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

10
11 In the Matter of:

12 DOUGLAS HANSON, COMMITTEE TO
13 RE-ELECT HANSON FOR CITY
COUNCIL 2016, and CLAUDETTE
PAIS,

14 Respondents.

FPPC Case No. 16/19682

STIPULATION, DECISION AND ORDER

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16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
18 Respondents Douglas Hanson, Committee to Re-Elect Hanson for City Council 2016, and Claudette Pais
19 hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices
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 Respondents pursuant to Government Code section 83116.

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

1 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
2 the hearing as a hearing officer, and to have the matter judicially reviewed.

3 It is further stipulated and agreed that Respondents violated the Political Reform Act as set forth
4 in Exhibit 1, which is a true and accurate summary of the facts in this matter—and which is incorporated
5 by reference as though fully set forth herein.

6 Respondents agree to the issuance of the Decision and Order, which is attached hereto. Also,
7 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
8 \$2,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General
9 Fund of the State of California—is/are submitted with this Stipulation as full payment of the
10 administrative penalty described above, and same shall be held by the State of California until the
11 Commission issues its Decision and Order regarding this matter. The parties agree that in the event the
12 Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen business
13 days after the Commission meeting at which the Stipulation is rejected, all payments tendered by
14 Respondents in connection with this Stipulation shall be reimbursed to Respondents.

15 Respondents further stipulate and agree that in the event the Commission rejects the Stipulation
16 and a full evidentiary hearing before the Commission becomes necessary, neither any member of the

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1 Commission, nor the Executive Director, shall be disqualified because of prior consideration of this
2 Stipulation.

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5 Dated: _____

_____ Galena West, Chief of Enforcement
Fair Political Practices Commission

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9 Dated: _____

_____ Douglas Hanson, individually and on behalf of
Committee to Re-Elect Hanson for City Council 2016,
Respondents

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13 Dated: _____

_____ Claudette Pais, Respondent

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15 **DECISION AND ORDER**

16 The foregoing Stipulation of the parties “In the Matter of Douglas Hanson, Committee to Re-
17 Elect Hanson for City Council 2016, and Claudette Pais,” FPPC Case No. 16/19682, including all
18 attached exhibits, is hereby accepted as the final decision and order of the Fair Political Practices
19 Commission, effective upon execution below by the Chair.

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21 IT IS SO ORDERED.

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23 Dated: _____

_____ Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Douglas Hanson has served as an Indian Wells City Councilman since he first was elected in 2008. In the election held November 8, 2016, he unsuccessfully sought re-election. Committee to Re-Elect Hanson for City Council 2016 was his candidate controlled committee, and Claudette Pais was his treasurer.

This case involves failure to timely file several 24-hour contribution reports (Form 497's) in violation of the Political Reform Act (the "Act").¹ The reportable activity consists of seven contributions (each in an amount of \$1,000 or more) that the committee is known to have received during the 90-day period preceding the election. This stipulation is intended to resolve this specific issue, only. Other potential violations, including unknown violations—and violations that are the subject of two other, pending cases involving Hanson (FPPC Case Nos. 14/549 and 14/775)—are not intended to be resolved as part of this stipulation.

SUMMARY OF THE LAW

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

When enacting the Political Reform Act, the people 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 is to be construed liberally to accomplish its purposes.³ One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵ Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced."⁶

Definition of Controlled Committee

The Act defines a "committee" to include any person (or combination of persons) who receives contributions totaling \$1,000 or more in a calendar year.⁷ This type of committee commonly is referred to as a "recipient committee." A recipient committee that is controlled directly or indirectly by a candidate, or which acts jointly with a candidate in connection with the

¹ The Act is contained in Government Code sections 81000 through 91014. 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. All regulatory references are to this source.

² Section 81001, subdivision (h).

³ Section 81003.

⁴ Section 81002, subdivision (a).

⁵ Sections 84200, et seq.

⁶ Section 81002, subdivision (f).

⁷ Section 82013, subdivision (a).

making of expenditures, 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

Mandatory 24-Hour Reporting of Late Contributions

At the core of the Act’s campaign reporting system is the requirement that committees must file campaign statements and reports for certain reporting periods and by certain deadlines.¹⁰

For example, each candidate or committee that makes or receives a late contribution, must file a report within 24 hours of making or receiving the contribution.¹¹ A “late contribution” includes a contribution aggregating \$1,000 or more that is made or received by a candidate or his controlled committee during the 90-day period preceding an election, or on the date of the election.¹² This period of time before the election is referred to as the late contribution reporting period, and the reports in question are known as late contribution reports, 24-hour reports, or Form 497’s.

