

1 GALENA WEST  
Acting Chief of Enforcement  
2 BRIDGETTE CASTILLO  
Senior Commission Counsel  
3 Fair Political Practices Commission  
428 J Street, Suite 620  
4 Sacramento, CA 95814  
Telephone: (916) 322-5660  
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant

7  
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA

10  
11 In the Matter of:

FPPC No. 14/111

12 PAT WASHINGTON FOR ASSEMBLY  
13 2012 AND PATRICIA WASHINGTON,

STIPULATION, DECISION AND ORDER

14 Respondents.

15  
16 **STIPULATION**

17 Complainant Fair Political Practices Commission and Respondents Pat Washington for Assembly  
18 2012 (“Committee”) and Patricia Washington (“Washington”) hereby agree that this Stipulation will be  
19 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 additional administrative  
23 hearing to determine the liability of Washington and the Committee, pursuant to section 83116 of the  
24 Government Code.

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

1 represented by an attorney at their own expense, to confront and cross-examine all witnesses testifying at  
2 the 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 As described in Exhibit 1, it is further stipulated and agreed that Respondents Pat Washington for  
5 Assembly 2012 and Patricia Washington failed to: 1) timely disclose required information regarding  
6 contributions received and expenditures made during the January 1, 2012, through March 17, 2012 Pre-  
7 election campaign statement, in violation of Section 84211, subdivisions (a)-(j) (1 Count); and 2)  
8 maintain detailed accounts, record, bill and receipts necessary to prepare campaign statements and to  
9 establish campaign statements were properly filed for the January 1, 2012, through March 17, 2012 Pre-  
10 election campaign statement, in violation of Section 84104 (1 Count). Exhibit 1, which is attached hereto  
11 and incorporated by reference as though fully set forth herein, is a true and accurate summary of the facts  
12 in this matter.

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

1 Dated: \_\_\_\_\_

\_\_\_\_\_  
Galena West, Acting Enforcement Chief,  
on behalf of the Fair Political Practices  
Commission

2

3

4

5 Dated: \_\_\_\_\_

\_\_\_\_\_  
Patricia Washington, individually and on behalf of  
Pat Washington for Assembly 2012, Respondents

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Pat Washington for Assembly 2012 and  
3 Patricia Washington,” FPPC No. 14/111, including all attached exhibits, is hereby accepted as the final  
4 decision and order of the Fair Political Practices Commission, effective upon execution below by the  
5 Chair.

6  
7 IT IS SO ORDERED.

8  
9 Dated: \_\_\_\_\_

10 \_\_\_\_\_  
11 Joann Remke, Chair  
12 Fair Political Practices Commission  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## EXHIBIT 1

### INTRODUCTION

Respondent Patricia Washington (“Washington”) was an unsuccessful candidate for Assembly 79<sup>th</sup> District in the June 5, 2012 Election. Respondent Pat Washington for Assembly 2012 (“the Committee”) was Washington’s candidate controlled committee. The Committee was formed on December 2, 2011, and terminated on June 30, 2013.

This case is the result of an Franchise Tax Board (“FTB”) Audit. The FTB Audit covered the time period January 1, 2011, through June 30, 2012. During the FTB Audit period, the Committee received a total of \$53,802 in contributions and made \$57,094 in expenditures. In this matter, Washington and the Committee violated the Political Reform Act<sup>1</sup> (“Act”) by failing to: 1) timely disclose required financial activity on a the Pre-election campaign statement for the period January 1, 2012, through March 17, 2012; and 2) maintain campaign records.

For purposes of this Stipulation, the proposed violations of the Act are as follows:

COUNT 1: Respondents Committee and Washington failed to timely disclose required information regarding \$26,783 in contributions received and failed to timely disclose required information regarding \$20,203 in expenditures made, during the January 1, 2012, through March 17, 2012 Pre-election campaign statement, in violation of Section 84211, subds. (a)-(j).

COUNT 2: Respondents Committee and Washington failed to maintain detailed accounts, records, bills and receipts necessary to prepare campaign statements and to establish campaign statements were properly filed for the reporting period January 1, 2012, through March 17, 2012, in violation of Section 84104.

### SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act, therefore, establishes a campaign reporting system designed to accomplish this purpose of disclosure.

---

<sup>1</sup> 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.

