

1 GALENA WEST
Chief of Enforcement
2 ANGELA J. BRERETON
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
Enforcement Division of the Fair Political Practices Commission
7

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

11 In the Matter of) FPPC No. 15/200
12)
13)
14) **STIPULATION, DECISION and ORDER**
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)
Respondents.

STIPULATION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondents Monica Cooper and Friends to Elect Monica Cooper Treasurer of Carson 2015 (ID# 1374271), also known as Friends to Elect Monica Cooper Carson City Treasurer (the Committee), hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

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

Cooper and the Committee understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in Government Code Sections 83115.5, 11503 and 11523, and in

1 California Code of Regulations, title 2, Sections 18361.1 through 18361.9. This includes, but is not
2 limited to the right to personally appear at any administrative hearing held in this matter, to be
3 represented by an attorney at Cooper's and the Committee's own expense, to confront and cross-
4 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have
5 an impartial administrative law judge preside over the hearing as a hearing officer, and to have the
6 matter judicially reviewed.

7 It is further stipulated and agreed that Cooper and the Committee violated the Political Reform
8 Act as described in Exhibit 1: Cooper and the Committee failed to deposit contributions into a single,
9 designated campaign bank account prior to expenditure, violating Government Code Sections 85201,
10 subdivisions (c) and (e) (1 count); and Cooper and the Committee made cash expenditures of \$100 or
11 more, totaling approximately \$4,010, violating Government Code Section 84300, subdivision (b)
12 (1 count). Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein.
13 Exhibit 1 is a true and accurate summary of the facts in this matter.

14 Cooper and the Committee agree to the issuance of the Decision and Order, which is attached
15 hereto. Cooper and the Committee also agree to the Commission imposing an administrative penalty in
16 the total amount of Four Thousand Dollars (\$4,000). A cashier's check from Cooper and the Committee
17 in said amount, made payable to the "General Fund of the State of California," is submitted with this
18 Stipulation as full payment of the administrative penalty, and shall be held by the State of California
19 until the Commission issues its Decision and Order regarding this matter. The parties agree that in the
20 event the Commission refuses to accept this Stipulation, it shall become null and void, and within
21 fifteen (15) business days after the Commission meeting at which the Stipulation is rejected, all
22 payments tendered by Cooper and the Committee in connection with this Stipulation shall be
23 reimbursed to Cooper and the Committee. Cooper and the Committee further stipulate and agree that in
24 the event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
25 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
26 disqualified because of prior consideration of this Stipulation.

27
28 ///

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

Dated: _____

Galena West, Chief, on Behalf of the Enforcement Division
Fair Political Practices Commission

Dated: _____

Monica Cooper, Respondent, individually and o/b/o Friends to
Elect Monica Cooper Treasurer of Carson 2015 (ID# 1374271),
Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Monica Cooper and Friends to Elect
Monica Cooper Treasurer of Carson 2015 (ID# 1374271),” FPPC Case No. 15/200, 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

EXHIBIT 1

INTRODUCTION

Respondent Monica Cooper was a successful candidate for City Treasurer for the City of Carson in the March 3, 2015 election. Respondent Friends to Elect Monica Cooper Treasurer of Carson 2015 (ID# 1374271), also known as Friends to Elect Monica Cooper Carson City Treasurer (the Committee) was Cooper's candidate controlled committee, and Cooper was the Committee's treasurer.

The Political Reform Act (the "Act")¹ requires candidates and committees to maintain one campaign bank account, and prohibits candidates and committees from making cash expenditures of \$100 or more. Cooper and the Committee violated these provisions of the Act.

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act's provisions as they existed in 2014 and 2015.

Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

When enacting the Political Reform Act, 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.² To that end, the Act must be liberally construed to achieve its purposes.³

There are many purposes of the Act. One purpose 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.⁴ Another is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced."⁵

Definition of Controlled Committee

A candidate includes, in relevant part, an individual who is listed on the ballot for election to any elective office.⁶ A "committee" includes any person or combination of persons who receives contributions totaling \$1,000 or more in a calendar year,⁷ commonly known as a "recipient committee." A recipient committee which is controlled directly or indirectly by a candidate, or which acts jointly with a candidate in connection with the making of expenditures,

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

² § 81001, subd. (h).

³ § 81003.

⁴ § 81002, subd. (a).

⁵ § 81002, subd. (f).

⁶ § 82007.

