurring administrative overhead expense (e.g., rent, utilities, phones, campaign workers' salary) need not be reported as an accrued expense before the payment due date. (Regulation 18421.6, subd. (b).)

Required Reporting of Subvendor Information

Also, Section 84303 provides that no expenditure of \$500 or more shall be made, other than for overhead and normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of, or for the benefit of, any committee, unless the expenditure is reported by the committee as if the expenditure were made directly by the committee. This type of information reported by a committee is commonly referred to as “subvendor information.” Regulation 18431, subdivision (a), provides that expenditures of the type that must be reported pursuant to section 84303 include:

1. Expenditures for expert advice, expert analysis, or campaign management services, including but not limited to analysis, advice, or management services in connection with:
 - a. development of campaign strategy;
 - b. campaign management;
 - c. design or management of campaign literature or advertising;
 - d. campaign fund raising;

2. Expenditure for product or services which show how the campaign is conducted, including but not limited to expenditures for:
 - a. printed campaign literature;
 - b. advertising time or space;
 - c. campaign buttons and other campaign paraphernalia;
 - d. surveys, polls, signature gathering and door-to-door solicitation of voters;
 - e. facilities, invitations, or entertainment for fundraising events;
 - f. postage for campaign mailings; and
3. Expenditures to printers of mass mailings.

Section 84211, subdivision (k)(6), requires the disclosure of such subvendor information as part of the contents of any campaign statement required to be filed by the committee. Specifically, the following information must be provided: (1) the subvendor's full name; (2) his or her street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure was made. (Section 84211, subs. (k)(1)-(4) and (6).)

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

At all relevant times, Respondent Committee was a state general purpose committee primarily formed to oppose Proposition 23 in the November 2, 2010, election, and Respondent Copeland was Respondent Committee's treasurer. In 2010, Respondent Committee's expenditures total \$163,640.

On October 21, 2010, Respondents filed a preelection statement with the Secretary of State that did not include expenses, totaling \$33,820.50, that Respondent Committee accrued during the October 1 through October 16, 2010, reporting period. The preelection statement also did not include payments, totaling \$151,500, made to three subvendors on behalf of Respondent Committee during the October 1 through October 16, 2010, reporting period.

Prior to the deadline for the preelection statement for the October 1 through October 16, 2010, period, Respondents repeatedly requested that the vendor provide Respondents with information regarding any payments that the vendor had made on behalf of Respondent Committee. However, the vendor did not provide Respondents with information regarding the \$151,500 in subvendor payments until after the preelection statement was due. When Respondents finally received the subvendor information from the vendor, it contained \$33,820.50 in expenses accrued during the October 1 through October 16, 2010, period that had not previously been reported to Respondents.

On February 1, 2011, prior to the FTB's audit or the Enforcement Division's investigation into this matter, Respondents filed, with the Secretary of State, an amendment to the preelection statement for the October 1 through October 16, 2010, reporting period (the "Amendment"). In the Amendment, Respondents reported three accrued expenses totaling \$33,820.50 and seven subvendor payments totaling \$151,500 that were not reported in the original statement.

Accordingly, Respondents committed two violation of the Act, as follows:

COUNT 1
Failure to Timely Report Subvendor Information

As a state general purpose committee and its treasurer, Respondents had a duty to report to the Secretary of State by October 21, 2010, any payments of \$500 or more made on Respondent Committee's behalf by Respondent Committee's agents and independent contractors during the October 1 through October 16, 2010, reporting period.

During the October 1 through October 16, 2010, reporting period, payments of \$500 or more, totaling \$151,500, were made to subvendors on behalf of Respondent Committee. Respondents failed to report to the Secretary of State by October 21, 2010, all payments of \$500 or more made by Respondent Committee's agents or independent contractors on behalf of Respondent Committee during the October 1 through October 16, 2010, reporting period, in violation of Sections 84211, subdivision (k), and 84303.

COUNT 2
Failure to Timely Report Accrued Expenses

As a state general purpose committee and its treasurer, Respondents had a duty to report to the Secretary of State by October 21, 2010, all expenses accrued by Respondent Committee during the October 1 through October 16, 2010, reporting period.