## The Duty to Timely Disclose Information on Pre-Election Campaign Statements

### Required Reporting of Contributions Received

Each campaign statement must report “[t]he total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.” (Section 84211, subd. (a).) Also, each campaign statement must report “[t]he total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more.” (Section 84211, subd. (c).)

A contribution is a payment of any kind made for political purposes for which full and adequate consideration is not made to the donor. (Sections 82015, subd. (a), and 82044; Regulation 18215, subd. (a).) A payment is made for political purpose if it is: (1) for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate; or (2) it is received by or made at the behest of a candidate or controlled committee. (See Regulation 18215, subds. (a)(1) and (2).)

Each campaign statement must also include the total amount of contributions received from persons who gave the committee cumulative amounts of less than \$100 during the period covered by the statement. (Section 84211, subd. (d).)

Section 84211, subd. (e), requires the disclosures of the balance of cash and cash equivalent at the beginning and end of the relevant reporting period.

Section 84211, subdivisions (f) and (g), further requires that certain identifying information be provided for each person from whom a cumulative amount of contributions and loans of \$100 or more has been received during the period covered by the campaign statement, including the following: (1) the person’s full name; (2) his or her street address; (3) his or her occupation; (4) the name of his or her employer, or if self-employed, the name of the business; (5) the date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan; and (6) the cumulative amount of contributions.

### Required Reporting of Expenditures

Section 84211, subdivisions (b) and (i), require recipient 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.

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.)

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.

Each campaign statement must also include the total amount of expenditures made by the committee to persons who have received less than \$100 during the period covered by the campaign statement. (Section 84211, subd. (j).)

#### The Duty to Maintain Committee Records

Section 84104 places a duty on a candidate to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements and to establish that campaign statements were properly filed. Regulation §18401 details what documents a candidate must retain. Generally, for any contributions received or expenditures made, the candidate must retain source documents sufficient to show continuous computation of campaign account balances. Examples of such documents include copies of checks, check registers, deposit slips, etc. Larger contributions and expenditures require the candidate to retain additional documentation.

### **SUMMARY OF THE FACTS**

Washington was an unsuccessful candidate for Assembly 79<sup>th</sup> District in the June 5, 2012 Election. From December 2, 2011, through February 28, 2012, Washington was the treasurer for the Committee. From February 29, 2012, through March 19, 2012, Tamara Jean McIntyre was the treasurer of the Committee. From March 20, 2012, through termination, David Gould was the treasurer of the Committee.

Mr. Gould was not the treasurer during the first Pre-election campaign reporting period from January 1, 2012, through March 17, 2012. Mr. Gould explained that he was contacted by Washington's new campaign consultant, who had fired the previous treasurer, Ms. McIntyre. He understood that Ms. McIntyre, the treasurer for less than one month of the relevant reporting period, claimed she was not paid and refused to provide records she maintained. According to Mr. Gould, Washington provided the incomplete records she maintained.

On March 22, 2012, Mr. Gould, Washington and the Committee filed a Pre-election campaign statement for the period January 1, 2012, through March 17, 2012, disclosing no financial activity. Mr. Gould stated Washington was to provide Committee records so he could accurately disclose the financial activity.

On March 25, 2012, prior to the June 5, 2012 Election, Washington and the Committee filed an amendment disclosing monetary contributions of \$18,174 received, and payments made of \$20,801. According to additional records obtained by the Enforcement Division, the Pre-election campaign statement for the period January 1, 2012, through March 17, 2012, should

have disclosed \$26,783 in contributions received and \$20,203 in expenditures made. Therefore, the contributions were understated by \$8,609 and expenditures were overstated by \$598.

### **Count 1: Failure to Timely Report Contributions and Expenditures**

On March 22, 2012, Washington and the Committee timely filed a Pre-election campaign statement for the period January 1, 2012, through March 17, 2012, with no information disclosed. On May 25, 2012, prior to the June 5, 2012 Election, Washington and the Committee filed an amendment. The May 25, 2012 amendment disclosed monetary contributions of \$18,174 received, and expenditures made of \$20,801.

By failing to timely disclose required information regarding contributions received and expenditures made during the January 1, 2012, through March 17, 2012 Pre-election campaign statement, Washington and the Committee violated Section 84211, subs. (a)-(j).