⁷ § 82013, subd. (a).

is a “controlled committee.”⁸ A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.⁹

Prohibited Cash Expenditures of \$100 or More

The Act prohibits making an expenditure of one hundred dollars or more in cash.¹⁰ The Act 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.¹¹

Duty to Deposit Campaign Funds into a Single, Designated Campaign Bank Account Prior to Expenditure

To ensure full disclosure of campaign activity and to guard against improper use of campaign funds, a candidate must establish a single, designated campaign bank account upon filing a statement of intention to be a candidate.¹² All campaign contributions and loans must be deposited into the campaign account.¹³ Personal funds of the candidate that will be used for the campaign must be deposited in the campaign account prior to expenditure.¹⁴ All campaign expenditures must be made from the campaign account.¹⁵

Candidate and Treasurer Liability

Every committee must have a treasurer.¹⁶ It is the duty of a committee’s candidate and treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds.¹⁷ A committee’s candidate and treasurer may be held jointly and severally liable with the committee for any reporting violations.¹⁸

SUMMARY OF THE FACTS

Cooper and the Committee filed an original statement of organization for the Committee on December 23, 2014. Between January 1 and June 30, 2015, the Committee’s campaign statements disclosed receipts of approximately \$16,070, and expenses of approximately \$15,927. All of the contributions received by the Committee, except for \$50, were from Cooper.

⁸ § 82016, subd. (a).

⁹ *Ibid.*

¹⁰ § 84300, subd. (b).

¹¹ § 82025.

¹² § 85201, subd. (a).

¹³ § 85201, subd. (c).

¹⁴ § 85201, subd. (d).

¹⁵ § 85201, subd. (e).

¹⁶ § 84100.

¹⁷ § 84100; Reg. 18427.

¹⁸ §§ 83116.5 and 91006; Reg. 18316.6.

The Enforcement Division's investigation showed multiple payments for campaign expenditures made directly from Cooper's personal account instead of first depositing the contributions into the Committee's campaign bank account as follows:

Date	Payee	Description	Amount
02/19/2015	Printer (unknown)	Mass mailing	1,907.00
02/19/2015	Election Digest	Slate mailer	325.00
02/20/2015	Budget Watchdog Newsletter	Slate mailer	100.00
02/20/2015	Printer (unknown)	Mass mailing	1,813.00
02/24/2015	Printer (unknown)	Mass mailing	1,800.00
Total			5,945.00

These figures represent nearly 37% of the total contributions received by the Committee through June 30, 2015. All of these payments were disclosed in the Committee's campaign statements.

The evidence also shows several instances where cash was withdrawn from the Committee's campaign bank account to pay for expenditures as follows:

Date	Payee	Description	Amount
01/16/2015	CampaignLA	Campaign signs	903.00
02/16/2015	Addressers	Walk handout piece	415.00
01/19/2015	Banky Printing	Walk handout piece	120.70
02/27/2015	Addressers	Walk handout piece	506.85
04/28/2015	Addressers	Mass mailing	2,064.50
Total			4,010.05

These figures represent over 25% of the total expenditures made by the Committee. All of these payments were disclosed in the Committee's campaign statements.

VIOLATIONS

Count 1: Failure to Use One Campaign Bank Account

Cooper and the Committee failed to deposit contributions into a single, designated campaign bank account prior to expenditure, violating Government Code Sections 85201, subdivisions (c) and (e).

Count 2: Prohibited Cash Expenditures

Cooper and the Committee made cash expenditures of \$100 or more, totaling approximately \$4,010, violating Government Code Section 84300, subdivision (b).

///

CONCLUSION

This matter consists of two counts of violating the Act, which carries a maximum administrative penalty of \$5,000 per count, totaling \$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) 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.

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

Failure to Use One Campaign Bank Account

- *In the Matter of Clifton L. Harris and Clifton L. Harris for San Bernardino County Sheriff 2014*; FPPC No. 14/147. Respondent, an unsuccessful candidate for San Bernardino County Sheriff in the June 3, 2014 election and his controlled committee, made expenditures totaling \$5,549 from a source other than the single, designated campaign bank account, in violation of Government Code Section 85201, subdivisions (c), (d), and (e) (1 count). On May 21, 2015, the Commission approved a \$3,000 penalty for this count.

Prohibited Cash Expenditures

- *Laurette Healey, Healey for Assembly 2012, and Marcia Davalos*, FPPC No. 14/105. Respondents, an unsuccessful candidate for State Assembly, her controlled committee and the committee treasurer, made expenditures of \$100 or more in cash, totaling approximately \$31,500, in violation of Government Code Section 84300, subdivision (b) (1 count). On August 20, 2015, the Commission approved a \$1,500 penalty for this count.

Cooper and the Committee failed to exclusively use the Committee's campaign bank account and made prohibited expenditures in cash. The failure to use the campaign bank account for all campaign expenditures and contributions makes it difficult to track and account for campaign funds and to ensure compliance with the Act.

In mitigation, Cooper and the Committee cooperated with the investigation of this matter and have no prior history of violating the Act. Almost all of the contributions the Committee received were made by Cooper. The evidence shows that Cooper was a first-time candidate who made a good faith effort to comply with the Act. All of the Committee's original campaign

statements were timely filed. And after receiving the complaint in this case, Cooper sought advice from the Commission and filed amended campaign statements to correctly characterize the Committee's campaign activity.

PROPOSED PENALTY

After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant factors, the following penalty is recommended:

Count	Description	Penalty
1	Failure to Use One Campaign Bank Account	\$2,500
2	Prohibited Cash Expenditures	\$1,500
	Total Agreed Upon Penalty	\$4,000

* * * * *