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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. 14/1121
13 TEAMSTERS JOINT COUNCIL NO. 7 PAC,)
14 Respondent.) STIPULATION, DECISION and
15) ORDER
16)
17)

18 Complainant, Enforcement Division of the Fair Political Practices Commission, and Respondent
19 Teamsters Joint Council No. 7 PAC agree that this Stipulation will be submitted for consideration by
20 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 the Respondent, pursuant to Section 83116 of the Government Code.

24 Teamsters Joint Council No. 7 PAC understands, and hereby knowingly and voluntarily waives,
25 any and all procedural rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code,
26 and in Sections 18361.1 through 18361.9 of Title 2 of the California Code of Regulations. This
27 includes, but is not limited to, the right to personally appear at any administrative hearing held in this
28 matter, to be represented by an attorney at Teamsters Joint Council No. 7 PAC's own expense, to

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

4 It is further stipulated and agreed that Teamsters Joint Council No. 7 PAC violated the Political
5 Reform Act by failing to file a ballot measure contribution report within 10 business days of making an
6 independent expenditure on August 02, 2012 and a contribution on August 29, 2012, each totaling five
7 thousand dollars (\$5,000) or more, to support or oppose the qualification or passage of a single state
8 ballot measure, in violation of Government Code Section 84204.5 (1 count). This count is described in
9 Exhibit 1, which is attached hereto and incorporated by reference as though fully set forth herein.
10 Exhibit 1 is a true and accurate summary of the facts in this matter.

11 Teamsters Joint Council No. 7 PAC agrees to the issuance of the Decision and Order, which is
12 attached hereto. Teamsters Joint Council No. 7 PAC also agrees to the Commission imposing upon it
13 an administrative penalty in the amount of \$2,000. A cashier's check from Teamsters Joint Council
14 No. 7 PAC in said amount, made payable to the "General Fund of the State of California," is submitted
15 with this Stipulation as full payment of the administrative penalty, to be held by the State of California
16 until the Commission issues its decision and order regarding this matter. The parties agree that in the
17 event the Commission refuses to accept this Stipulation, it shall become null and void, and within
18 fifteen (15) business days after the Commission meeting at which the Stipulation is rejected, all
19 payments tendered by Teamsters Joint Council No. 7 PAC in connection with this Stipulation shall be
20 reimbursed to Teamsters Joint Council No. 7 PAC. Teamsters Joint Council No. 7 PAC further
21 stipulates and agrees that in the event the Commission rejects the Stipulation, and a full evidentiary
22 hearing before the Commission becomes necessary, neither any member of the Commission, nor the
23 Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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26 Dated: _____
27 Galena West, Acting Chief of Enforcement
28 Fair Political Practices Commission

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Dated: _____

David Hawley, on behalf of, Teamsters
Joint Council No. 7 PAC, Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Teamsters Joint Council No. 7 PAC,”
3 FPPC No. 14/1121, including all attached exhibits, is hereby accepted as the final decision and order of
4 the Fair Political Practices Commission, effective upon execution below by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Teamsters Joint Council No. 7 PAC is a general purpose committee sponsored by the Teamsters Joint Council No. 7, a labor union that represents trucking, distribution, and food processing employees in Northern and Central California.¹

The Franchise Tax Board (“FTB”) performed an audit of Teamsters Joint Council No. 7 PAC for the period from January 1, 2011 through December 31, 2012. During that period, the Teamsters Joint Council No. 7 PAC received contributions totaling \$120,484 and made expenditures totaling \$120,484.

The Political Reform Act (the “Act”)² requires a committee to timely file campaign statements and reports and disclose particular information. Teamsters Joint Council No. 7 PAC violated the Act by failing to file two ballot measure contribution reports.

SUMMARY OF THE LAW

Duty to File Ballot Measure Contribution Reports

A recipient committee must file online or electronically with the Secretary of State each time it makes contributions totaling five thousand dollars (\$5,000) or more to a state general purpose committee, or each time it makes independent expenditures totaling five thousand dollars (\$5,000) or more, to support or oppose the qualification or passage of a single state ballot measure³. The report shall be filed within 10 business days of making the contributions or independent expenditures.⁴ Additionally, the report shall contain (1) The full name, street address, and identification number of the committee; (2) The number or letter of the measure if the measure has qualified for the ballot and has been assigned a number or letter; (3) In the case of a contribution, the date and amount of the contribution and the name, address, and identification number of the committee to whom the contribution was made⁵.

SUMMARY OF THE FACTS

FTB’s audit found, and the Enforcement Division of the Fair Political Practices Commission (“Commission”) confirmed, that Teamsters Joint Council No. 7 PAC, by in large, complied with the Act’s campaign reporting requirements. However, Teamsters Joint Council No. 7 PAC failed to timely file ballot measure reports for a \$13,705 independent expenditure made in opposition to Proposition 32 on August 02, 2012, and a \$100,000 contribution made to

¹ Robert Morales was the treasurer at all times relevant, but is not a Respondent because he has since passed away.

²The 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.

³ Section 84204.5 and Regulation 18466.

⁴ Section 84204.5

⁵ Section 84204.5, subdivision (a)(1-3)

California Teamsters Public Affairs Council Issues Account in opposition to Proposition 32 on August 29, 2012.

VIOLATION

Count 1: Failure to File Ballot Measure Contribution Report

Teamsters Joint Council No. 7 PAC failed to file a ballot measure contribution report within 10 business days of making an independent expenditure on August 02, 2012 and a contribution on August 29, 2012, each totaling five thousand dollars (\$5,000) or more, to support or oppose the qualification or passage of a single state ballot measure, in violation of Government Code Section 84204.5.

CONCLUSION

This matter consists of one 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 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 the 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 respondent voluntarily amended.

The Commission also considers penalties in prior cases involving similar violations, including:

- *In the Matter of Stonewall Democratic Club of Greater Sacramento, William Guy Crouch, and Christopher Welton*, FPPC No. 12/103: Respondents failed to file a ballot measure contribution report within 10 business days of making a contribution on October 8, 2008, totaling five thousand dollars (\$5,000) or more to support or oppose the qualification or passage of a single state ballot measure. On August 22, 2013, the Commission approved a penalty of \$1,500 for the violation.

In the present case, Teamsters Joint Council No. 7 PAC did not attempt to conceal the making of the independent expenditure and contribution but rather disclosed them on a campaign statement for the reporting period ending September 30, 2012, a month and a half before the election. The contribution was also disclosed by the committee receiving the contribution on the pre-election statement, thereby lessening the public harm. However, the expenditures that Teamsters Joint Council No. 7 PAC failed to disclose in ballot measure contribution reports made up about 94.3% of the total expenditures by Teamsters Joint Council No. 7 PAC during the

audit period. Teamsters Joint Council No. 7 PAC do not have a history of violating the Act, and FTB's audit did not find any other significant campaign violations.

PROPOSED PENALTY

After considering the factors listed above, a penalty of \$2,000 is recommended.