### **Count 2: Recordkeeping Violation**

Washington and the Committee failed to maintain detailed accounts, records, bills and receipts necessary to prepare campaign statements and to establish campaign statements were properly filed for the reporting period January 1, 2012, through March 17, 2012. By failing to maintain required records for the reporting period January 1, 2012, through March 17, 2012, Washington and the Committee violated Section 84104.

## **CONCLUSION**

This matter consists of two counts of violating the Act, which carries a maximum administrative penalty of \$5,000 for each violation, for a total of \$10,000.

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)-(6): the seriousness of the violations; whether the Respondent demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

The Duty to Timely Disclose Contributions and Expenditures: The typical administrative penalty for failing to timely disclose contributions and expenditures on a pre-election campaign statement has been in the middle of the penalty range, depending on the circumstances. Failing to timely disclose required information on a pre-election statement deprives the public of important information about financial activities before an election. In this matter, Washington and the Committee failed to timely disclose \$26,783 in contributions received and \$20,203 in expenditures made. Recent fines approved by the Commission for this type of violation include:

*In the Matter of Dan Hamburg, Dan Hamburg for Supervisor 2010 committee and Geoffrey Baugher, FPPC Nos. 10/751 and 10/981.* On campaign statements filed for the



semiannual reporting periods ending December 31, 2009, June 30, 2010, and December 31, 2010 and on pre-election campaign statements for reporting periods ending March 17, 2010, May 22, 2010, September 30, 2010, and October 16, 2010, Respondents failed to: 1) disclose monetary contributions totaling approximately \$5,000 and nonmonetary contributions of \$100 or more received; 2) disclose expenditures of over \$18,000 made; and 3) understated or overstated the balance of cash by up to approximately \$1,458 (understated) and \$10,316 (overstated). The penalty per relevant count was \$2,500. This Stipulation was approved by the Commission on April 25, 2013.

*In the Matter of In the Matter of League of California Cities CITIPAC, aka League of California Cities CITIPAC, Supporting Proposition 22, and Dan Harrison,” FPPC No. 12/727.* Respondents failed to report contributions totaling 80% of all contributions received, approximately \$138,375, during a single, pre-election reporting period for one count. Respondents filed amended statements after the election. The penalty for this count was \$3,000. This Stipulation was approved by the Commission on February 28, 2013.

The public harm inherent in reporting violations is that the public is deprived of time-sensitive information regarding the sources and amounts of campaign activity. In this matter, Washington and the Committee failed to report any financial campaign activity in the first pre-election reporting period until May 25, 2012. Even though Washington and the Committee filed an amendment prior to the June 5, 2012 Election, the contributions were understated by \$8,609 and expenditures were overstated by \$598, as a result of inadequate recordkeeping. In mitigation, Washington and the Committee cooperated with the investigation and have no prior Enforcement history.

The imposition of a \$2,500 administrative penalty is recommended for Count 1.

Recordkeeping Requirements: The typical administrative penalty for failing to properly maintain records has been in the low to middle end of the penalty range, depending on the circumstances. Recent fines approved by the Commission for this type of violation include:

*In the Matter of George Eads and Committee to Elect George Eads Marina Coast Water District November 2, 2010, FPPC No. 10/930.* The Respondent shredded all of his campaign records shortly after the election thereby violating the recordkeeping requirements of the Act. On February 28, 2013, in a default decision, the Commission imposed a fine of \$2,000 for his failure to maintain campaign records.

*In the Matter of William Lee and Committee to Elect William Lee Marina Coast Water District November 2, 2012, FPPC No. 12/607.* The Respondent Candidate used his personal bank account to deposit contributions and make expenditures, along with failing to maintain required records. In this matter, Respondents only maintained campaign statements. On August 22, 2013, the Commission imposed a \$2,000 fine for the failure to maintain records.

In this matter, Washington and the Committee’s failure to maintain required records prevented the Enforcement Division from readily ascertaining whether the campaign statement

was properly prepared. Although Washington cooperated with the investigation by attempting to recreate the Committee records, the incomplete records were provided piecemeal.

The imposition of a \$2,000 administrative penalty is recommended for Count 2.

### **PROPOSED PENALTY**

After consideration of the factors of Regulation 18361.5 and consideration of the penalties imposed in recent cases, a penalty of \$2,500 for Count 1 is recommended and a penalty of \$2,000 for Count 2 is recommended, for a total penalty of \$4,500.