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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

12 COMMITTEE TO ELECT DAVID
13 COMBELLACK JUDGE 2014, DAVID
14 W. COMBELLACK, AND VERNE G.
SANDERS, JR.,

15 Respondents.

FPPC Case No. 17/077

STIPULATION, DECISION, AND ORDER

16 INTRODUCTION

17 Respondent David W. Combellack (“Combellack”) was an unsuccessful candidate for El Dorado
18 County Superior Court. Respondent Committee to Elect David Combellack Judge 2014 (“Combellack for
19 Judge”) was Combellack’s controlled committee. Respondent Verne G. Sanders, Jr. (“Sanders”) served as
20 the treasurer of Combellack for Judge from September 30, 2013 until the committee was terminated on
21 December 31, 2014. This case involves multiple violations of the Political Reform Act (the “Act”),
22 including failure to timely file 24-Hour Contribution Reports, failure to report the true source of campaign
23 contributions, and acceptance of unlawful cash contributions.¹

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28 ¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the
Government Code, unless otherwise indicated. 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 Title 2,
Division 6 of the California Code of Regulations, unless otherwise indicated.

1 **SUMMARY OF THE LAW**

2 All legal references and discussions of law pertain to the Act’s provisions as they existed at the
3 time of the violations.

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

5 When enacting the Political Reform Act, the people of California found and declared that previous
6 laws regulating political practices suffered from inadequate enforcement by state and local authorities.²
7 For this reason, the Act is to be construed liberally to accomplish its purposes.³

8 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
9 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
10 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system
11 and a prohibition against cash contributions of \$100 or more.⁵ Another purpose of the Act is to provide
12 adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁶

13 Late Contributions

14 Under the Act, a late contribution is defined as, “A contribution including a loan, that totals in the
15 aggregate one thousand dollars (\$1,000) or more and is made to or received by a candidate, a controlled
16 committee, or a committee primarily formed to support or oppose a candidate . . . within 90 days before
17 the date of the election at which the candidate . . . is to be voted on...”⁷ A candidate or committee that
18 makes or receives a late contribution during the 90-day period is required to file a Form 497 within 24-
19 hours of receiving or making the contribution.⁸

20 Duty to Disclose Accurate Contributor Information on Campaign Statements

21 The Act requires candidates and committees receiving a cumulative loan of \$100 or more from a
22 single source to report during the period covered by the campaign statement the contributor’s (1) Full
23 name, (2) address, (3) occupation, (4) employer, (5) the date and amount of each loan received during the
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25 ² Section 81001, subd. (h).

³ Section 81003.

⁴ Section 81002, subd. (a).

⁵ Sections 84200, *et seq.* and 84300.

⁶ Section 81002, subd. (f).

⁷ Former Section 82036 (The definition of a late contribution was amended in 2016 to include the day of the election).

⁸ Section 84203.

1 reporting period, (6) and the cumulative amount of each contribution.⁹

2 Prohibition Against Cash Contributions

3 The Act prohibits committees from receiving cash contributions of \$100 or more. A cash
4 contribution is not considered received if it is not deposited and is returned to the contributor before the
5 closing date of the statement on which it should be reported.¹⁰

6 Candidate and Treasurer Liability

7 Under the Act, it is the duty of the candidate and treasurer of a controlled committee to ensure that
8 the committee complies with all the requirements of the Act concerning the receipt, expenditure, and
9 reporting of funds.¹¹ The candidate and the treasurer may be held jointly and severally liable, along with
10 the committee, for violations committed by the committee.¹²

11 **SUMMARY OF THE FACTS**

12 In the June 3, 2014, County of El Dorado Statewide Direct Primary Election, Combellack was an
13 unsuccessful candidate for Judge of the Superior Court. This matter was opened based on an audit
14 conducted by the Franchise Tax Board (“FTB”) of the period covering January 1, 2013 through June 30,
15 2014. Combellack for Judge, Combellack, and Sanders reported on unaudited campaign statements that
16 they received approximately \$89,749 in contributions and made \$87,317 in expenditures during this period.

17 Inaccurate Reporting of Campaign Contributor Name and Contribution Amount

18 On December 31, 2013, Gael Barsotti, at the request of Combellack, loaned Combellack for Judge
19 \$5,000. Combellack for Judge and Combellack did not report the total amount loaned by Gael Barsotti as
20 being from Gael Barsotti on the semi-annual campaign statement covering the reporting period ending on
21 December 31, 2013. Instead, Combellack for Judge and Combellack reported receiving loans from the
22 following people:

23

Reported Lender	Reported Date of Loan	Reported Amount of Loan
Gael Barsotti	December 31, 2013	\$750
Michael Barsotti	December 31, 2013	\$750

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27 ⁹ Section 84211, subds. (f) and (g).

¹⁰ Section 84300, subd. (a).

28 ¹¹ Sections 81004, 84100 84213, and Regulation 18427.

¹² Sections 83116.5 and 91006.

Mindy Barsotti	December 31, 2013	\$750
Tom Chandler	December 31, 2013	\$500
Ed Mathews	December 31, 2013	\$750
Sandy Mathews	December 31, 2013	\$750
Francine Ward	December 31, 2013	\$750
	Total:	\$5,000

Combella for Judge’s ledger titled “Judgeship Account” stated that Gael Barsotti loaned the campaign \$750 and had made a loan on behalf of Michael Barsotti, Mindy Barsotti, Ed Mathews, Sandy Mathews, Tom Chandler, and Francine Ward. FTB contacted these individuals requesting that they state to the FTB all contributions and loans they made to Combella for Judge during the period of January 1, 2013 – June 30, 2014. Five of the six individuals disclosed that they had made contributions to Combella for Judge, but for far less than the loan amounts reported by Combella for Judge and Combella. Additionally, one of Combella’s alleged lenders responded to FTB with the following statement, “I did not loan the David Combella campaign \$750 or any other amount.” None confirmed the loans to Combella for Judge as they were reported.

