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

10
11 In the Matter of:

12 DALWINDER S. DHOOT,

13 Respondent.

FPPC Case No. 15/521

STIPULATION, DECISION AND ORDER

14
15 **INTRODUCTION**

16 In connection with the election for Mayor of Lathrop that was held on November 4, 2014,
17 Respondent Dalwinder S. Dhoot made an independent expenditure totaling approximately \$1,385 for a
18 mass mailer sent on October 29, 2014, in opposition to Sonny Dhaliwal, one of the candidates for Mayor.

19 Under the Political Reform Act (the "Act"),¹ mass mailings must disclose the name, street
20 address, and city of the sender of the mass mailing.² The investigation in this matter revealed that Dhoot
21 was the sender of this mass mailing. Dhoot violated the Act by failing to disclose proper sender
22 identification.

23 **SUMMARY OF THE LAW**

24 All statutory references and discussions of law pertain to the Act's provisions as they existed in
25

26 ¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the
27 Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in
28 Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2,
Division 6 of the California Code of Regulations, unless otherwise indicated.

² Section 84305, subd. (b).

1 2014.

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

3 When enacting the Political Reform Act, the people of California found and declared that
4 previous laws regulating political practices suffered from inadequate enforcement by state and local
5 authorities.³ For this reason, the Act is to be construed liberally to accomplish its purposes.⁴

6 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
7 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
8 practices are inhibited.⁵

9 Independent Expenditure Committee

10 A “committee” includes any person or combination of persons who make independent
11 expenditures totaling \$1,000 or more in a calendar year.⁶ This type of committee is commonly referred to
12 as an independent expenditure committee.

13 An “independent expenditure” includes any expenditure made by any person in connection with a
14 communication that expressly advocates the election or defeat of a clearly identified candidate but which
15 is not made to or at the behest of the affected candidate.⁷

16 An expenditure is any payment, unless it is clear from the surrounding circumstances that it is not
17 made for political purposes.⁸

18 Mass Mailing Sender Identification

19 Committees are prohibited from sending a mass mailing unless the name, street address and city
20 of the committee are shown on the outside of each piece of mail in the mass mailing.⁹

21 A “mass mailing” is defined as over two hundred substantially similar pieces of mail sent in a
22 single calendar month, but not including a form letter or other mail which is sent in response to an
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25 ³ Section 81001, subdivision (h).

26 ⁴ Section 81003.

27 ⁵ Section 81002, subdivision (a).

28 ⁶ Section 82013, subd. (b).

⁷ Section 82031.

⁸ Section 82025.

⁹ Section 84305, subd. (b).

1 unsolicited request, letter or other inquiry.¹⁰ The “sender” is the committee who pays for the largest
2 portion of expenditures attributable to the designing, printing or posting of the mailing.¹¹

3 **SUMMARY OF THE FACTS**

4 Dhoot is a local businessman. In the November 4, 2014 Election, Sonny Dhaliwal was the
5 successful candidate for Mayor of Lathrop. Rosalinda Valencia was an unsuccessful candidate for Mayor
6 of Lathrop in the same election. In this matter, the Enforcement Division received a complaint regarding
7 mailers that were sent. One of the mailers supported Rosalinda Valencia for Mayor and stated that the
8 mailer was authorized by Valencia. The Enforcement Division determined that this mailer was paid for
9 and sent by Rosalinda Valencia. The other mailer, sent on October 29, 2014, was a mailer opposing the
10 current Mayor at the time, Sonny Dhaliwal. This mailer only stated that it was not authorized by a
11 candidate or committee controlled by a candidate but was otherwise anonymous. The Enforcement
12 Division determined that this mailer was paid for and sent by Dhoot, but could not substantiate that the
13 mailer was sent in coordination with Valencia as was alleged in the complaint. Dhoot sent 1,590 of these
14 mailers.

15 In response to contact from the Enforcement Division, after the election on December 7, 2015,
16 Dhoot filed an Independent Expenditure Committee campaign statement for the reporting period January
17 1, 2014, through December 31, 2014, disclosing the cost of the mailer and postage for the mailer, totaling
18 approximately \$1,385. The semi-annual campaign reporting period should have covered October 19,
19 2014, through December 31, 2014. The mailer stated, “This communication was not authorized by a
20 candidate or committee controlled by a candidate.” Further, the mailer included a link to a website, which
21 led to a negative article about Dhaliwal but failed to disclose the sender of the mailer.

