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

10  
11 In the Matter of:

12 RANCHO CUCAMONGA  
13 PROFESSIONAL FIREFIGHTERS  
ASSOCIATION IAFF LOCAL 2274 PAC  
14 and MICHAEL MCCLIMAN

15 Respondents.

FPPC No. 14/602

STIPULATION, DECISION, AND ORDER

16  
17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
19 respondents Rancho Cucamonga Professional Firefighters Association IAFF Local 2274 PAC and  
20 Michael McCliman (Respondents) hereby agree that this Stipulation will be submitted for consideration  
21 by the Fair Political Practices Commission (Commission) at its next regularly-scheduled meeting.

22 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this  
23 matter and to reach a final disposition without the necessity of holding an additional administrative  
24 hearing to determine the liability of Respondents.

25 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural  
26 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of  
27 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to, the right to  
28 personally appear at any administrative hearing held in this matter, to be represented by an attorney at

1 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to  
2 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over  
3 the hearing as a hearing officer, and to have the matter judicially reviewed.

4 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing  
5 to timely file two pre-election campaign statement in violation of Government Code section 84200.7,  
6 subdivision (a), failing to timely disclose contributions in violation of Government Code section 84211,  
7 subdivisions (a) and (d), and failing to timely disclose expenditures in violation of Government Code  
8 section 84211, subdivision (b) and (k), all as described in Exhibit 1. Exhibit 1 is attached hereto and  
9 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of  
10 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 an administrative penalty in the total amount of Six  
13 Thousand Dollars (\$6,000). Respondents submitted with this Stipulation a cashier's check in said  
14 amount, made payable to the "General Fund of the State of California," as full payment of the  
15 administrative penalty that shall be held by the State of California until the Commission issues its  
16 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to  
17 accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the  
18 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in  
19 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and  
20 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the  
21 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,  
22 shall be disqualified because of prior consideration of this Stipulation.

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25 Dated: \_\_\_\_\_  
26 Galena West, on behalf of the Enforcement Division  
27 Fair Political Practices Commission  
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1 Dated: \_\_\_\_\_  
2 Michael McCliman, individually, and on behalf of the  
3 Rancho Cucamonga Professional Firefighters  
4 Association IAFF Local 2274 PAC

5 **DECISION AND ORDER**

6 The foregoing Stipulation of the parties “In the Matter of Rancho Cucamonga Professional  
7 Firefighters Association IAFF Local 2274 PAC and Michael McCliman,” FPPC No. 14/602, including  
8 all attached exhibits, is hereby accepted as the final decision and order of the Fair Political Practices  
9 Commission, effective upon execution below by the Chair.

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11 IT IS SO ORDERED.

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13 Dated: \_\_\_\_\_  
14 Joann Remke, Chair  
15 Fair Political Practices Commission

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Rancho Cucamonga Professional Firefighters Association IAFF Local 2274 PAC (the “Committee”) is a general purpose committee. Respondent Michael McCliman (“McCliman”) was, at all times relevant to this case, the treasurer for the Committee.

Under the Political Reform Act (the “Act”)<sup>1</sup> a general purpose committee must timely file campaign statements disclosing the contributions it receives and the expenditures it makes. The Committee violated the Act by failing to timely file two campaign statements, and failing to timely disclose contributions it received and made. As the Committee’s treasurer, McCliman is liable, along with the Committee, for the Committee’s campaign reporting violations.<sup>2</sup>

### **SUMMARY OF THE LAW**

The Act requires general purpose committees to file pre-election campaign statements during election years if the committee makes contributions or independent expenditures of \$500 or more during a statement period.<sup>3</sup> Before a primary election, a general purpose committee must file one pre-election for the period ending March 17<sup>th</sup> by March 22<sup>nd</sup>, and a second pre-election no later than 12 days before the election for the statement period ending 17 days before the election.<sup>4</sup> Before a general election, a committee must file one pre-election statement for the period ending September 30<sup>th</sup> no later than October 5<sup>th</sup>, and a second pre-election statement no later than 12 days before the election for the statement period ending 17 days before the election.<sup>5</sup>

A committee’s pre-election campaign statements must disclose the total amount of contributions the committee received during the statement period.<sup>6</sup> It also must provide the name, address, occupation, and employer of any person who makes a cumulative contribution to the committee of \$100 or more.<sup>7</sup> Similarly, a committee must disclose the total amount of contributions it makes, as well as specific information about any contribution of \$100 or more that the committee makes.<sup>8</sup> Contributions made by a committee are reported as expenditures on the committee’s campaign statements.