Respondent failed to report to the Secretary of State by October 21, 2010, expenses totaling \$33,820.50 that Respondent Committee accrued during the October 1 through October 16, 2010, reporting period, in violation of Sections 84200.5 and 84211, subdivisions (b), (i), and (k).

CONCLUSION

This matter consists of two counts of violating the Act, which carry a maximum administrative penalty of \$5,000 per count for a total of \$10,000.

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 timely and accurately report expenditures is a serious violation of the Act as it deprives the public of important information about a committee's financial activities.

Count 1: In April of 2014, the Commission approved a fine of \$2,000 for failing to timely report, on a semiannual statement, subvendor information for payments totaling \$90,636, which accounted for 100% of the respondents' reportable subvendor payments and 60.2% of the respondents' total expenditures. The subvendor payments were not reported until after the pertinent election, but the respondents cooperated with the investigation and agreed to an early resolution of the matter. (*In the Matter of Brown for Governor 2010 - Sponsored by the San Diego and Imperial Counties Labor Council: El Cambio Empieza El Martes to Support Jerry and Xavier Martinez*, FPPC No. 13/087.)

In September of 2013, the Commission approved a fine of \$2,500 for failing to timely report, on a preelection and semiannual statement, subvendor payments totaling \$614,185, which accounted for 44% of the respondents' total expenditures during that particular year. The subvendor payments were not reported until after the pertinent election, but the respondents agreed to an early resolution of the matter. (*In the Matter of Hector De La Torre, DeLaTorre for Insurance Commissioner 2010, and Jane Leiderman*, FPPC No. 12/211.)

In this matter, Respondents failed to disclose reportable subvendor payments totaling \$151,500, which accounted for 100% of Respondent Committee reportable subvendor payments for that particular reporting period, and 93% of Respondent Committee's total expenditures that year. Additionally, the subvendor payments were not reported until after the pertinent election.

However, Respondents do not have a history of enforcement actions, and were fully cooperative in the FTB audit and the Enforcement Division's investigation. Additionally, there is no evidence that the violation was intentional. Respondents made multiple requests to the vendor for this information so that it could be timely reported. Respondents amended their preelection statement to include all the reportable subvendor payments prior to the FTB audit or Enforcement Division's investigation into this matter, and Respondents have agreed to an early resolution of this matter. Therefore a \$2,000 fine is recommended for Count 1.

Count 2: In December 2012, the Commission approved a fine of \$2,500 for failing to timely report accrued expenses, totaling \$99,685, made during four different reporting periods. The respondents had no history of enforcement actions and agreed to an early resolution of the matter. (*In the Matter of Zack Scrivner, Scrivner for Supervisor 2010, and Shawn Kelly*, FPPC No. 10/1099.)

In December 2009, the Commission approved a fine of \$3,000 for failing to timely report

accrued expenses, totaling \$893,675, made during a preelection reporting period. The respondents had a history of enforcement actions, but agreed to an early resolution of the matter. (*In the Matter of Steve Westly, Westly for Governor, and Kinde Durkee*, FPPC No. 06/892.)

In this matter, Respondents failed to timely report expenses, totaling \$33,820.50, accrued during a preelection period. The expenses were not reported until after the pertinent election, and accounted for approximately 21% of Respondent Committee's expenditures for the year.

However, Respondents do not have a history of enforcement actions, and were fully cooperative in the FTB's audit and the Enforcement Division's investigation into this matter. Additionally, there is no evidence that the violation was intentional. Respondents were not aware of the accrued expenses until after the preelection statement was due. Respondents reported the missing accrued expenses in an amendment that was filed prior to the FTB audit or Enforcement Division's investigation into this matter, and Respondents have agreed to an early resolution of this matter. Therefore a \$2,500 fine for Count 2 is recommended.

Proposed Penalty

After consideration of the factors of Regulation 18361.5, as well as consideration of penalties in prior enforcement actions, the imposition of a \$4,500 penalty is recommended.

* * * * *