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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

12 NANCY BUI-THOMPSON AND
13 NANCY BUI-THOMPSON FOR SMUD
2012,

14 Respondents.

FPPC No. 15/1586

STIPULATION, DECISION, AND ORDER

15
16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
18 respondents Nancy Bui-Thompson (“Bui-Thompson”) and Nancy Bui-Thompson for SMUD 2012
19 (“Committee”) hereby agree that this Stipulation will be submitted for consideration by the Fair Political
20 Practices Commission (“Commission”) at its next regularly-scheduled meeting.

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

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

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

3 It is further stipulated and agreed that Bui-Thompson and the Committee violated the Political
4 Reform Act by failing to timely file three semi-annual campaign statements due by July 31, 2014, July
5 31, 2015, and February 1, 2016, in violation of Government Code section 84200 subdivision (a), as
6 described in Exhibit 1 (two counts). Exhibit 1 is attached hereto and incorporated by reference as though
7 fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

8 Bui-Thompson and the Committee agree to the issuance of the Decision and Order, which is
9 attached hereto. Bui-Thompson and the Committee also agree to the Commission imposing an
10 administrative penalty in the amount of \$3,000. Bui-Thompson and the Committee submitted with this
11 Stipulation a cashier's check in said amount, made payable to the "General Fund of the State of
12 California," as full payment of the administrative penalty that shall be held by the State of California
13 until the Commission issues its Decision and Order regarding this matter. The parties agree that in the
14 event the Commission refuses to accept this Stipulation, the checks shall become null and void, and
15 within fifteen (15) business days after the Commission meeting at which the Stipulation is rejected, all
16 payments tendered by Bui-Thompson and the Committee in connection with this Stipulation shall be
17 reimbursed to Bui-Thompson and the Committee. Bui-Thompson and the Committee further stipulate
18 and agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before
19 the Commission becomes necessary, neither any member of the Commission, nor the Executive
20 Director, shall be disqualified because of prior consideration of this Stipulation.

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22 Dated: _____
23 Galena West, Chief, on behalf of the Enforcement Division of the
24 Fair Political Practices Commission

25 Dated: _____
26 Nancy Bui-Thompson, individually and on behalf of Nancy Bui-
27 Thompson for SMUD 2012
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1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Nancy Bui-Thompson and Nancy Bui-
3 Thompson for SMUD 2012,” FPPC No. 15/1586, 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.

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7 IT IS SO ORDERED.

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9 Dated: _____

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11 Joann Remke, Chair
12 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent Nancy Bui-Thompson (“Bui-Thompson”) is a member of the Sacramento Municipal Utility District Board of Directors. Nancy Bui-Thompson for SMUD 2012 ID number 1308850 (the “Committee”) is her candidate-controlled committee. Bui-Thompson is the Committee’s treasurer.

Under the Political Reform Act (the “Act”)¹ a candidate-controlled committee must timely file campaign statements disclosing the contributions it receives and the expenditures it makes. The Committee violated the Act by failing to timely file five semi-annual campaign statements.

SUMMARY OF THE LAW

All statutory references and discussions of the law pertain to the Act’s provisions as they existed in 2013, 2014, and 2015.

The Act requires candidate-controlled committees to file semi-annual campaign statements each year by July 31 for the period ending June 30, and by January 31 for the period ending December 31.² All filing obligations continue until the committee is terminated by filing a statement of termination with the Secretary of State and a copy with the local filing officer receiving the committee’s original campaign statements.³ A committee’s candidate and treasurer are liable with the committee for the committee’s campaign reporting violations.⁴

SUMMARY OF THE FACTS

The Committee first qualified as a candidate-controlled committee in August 2008 and was redesignated in 2015 for Bui-Thompson’s 2016 re-election campaign.

Bui-Thompson and the Committee were referred to the Enforcement Division after failing to file the semi-annual campaign statement due by July 31, 2015. A review of the Committee’s filings showed that it had also failed to timely file two additional semi-annual campaign statements.

The following table details the semi-annual campaign statements that were not timely filed by Bui-Thompson and the Committee:

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and 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, and all regulatory references are to this source.

² Section 84200, subdivision (a) and Regulation 18116

³ Section 84214 and Regulation 18404, subdivisions (b) through (e)

⁴ Sections 83116.5 and 91006

Count	Statement Period	Due Date	Date Filed	Days Late	Activity
1	1/1/14 - 6/30/14	7/31/14	4/10/15	253	\$3,048 in expenditures; \$0 in contributions
	7/1/15 -12/31/15	2/1/16	2/26/16	25	\$8,106 in expenditures; \$8,850 in contributions
2	1/1/15-6/30/15	7/31/15	10/7/15	68	\$4,980 in expenditures; \$31,550 in contributions
TOTAL					\$16,134 in expenditures; \$ 40,400 in contributions received

VIOLATIONS

Count 1: Failure to Timely File Semi-Annual Campaign Statements

Bui-Thompson and the Committee failed to timely file two semi-annual campaign statements due by July 31, 2014 and by February 1, 2016, in violation of section 84200, subdivision (a).

Count 2: Failure to Timely File Semi-Annual Campaign Statement

Bui-Thompson and the Committee failed to timely file a semi-annual campaign statement due by July 31, 2015 for the reporting period ending June 30, 2015, in violation of section 84200, subdivision (a).

CONCLUSION

This matter consists of two counts of violating the Act, which carry a maximum administrative penalty of five thousand dollars (\$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)-(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 the violator, upon learning of the violations, voluntarily filed amendments.

Failure to timely file semi-annual statements undermines one of the Act's central purposes – transparency. Without timely disclosure of semi-annual campaign statements, the public is deprived of important information about the campaign's contributors, expenditures, and financial activities.

In mitigation, Bui-Thompson states that she notified her filing clerk that she would be late filing her semi-annual campaign statement due by July 31, 2015 because she was a caregiver for a family member and was unable to timely file. She also acknowledged being late on her semi-annual campaign statement due by February 26, 2016. However, Bui-Thompson contends that she mailed the semi-annual campaign statement due by July 31, 2014 but, because it was mailed, has no proof of the date filed. The April 10, 2015 reflects the date that she states she filed a second copy of the original semi-annual campaign statement with her filing clerk after contact regarding the missing statement. Bui-Thompson also states that she based the data for her timely filed February 1, 2015 semi-annual campaign report from her timely-filed July 31, 2014 report.

The Commission considers penalties in prior cases involving similar violations when assessing penalties. Recent similar cases include the following:

- *In the Matter of Patricia Lopez, Patty Lopez for Assembly 2014 and Carolina Perez*, FPPC Nos. 15/313 and 15/314. (Commission approved a stipulated decision on March 17, 2016.) The respondent committee, a candidate-sponsored committee, failed to timely file one semi-annual campaign statement and two pre-election campaign statements during a reporting period when the committee received \$13,242 in contributions and made \$10,965 in expenditures. The committee filed three statements one month late with a local filing officer, but nearly a year late with the Secretary of State. The Commission imposed a penalty of \$2,500 for the three untimely filed statements.
- *In the Matter of Jim Kelly and Jim Kelly for Grossmont Union High School Board 2014*, FPPC No. 15/274. (Commission approved a stipulated decision on July 21, 2016.) The respondent committee, a candidate-sponsored committee whose candidate served as treasurer, failed to timely file one semi-annual campaign statement during a reporting period when the committee received no contributions and made expenditures of \$2,795. The committee filed the semi-annual campaign statement three months after the filing deadline. Due to a previous streamlined stipulation for a similar violation, the Commission imposed a penalty of \$1,000.

Regarding Count 1, the amount of contributions and expenditures not timely disclosed on two semi-annual campaign statements by Bui-Thompson and the Committee was similar to the amount of activity not disclosed in the *Lopez* case. However, the *Lopez* case involved two untimely filed pre-election campaign statements, which are generally assessed a higher penalty than untimely filed semi-annual campaign statements, since the lack of disclosure prior to an election carries more public harm than the lack of disclosure when no election is occurring. Thus, the penalty for Bui-Thompson's late-filed semi-annual campaign statements should be less than the penalty in *Lopez*. These factors justify assessing a \$1,500 penalty for Count 1.

Regarding Count 2 Bui-Thompson and the Committee were 68 days late in filing their semi-annual campaign statement due by July 31, 2015. They disclosed \$31,550 in contributions received and \$4,980 in expenditures. The Committee's activity level was too great to qualify it and Bui-Thompson for a lesser streamlined penalty. These factors justify assessing a \$1,500 penalty for Count 2.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, the penalties imposed in prior cases, and other relevant information, it is respectfully requested that the Commission impose a penalty of \$1,500 per count for a total penalty of \$ 3,000.