22 **VIOLATION**

23 **Count 1: Failure to Disclose Required Sender Identification on a Mass Mailing**

24 On or about October 29, 2014, Dhoot paid for and caused to be sent a mass mailing expressly
25 advocating the defeat of a candidate which failed to display sender identification, in violation of Section
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28 ¹⁰ Section 82041.5 and Regulation 18435, subd. (a).

¹¹ Regulation 18435, subd. (a).

1 84305, subdivision (a).

2 **PROPOSED PENALTY**

3 This matter consists of 1 count. The maximum penalty that may be imposed is \$5,000.¹²

4 In determining the appropriate penalty for a particular violation of the Act, the Commission
5 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
6 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
7 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
8 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
9 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
10 record of violations.¹³ Additionally, the Commission considers penalties in prior cases with comparable
11 violations.

12 The Commission also considers penalties of prior cases involving similar violations. A recent
13 similar case includes:

14 Sender Identification on a Mass Mailing

15 *In the Matter of Michael Horner, FPPC No. 15/1275.* In this matter, Horner qualified as an
16 independent expenditure committee in October 2014 when he paid for a mass mailing opposing a
17 candidate for Lake County Board of Supervisors in the November 4, 2014 General Election. He did not
18 display the required sender identification and used cash for the expenditure. Horner used a false sender
19 ID, failed to disclose any expenditures on a campaign statement prior to the election and used cash to pay
20 for the mailer, making it difficult to determine the sender of the mailer. In February 2017, the
21 Commission approved a penalty of \$2,500 for the failure to include sender identification on a mass
22 mailing violation and \$1,000 for making an expenditure of \$100 or more in cash.

23 Before the election, Dhoot did not file any campaign statements as an independent expenditure
24 committee disclosing the expenditures for the mailer. He included a disclaimer that the mailer was not
25 authorized by a candidate or committee controlled by a candidate. He did include a website but it did not
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¹² See Section 83116, subdivision (c).

28 ¹³ Regulation 18361.5, subdivision (d).

1 link to any information that would indicate who sent the mailers but instead led to additional negative
2 information on Dhaliwal. The failure to timely file campaign statements was considered as an
3 aggravating circumstance but not charged as a separate count. Dhoot's conduct in this matter showed
4 intent to conceal his identity as the true sender of the mass mailing.

5 In mitigation, Dhoot has no prior history with the Enforcement Division, and the amount of the
6 independent expenditure for the mass mailing was relatively low. In addition, Dhoot has now taken
7 responsibility as the sender of the mailing.

8 For the foregoing reasons, a penalty in the amount of \$2,500 is recommended.

9 CONCLUSION

10 Complainant, the Enforcement Division of the Fair Political Practices Commission and Dhoot
11 hereby agree as follows:

12 1. Respondent violated the Act as described in the foregoing pages, which is a true and
13 accurate summary of the facts in this matter.

14 2. This stipulation will be submitted for consideration by the Fair Political Practices
15 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

16 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
17 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
18 liability of Respondent pursuant to Section 83116.

19 4. Respondent understands, and hereby knowingly and voluntarily waives, any and all
20 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
21 This includes, but is not limited to the right to appear personally at any administrative hearing held in this
22 matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine all
23 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
24 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
25 reviewed.

26 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
27 Respondent agrees to the Commission imposing against it an administrative penalty in the amount of
28 \$2,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General

1 Fund of the State of California—is/are submitted with this stipulation as full payment of the
2 administrative penalty described above, and same shall be held by the State of California until the
3 Commission issues its decision and order regarding this matter.

4 6. If the Commission refuses to approve this stipulation—then this stipulation shall become
5 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
6 rejected, all payments tendered by Respondent in connection with this stipulation shall be reimbursed to
7 Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing
8 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
9 Director, shall be disqualified because of prior consideration of this Stipulation.

10 7. The parties to this agreement may execute their respective signature pages separately. A
11 copy of any party’s executed signature page including a hardcopy of a signature page transmitted via fax
12 or as a PDF email attachment is as effective and binding as the original.

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15 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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19 Dated: _____

Dalwinder S. Dhoot, Respondent

1 The foregoing stipulation of the parties “In the Matter of Dalwinder S. Dhoot,” FPPC Case No.
2 15/521 is hereby accepted as the final decision and order of the Fair Political Practices Commission,
3 effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission