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

10 In the Matter of) FPPC No. 14/1256
11)
12)
13 OAKLAND POLICE OFFICER’S) STIPULATION, DECISION AND ORDER
ASSOCIATION – POLITICAL ACTION)
COMMITTEE,)
14 Respondent.)
15)

16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
18 respondent, Oakland Police Officer’s Association – Political Action Committee, hereby agree that this
19 Stipulation will be submitted for consideration by the Fair Political Practices Commission
20 (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 Oakland Police Officer’s Association – Political Action Committee.

24 Oakland Police Officer’s Association – Political Action Committee understands, and hereby
25 knowingly and voluntarily waives, any and all procedural rights set forth in Government Code sections
26 83115.5, 11503 and 11523, and in California Code of Regulations, title 2, sections 18361.1 through
27 18361.9. This includes, but is not limited to, the right to personally appear at any administrative hearing
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1 held in this matter, to be represented by an attorney at its own expense, to confront and cross-examine
2 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an
3 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter
4 judicially reviewed.

5 It is further stipulated and agreed that Oakland Police Officer’s Association – Political Action
6 Committee violated the Political Reform Act by authorizing and paying for 10,191 telephone calls that
7 were similar in nature, made by an individual, or individuals, or by electronic means, that advocated
8 support of a candidate, and did not, during the course of each call, disclose the name of the organization
9 that authorized or paid for the call, in violation of Government Code section 84310, subdivision (a) (1
10 count). Each count is described in Exhibit 1, which is attached hereto and incorporated by reference as
11 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

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1 Oakland Police Officer’s Association – Political Action Committee agrees to the issuance of the
2 Decision and Order, which is attached hereto. Oakland Police Officer’s Association – Political Action
3 Committee also agrees to the Commission imposing upon it an administrative penalty in the amount of
4 \$2,000. A cashier’s check from Oakland Police Officer’s Association – Political Action Committee in
5 said amount, made payable to the “General Fund of the State of California,” is submitted with this
6 Stipulation as full payment of the administrative penalty, to be held by the State of California until the
7 Commission issues its decision and order regarding this matter. The parties agree that in the event the
8 Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen
9 business days after the Commission meeting at which the Stipulation is rejected, all payments tendered
10 by Oakland Police Officer’s Association – Political Action Committee in connection with this
11 Stipulation shall be reimbursed to it. Oakland Police Officer’s Association – Political Action
12 Committee further stipulates and agrees that in the event the Commission rejects the Stipulation, and a
13 full evidentiary hearing before the Commission becomes necessary, neither any member of the
14 Commission, nor the Executive Director, shall be disqualified because of prior consideration of this
15 Stipulation.

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18 Dated: _____ Galena West, Chief of Enforcement, on behalf of
19 The Enforcement Division of the Fair Political Practices Commission

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21 Dated: _____ Barry Donelan, Principal Officer, on behalf of
22 Oakland Police Officer’s Association – Political Action Committee,
23 Respondent
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1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Oakland Police Officer’s Association
3 – Political Action Committee” FPPC No. 14/1256, including all attached exhibits, is hereby accepted as
4 the final decision and order of the Fair Political Practices Commission, effective upon execution below
5 by the Chair.

6 IT IS SO ORDERED.

7
8 Dated: _____

9 Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Oakland Police Officer's Association – Political Action Committee (Oakland Police Officers PAC) is, and was at all relevant times, a sponsored city general purpose committee. Oakland Police Officers PAC authorized and paid for 10,191 robocalls that advocated support of a candidate in the November 4, 2014, election, and did not disclose to each recipient that the call was paid for and authorized by Oakland Police Officers PAC, in violation of the Political Reform Act (Act).¹

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 violation.

Identification Requirements for Telephone Calls that are Similar in Nature and Aggregate 500 or More in Number

A candidate or committee may not expend campaign funds, directly or indirectly, to pay for telephone calls that are similar in nature and aggregate 500 or more in number, made by an individual, or individuals, or by electronic means and that advocate support of, or opposition to, a candidate, ballot measure, or both, unless during the course of each call the name of the organization that authorized or paid for the call is disclosed to the recipient of the call.² Each call must state that the call "is paid for" or "authorized" by the candidate or committee that paid for or authorized the call.³ A candidate or committee pays for a call whether it pays directly for the call or pays another person to make the call on its behalf.⁴ Telephone calls that are similar in nature and are made electronically are often referred to as robocalls.

SUMMARY OF THE FACTS

Oakland Police Officers PAC authorized and paid \$285.34 for 6,341 robocalls that were made on October 27, 2014, with the following automated message:

This is Oakland Police Officer Wendy Rae calling on behalf of the Oakland Police Officer's Association and California Attorney General Kamala Harris asking you to join us in supporting Annie Campbell Washington for City Council. Annie Campbell Washington understands that the key to reducing crime is keeping youth in school and out of the courtroom. She is the only candidate endorsed by our police officers, firefighters and Attorney General Kamala Harris.

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 Gov. Code § 84310, subd. (a).

³ Cal. Code Reg., tit. 2 § 18440, subd. (b).

⁴ Cal. Code Reg., tit. 2 § 18440, subd. (c)(1).

Please join us on November 4th. Thank you.

Oakland Police Officers PAC authorized and paid \$173.25 for 3,850 robocalls that were made on October 30, 2014, with the following automated message:

This is Oakland Police Officer Barry Donelan calling on behalf of the Oakland Police Officer's Association and California Attorney General Kamala Harris asking you to join us in supporting Annie Campbell Washington for City Council. Annie Campbell Washington understands that the key to reducing crime is keeping youth in school and out of the courtroom. She is the only candidate endorsed by our police officers, firefighters and Attorney General Kamala Harris. Please join us on November 4th. Thank you.

Annie Campbell Washington was a successful candidate for Oakland City Council in the November 4, 2014, election. On or about November 11, 2014, Oakland Police Officers PAC paid for both robocalls. On or about February 2, 2015, Oakland Police Officers PAC filed a semiannual statement and a supplemental independent expenditure report with the Oakland City Clerk that disclosed both set of robocalls as independent expenditures in support of Campbell Washington.

Count 1: Failure to Include Identification in Robocalls

By authorizing and paying for 10,191 telephone calls that were similar in nature, made by an individual, or individuals, or by electronic means, that advocated support of a candidate, and did not, during the course of each call, disclose the name of the organization that authorized or paid for the call, Oakland Police Officers PAC violated Government Code section 84310, subdivision (a).

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 Fair Political Practices Commission (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.

On September 22, 2011, the Commission imposed a \$1,500 penalty on a committee for paying for and authorizing 1,000 robocalls that did not disclose the name of the committee to the

recipient of each telephone call. (*In the Matter of Neighbors Opposing Tebbs, Eason, & Hailey For Fire Board 2010, and Thomas J. Francl*, FPPC No. 10/1090.)

In this matter, the violation is aggravated by the following facts: two sets of robocalls, totaling 10,191 calls, were made without proper disclosure; the calls were made within a week of the election; and the calls did not disclose that they were not authorized by a candidate or a committee controlled by a candidate. However, the violation is mitigated by the fact that the recipients were informed that the call was made on behalf of the Oakland Police Officer's Association, and therefore the failure to include the source of the calls was not likely intended to deceive the public. Additionally, Oakland Police Officers PAC does not have any prior history of violating the Act and fully cooperated in the investigation of this matter.

PROPOSED PENALTY

After considering the factors listed in Regulation §18361.5, prior similar cases, and other relevant factors, a \$2,000 penalty is recommended.

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