Joint and Several Liability of Candidate, Committee and Treasurer

It is the duty of a committee treasurer to ensure that the committee complies with the Act.¹³ A treasurer may be held jointly and severally liable, along with the candidate and the committee, for violations committed by the committee.¹⁴

SUMMARY OF THE FACTS

The following chart shows the late contributions that are the subject of this stipulation:

Date Received	Contributor	Amount
8/17/16	Claudette Pais	\$1,000
8/30/16	Nachhattar and Susan Chandi	\$2,000
9/10/16	Douglas Hanson	\$1,200
9/24/16	June Mulleneaux	\$1,000
9/24/16	Alex Haagen III	\$1,000
10/8/16	Floyd and Sandy Rhoades	\$1,000
10/15/16	California Real Estate PAC	\$1,000
		Total: \$8,200

⁸ Section 82016.

⁹ Section 82016, subdivision (a).

¹⁰ Sections 84200, et seq.

¹¹ Section 84203, subdivisions (a) and (b).

¹² Section 82036.

¹³ Sections 81004, 84100, and Regulation 18427.

¹⁴ Sections 83116.5 and 91006.

VIOLATION

Count 1

Failure to Timely File 24-Hour Contribution Reports

As noted in the chart above, Hanson and his committee received seven contributions of \$1,000 or more—totaling \$8,200—during the 90-day period preceding the election of November 8, 2016. Hanson, his committee, and his committee treasurer, Claudette Pais, were required to file 24-hour contribution reports within 24 hours of receiving each of these contributions, but they failed to do so—in violation of Section 84203.

PROPOSED PENALTY

This matter consists of one count. The maximum penalty that may be imposed is \$5,000.¹⁵

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of violations.¹⁶ Additionally, the Commission considers penalties in prior cases with comparable violations.

The public harm inherent in campaign reporting violations is that the public is deprived of important, time-sensitive information regarding political contributions. Generally, these types of violations are considered to be more serious where the public is deprived of information that was required to be disclosed before an election because this has the potential to affect how votes are cast—so greater public harm is involved, and a higher penalty is warranted. Another factor that influences the amount of the penalty is whether the public harm was mitigated because some of the reportable activity was disclosed to the public on another campaign filing.

Recently, the Commission approved a settlement involving violations that are similar to the current case. See *In the Matter of Ivan Altamirano and Friends of Ivan Altamirano for Council 2013*; FPPC Case No. 13/908 (approved Sep. 15, 2016), where the failure to file a dozen 24-hour contribution reports was charged as two counts, and the Commission imposed a penalty in the amount of \$2,000 per count. The respondent was a city council candidate, and the contributions in question totaled approximately \$17,000. It was noted that only two counts were charged because Altamirano contended that he was unaware that the law had changed (effective January 1, 2013). Under the old law, 24-hour reports only were required to be filed during the last 16 days before an election—as opposed to 90 days under current law.

¹⁵ See Section 83116, subdivision (c).

¹⁶ Regulation 18361.5, subdivision (d).

As in *Altamirano*, Hanson maintains that he did not know about the change in the law regarding the 24-hour reporting period. (The last time Hanson sought re-election to the Indian Wells City Council was in 2012—and the law changed at the beginning of the year after that. Also, his treasurer—who was not Hanson’s treasurer for the 2012 election—maintains that she has very little experience dealing with the Act, and she did not understand the 24-hour reporting requirement.) Although two counts were charged in *Altamirano*, that case involved more than two times the total amount of contributions involved in the current case (\$17,000 in *Altamirano* vs. \$8,200 in the current case). For this reason, a single count is recommended in the current case—with a recommended penalty in the amount of \$2,000.

A higher penalty is not being sought because all of the contributions in question properly were reported on the appropriate pre-election campaign statements, which were timely filed before the election. Also, the contributions in question eventually were reported on a Form 497 that was filed late, but before the election (on October 24, 2016—when the second pre-election campaign statement was filed). Additionally, Hanson and Pais cooperated with the Enforcement Division by agreeing to an early settlement.

However, prior campaign filing violations—in connection with Hanson’s 2012 re-election—are alleged in a separate action involving Hanson (FPPC Case No. 14/549), which remains pending. Along these lines, a lower penalty is not being sought because Hanson was an experienced candidate who had reason to be familiar with the Political Reform Act.

CONCLUSION

For the foregoing reasons, an agreed upon penalty in the amount of \$2,000 is recommended.