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

<sup>2</sup> Sections 83116.5 and 91006

<sup>3</sup> Section 84200.5, subdivision (d)

<sup>4</sup> Section 84200.7, subdivision (a)

<sup>5</sup> Section 84200.7, subdivision (b)

<sup>6</sup> Section 84211, subdivision (a)

<sup>7</sup> Section 84211, subdivision (d)

<sup>8</sup> Section 84211, subdivisions (b) and (k)

## SUMMARY OF THE FACTS

The Committee first qualified as a general purpose committee in June of 2007. The Fair Political Practices Commission (“Commission”) randomly selected the Committee for an audit of its campaign records by the Franchise Tax Board (“FTB”). The FTB audit covered activity from January 1, 2009 through December 31, 2010. During that period, the Committee reported receiving contributions totaling \$144,940 and making expenditures totaling \$70,581. The contributions came from the dues of the members of the Rancho Cucamonga Professional Firefighters Association. The Committee used its funds mostly to make contributions to state and local candidates.

### Count 1: Failure to Timely File Pre-election Statements

The 2010 primary election took place on June 8<sup>th</sup>. As a result, May 27<sup>th</sup> was the filing deadline for the second pre-election statement, which covered the period from March 18<sup>th</sup> through May 22<sup>nd</sup>. During this statement period, the Committee made expenditures totaling \$8,250. The Committee filed the second pre-election statement on June 7, 2010, one day before the election.

The 2010 general election took place on November 2<sup>nd</sup>. On October 7, 2010 the Committee made a \$1,000 contribution to the Committee to Elect Mike Morrell for Assembly (“Morrell”). As a result, the Act required the Committee to file a pre-election statement for the October 1<sup>st</sup> through October 16<sup>th</sup> statement period. The Committee failed to timely file a pre-election statement for that period. Instead, the Committee disclosed its contribution to Morrell on an amended semi-annual statement that covered the period ending on December 31<sup>st</sup>, 2010. The Committee filed this amended statement on February 28, 2013. Morrell timely disclosed receipt of the contribution. The Committee filed a pre-election statement for the October 1 through October 16, 2010 period on May 7, 2015.

By failing to timely file two pre-election statements, the Committee violated Section 84200.7, subdivision (a).

### Count 2: Failure to Timely Disclose Contributions

The audit by FTB revealed that the Committee failed to timely disclose a significant portion of the contributions Respondent received during 2010. The Committee’s campaign statements understated the total amount of contributions received and failed to provide identifying information for persons who made contributions of \$100 or more. The Committee filed amended statements disclosing the contributions but not until after the election.

The following table details contributions the Committee failed to timely disclose.

<b>Statement Period</b>	<b>Amount of Unreported Contributions</b>	<b>Date Amended Statement Filed</b>
3/18/10 – 5/22/10	\$14,773	8/3/10
7/1/10 – 9/30/10	\$8,799	3/6/13
<b>TOTAL</b>	<b>\$23,572</b>	

By failing to timely disclose contributions of \$100 or more on its campaign statements, the Committee violated Section 84211, subdivisions (a) and (d).

### Count 3: Failure to Timely Disclose Expenditures

On August 25, 2010, the Committee made a \$700 contribution to the San Bernardino County Firefighters PAC. On September 30, 2010, the Committee made a \$12,500 non-monetary contribution to L. Dennis Michael for Mayor 2010. The Committee did not disclose these contributions as expenditures on its campaign statement for the July 1<sup>st</sup> through September 30<sup>th</sup> statement period filed on October 6, 2010. The Committee filed an amended statement on March 6, 2013 that disclosed the contributions. The San Bernardino County Firefighters PAC and L. Dennis Michael for Mayor 2010 failed to disclose receipt of the contributions.

By failing to timely disclose as expenditures two contributions of \$100 or more, the Committee violated Section 84211, subdivisions (b) and (k).

## **CONCLUSION**

This matter consists of three counts of violating the Act, which carry a maximum administrative penalty of five thousand dollars (\$5,000) per count, and \$15,000 total.

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)-(6): the seriousness of the violations; the presence or lack of intent to conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the Respondents demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether the violator, upon learning of the violations, voluntarily filed amendments.

The Commission also considers penalties in prior cases involving similar violations. Recent similar cases include the following:

### Count 1

- *In the Matter of California Association of Highway Patrolmen and Jon H. Hamm*, FPPC No. 12/724. (Commission approved a stipulated decision on November 14, 2013.) The respondent committee, a general purpose committee, and its treasurer, failed to file a timely pre-election campaign statement prior to the 2010 primary election. The committee received \$113,944 in contributions and made expenditures of \$95,120 during the statement period. The committee filed the pre-election statement 133 days after the filing deadline. The Commission imposed a penalty of \$2,000 for that violation.
- *In the Matter of Stonewall Democratic Club of Greater Sacramento, William Guy Crouch, and Christopher Welton*, FPPC No. 12/103. (Commission approved a stipulated decision on August 22, 2013.) The respondent committee, a general purpose committee,

and its treasurers, failed to file a pre-election campaign statement for the 2008 general election. Instead, the committee reported all of its activity for the pre-election period on its post-election semi-annual statement. During that pre-election statement period, the committee received contributions totaling \$1,256 and made expenditures totaling \$10,602. The Commission imposed a penalty of \$2,000 for this violation.

### Count 2

- *In the Matter of Xavier Campos, Xavier Campos for City Council 2010, and Linda Delgado*, FPPC No. 13/177. (Commission approved a stipulated decision on November 20, 2014.) The respondents failed to timely disclose contributions totaling approximately \$3,665 that the committee received over two statement periods. The Commission imposed a penalty of \$2,000 for the violation.
- *In the Matter of Fernando Vasquez, Vasquez for Downey Council 2010, and Jane Leiderman*, FPPC No. 11/057. (Commission approved a stipulated decision on March 15, 2012.) The respondents failed to disclose receiving 17 contributions totaling \$7,696 over two pre-election statement periods. The respondents filed amended statements disclosing the contributions about three months after the election. The Commission imposed a penalty of \$2,000 per count for two counts of violating the Act.

### Count 3

- *In the Matter of Green Technology Leadership Group PAC, No on Prop 23, and Rita Copeland*, FPPC No. 14/258. (Commission approved a stipulated decision on January 15, 2015.) The respondents failed to timely disclose on a pre-election statement expenditures totaling \$33,820.50. The Commission imposed a penalty of \$2,500 for the violation.
- *In the Matter of Ben Kalasho and Ben Kalasho Committee to Elect for El Cajon City Council 2012*, FPPC No. 14/048. (Commission approved a stipulated decision on October 16, 2014.) The respondents failed to disclose expenditures totaling \$10,380.76 over two campaign statement periods. The Commission imposed a penalty of \$2,000 for one count of failure to disclose campaign contributions.

A central purpose of the Act is to ensure receipts and expenditures in election campaigns are fully and truthfully disclosed.<sup>9</sup> The Committee failed in multiple instances to properly disclose its contributions and expenditures. The Committee filed amended statements disclosing all of the information required by the Act but the Committee's additional disclosures came after the relevant election or, in one instance, the day before the election. Also, the contributions discussed in count 3 were not disclosed by the recipients either so the public had no notice of these violations.

Regarding Count 1, the amount of money not timely disclosed was less than in the comparable cases. Further, one of the late statements was filed before the election and the other involved a single expenditure of \$1,000, which was timely disclosed by the recipient. These factors justify combining these similar violations into a single count. Similarly with regard to Count 2, the underreporting of contributions from the dues of the members of the Rancho Cucamonga Professional Firefighters Association occurred over two statement periods. But

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<sup>9</sup> Section 81002, subdivision (a)

because the violations were similar in nature and not intentional, combining these similar violations into a single count is justified. Overall, the Commission did not find evidence the Committee intentionally violated the Act. The Committee contends the violations resulted from a lack of understanding of the law as well as miscommunications with, and errors made by, the Committee's bookkeeper. The Committee and McCliman do not have a history of prior violations. The Committee has taken steps to improve its recording keeping and campaign reporting systems, including hiring a law firm to provide compliance services, so as to avoid future violations.

### **PROPOSED PENALTY**

After considering the factors of Regulation 18361.5, the penalties imposed in prior cases, and other relevant information, we propose a penalty of \$2,000 per count for a total penalty of \$6,000.