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7

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

11 In the Matter of) FPPC No. 16/19887
12)
13)
14 WEST LILAC FARMS, LLC, and WEST) **STIPULATION, DECISION and ORDER**
LILAC FARMS II, LLC,)
15)
16 Respondents.)

17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents West Lilac Farms, LLC, and West Lilac Farms II, LLC (collectively “West Lilac Farms”)
20 hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices
21 Commission at its next regularly scheduled meeting.

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

25 West Lilac Farms understands, and hereby knowingly and voluntarily waives, any and all
26 procedural rights set forth in Government Code Sections 83115.5, 11503 and 11523, and in California
27 Code of Regulations, title 2, Sections 18361.1 through 18361.9. This includes, but is not limited to the
28 right to personally appear at any administrative hearing held in this matter, to be represented by an

1 attorney at West Lilac Farms’ own expense, to confront and cross-examine all witnesses testifying at the
2 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 It is further stipulated and agreed that West Lilac Farms violated the Political Reform Act as
5 described in Exhibit 1: West Lilac Farms failed to timely file two 24-hour contribution reports – by the
6 August 20, 2016 due date for making a \$20,000 contribution on August 19, 2016, and by the
7 September 23, 2016 due date for making a \$20,000 contribution on September 22, 2016 – violating
8 Government Code section 84203, subdivisions (a) and (b) (1 count).

9 Exhibit 1 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 West Lilac Farms agrees to the issuance of the Decision and Order, which is attached hereto. West
12 Lilac Farms also agrees to the Commission imposing an administrative penalty in the total amount of
13 One Thousand Five Hundred Dollars (\$1,500). A cashier’s check from West Lilac Farms in said amount,
14 made payable to the “General Fund of the State of California,” is submitted with this Stipulation as full
15 payment of the administrative penalty, and shall be held by the State of California until the Commission
16 issues its Decision and Order regarding this matter. The parties agree that in the event the Commission
17 refuses to accept this Stipulation, it shall become null and void, and within fifteen (15) business days
18 after the Commission meeting at which the Stipulation is rejected, all payments tendered by West Lilac
19 Farms in connection with this Stipulation shall be reimbursed to West Lilac Farms. West Lilac Farms
20 further stipulates and agrees that in the event the Commission rejects the Stipulation, and a full
21 evidentiary hearing before the Commission becomes necessary, neither any member of the Commission,
22 nor the Executive Director, shall be disqualified because of prior consideration of this Stipulation.

23
24 Dated: _____

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

25
26
27 Dated: _____

James Pardee, Member, on behalf of West Lilac Farms, LLC,
and West Lilac Farms II, LLC, Respondents

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of West Lilac Farms, LLC, and West Lilac Farms II, LLC” FPPC Case No. 16/19887, 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

Respondents West Lilac Farms, LLC and West Lilac Farms II, LLC (collectively “West Lilac Farms”) are affiliated California real estate investment entities which own real property in San Diego County, CA. Under the Political Reform Act (Act)¹, West Lilac Farms qualified as a major donor committee when it made two late contributions to a primarily formed ballot measure committee opposing Measure B in San Diego County, CA, which was on the ballot for the November 8, 2016 election. Thus, West Lilac Farms had a duty to file two 24-hour contribution report related to the November 8, 2016 election.

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act’s provisions as they existed in 2016.

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

Mandatory Filing of Campaign Statements and Reports

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.⁶

Definition of Major Donor Committee

The Act defines a “committee” to include any person (or combination of persons) who makes contributions totaling \$10,000 or more in a calendar year to candidates or committees.⁷ This

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 See § 84200, *et seq.*

⁷ § 82013, subd. (c).

type of committee commonly is referred to as a “major donor committee.” Affiliated individuals and entities qualify as a single major donor committee when, together, their contributions total \$10,000 or more, in a calendar year.⁸

Duty to File 24-Hour Contribution Reports

When a committee makes or receives a late contribution, the committee must disclose the contribution in a late contribution report filed at each office with which the committee is required to file its next campaign statement, within 24 hours of making or receiving the contribution.⁹ A “late contribution” means a contribution which totals in the aggregate \$1,000 or more that is made to or received by a committee formed or existing primarily to support or oppose a measure during the 90-day period preceding the date of the election, or on the date of the election, at which the measure is to be voted on.¹⁰

SUMMARY OF THE FACTS

Citizens and Taxpayers Opposed to Lilac Hills Ranch Measure B is a primarily formed ballot measure committee opposing Measure B in San Diego County, CA. Measure B would amend the county’s general plan, zoning ordinance, and code of regulatory ordinances to authorize the development of a 608-acre planned community.

On August 19, 2016, West Lilac Farms II, LLC, made a \$20,000 contribution to Citizens and Taxpayers Opposed to Lilac Hills Ranch Measure B. This activity qualified West Lilac Farms II, LLC, and any of its affiliated entities, as a major donor committee, and required West Lilac Farms II, LLC, to file a 24-hour contribution report. And on September 22, 2016, West Lilac Farms, LLC made a \$20,000 contribution to Citizens and Taxpayers Opposed to Lilac Hills Ranch Measure B. Because West Lilac Farms, LLC, and West Lilac Farms II, LLC, are affiliated entities, West Lilac Farms, LLC had already qualified as major door committee, and West Lilac Farms, LLC was required to file a 24-hour contribution report for this \$20,000 contribution.

After notice from the Enforcement Division, and as of the date of this settlement agreement, West Lilac Farms filed the following reports:

Statement Type	Reporting Period	Due Date	Date Filed	Days Late
24-Hour Contribution Report	8/19/2016	8/20/2016	10/31/2016	72
24-Hour Contribution Report	9/22/2016	9/23/2016	10/31/2016	38

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⁸ Reg. 18215.1.

⁹ §§ 84203, subd. (a) and (b), and 84215.

¹⁰ § 82036, subd. (a).

VIOLATIONS

Count 1: Failure to Timely File 24-Hour Contribution Reports

West Lilac Farms failed to timely file two 24-hour contribution reports – by the August 20, 2016 due date for making a \$20,000 contribution on August 19, 2016, and by the September 23, 2016 due date for making a \$20,000 contribution on September 22, 2016 – violating Government Code section 84203, subdivisions (a) and (b).

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 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 Timely File 24-Hour Contribution Report

- *In the Matter of Ruben Valencia, Valencia 4 City Council 2014, and Kathleen Christiansen*, FPPC No. 14/1234. The respondents failed to timely file eight late contribution reports disclosing nine contributions totaling \$17,000. On September 17, 2015, the Commission approved a \$1,500 penalty for this violation (1 count).

A central purpose of the Act is to ensure receipts and expenditures in election campaigns are fully and truthfully disclosed.¹¹ West Lilac Farms failed to timely file two 24-hour contribution reports. Consequently, West Lilac Farms deprived the public of important information about its political activity as a major donor, which included making \$40,000 in contributions within the 24-hour reporting period.

But, unlike the comparable case above, West Lilac Farms promptly filed the late reports after contact from the Enforcement Division, which provided full disclosure of West Lilac Farms' political activity before the November 8, 2016 election.

¹¹ § 81002, subd. (a).

And in further mitigation, West Lilac Farms has cooperated with the Enforcement Division and has no prior history of violating the Act. West Lilac Farms did not receive notice from the recipient of the contributions that it had filing obligations as a major donor independently of the 24-hour reports filed by the recipient. So West Lilac Farms did not know it was required to file its own 24-hour reports, and its failure to file the 24-hour reports was inadvertent.

PROPOSED PENALTY

After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant factors, a \$1,500 penalty for Count 1 is recommended.

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