Combella for Judge’s campaign records contained a piece of paper that included a photocopy of Gael Barsotti’s check for \$5,000. Also on this paper was a photocopy of a sticky note that read “1/10/14 Deposit Barsotti Loan”, a handwritten list of the following names: “Michael Barsotti, Mindy Barsotti, Ed Mathews, Sandy Mathews, Tom Chandler, and Francine Ward, and a note stating “CLS, Talk to me Re spreadsheet to V.S. & dates on contrib.” Combella’s staff maintained the committee’s records, Candice L. Shelton is part of Combella’s staff and was signing checks for Combella for Judge.

Combella for Judge and Combella reported on the semi-annual campaign statement covering the reporting period of July 1, 2014 – December 31, 2014 that it repaid loans to the following people: \$750 to Gael Barsotti, \$750 to Michael Barsotti, \$750 to Mindy Barsotti, \$500 to Tom Chandler, \$750 to Ed Mathews, \$750 to Sandy Mathews, and \$750 to Francine Ward – totaling \$5,000. The reporting on this statement is contradicted by Combella for Judge’s campaign records, which show that Combella wrote

a check for \$5,000 dated December 31, 2014 to Gael Barsotti with the words “Campaign Loan Payback” written in the memo section of the check. This repayment to Gael Barsotti was underreported by Combellack for Judge or Combellack by \$4,250 and instead was erroneously reported as a repayment of the loans.

24-Hour Contribution Reports

Combellack for Judge, Combellack, and Sanders failed to timely file Form 497s within 24 hours of receiving the following late contributions:

Date Received	Contributor	Amount	Filed
April 5, 2014	Sondra Pike Browning	\$1,000	Filed 1 day late with county, but not filed with Secretary of State
May 20, 2014	David W. Combellack	\$25,000	Not Filed
May 22, 2014	David W. Combellack	\$5,000	Not Filed
May 29, 2014	David W. Combellack	\$10,000	Not Filed

Cash Contributions of \$100 or More

The Committee received the following cash contributions of \$100 or more:

Date Received	Contributor	Amount
November 18, 2013	Dennis Thomas	\$100
December 6, 2013	A.L. Hamilton	\$100
December 6, 2013	Thomas Van Noord	\$300 (returned Jan. 31, 2014)
March 24, 2014	Susan Fredericks	\$100
March 24, 2014	Earnest Hartley	\$100
April 5, 2014	Corinne Isberner	\$125
April 18, 2014	Unknown	\$200
	Total:	\$1,025

The cash contributions, with the exception of Van Noord, were not returned to the original source.

VIOLATIONS

Count 1: Failure to Report the True Source of Campaign Contributions on the Semi-annual Campaign Statement for Period Ending December 31, 2013

On or about December 31, 2013, Combellack and Combellack for Judge received a loan in the amount of \$5,000 from Gael Barsotti. However, on a semi-annual campaign statement for the period ending

1 December 31, 2013, Combellack for Judge and Combellack erroneously reported that the loan from Gael
2 Barsotti was only in the amount of \$750. The rest of the loan (\$4,250) was erroneously reported as being
3 from Michael Barsotti, Mindy Barsotti, Ed Mathews, Sandy Mathews, Tom Chandler, and Francine Ward.

4 In this way, Combellack and Combellack for Judge violated Government Code Section 84211,
5 subdivisions (f) and (g).

6 Count 2: Failure to Report the True Source of Campaign Contributions on the Semi-annual Campaign
7 Statement for Period Ending December 31, 2014

8 Regarding the loan that is the subject of Count 1, on or about December 31, 2014, Combellack and
9 Combellack for Judge repaid the loan—with a check in the amount of \$5,000—that was made payable to
10 Gael Barsotti. However, on a semi-annual campaign statement for the period ending December 31, 2014,
11 Combellack and Combellack for Judge erroneously reported that the repayment to Gael Barsotti was only
12 in the amount of \$750. Also, it was erroneously reported that the rest of the loan (\$4,250) was repaid to
13 Michael Barsotti, Mindy Barsotti, Ed Mathews, Sandy Mathews, Tom Chandler, and Francine Ward.

14 In this way, Combellack and Combellack for Judge violated Government Code Section 84211,
15 subdivisions (f) and (g).

16 Count 3: Failure to Timely File 24-Hour Contribution Reports

17 In April and May 2014, Combellack for Judge and Combellack received contributions (of \$1,000
18 or more) totaling \$41,000. Within 24 hours of receipt, Combellack, Combellack for Judge, and Sanders (as
19 the committee treasurer), were required to disclose these contributions by filing 24-Hour Contribution
20 Reports, but they failed to do so—in violation of Section 84203.

21 Count 4: Unlawful Cash Contributions of \$100 or More

22 Between November 2013 and April 2014, Combellack for Judge, Combellack, and Sanders
23 accepted seven unlawful cash contributions of \$100 or more, in violation of Section 84300, subdivision
24 (a).

25 **PROPOSED PENALTY**

26 This matter consists of four counts. The maximum penalty that may be imposed is \$5,000 per count.
27 Thus, the maximum penalty that may be imposed is \$20,000.¹³

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¹³ Section 83116, subd. (c).

1 In determining the appropriate penalty for a particular violation of the Act, the Commission
2 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission
3 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention
4 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)
5 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were
6 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.¹⁴ Additionally,
7 the Commission considers penalties in prior cases with comparable violations.

8 In this case, the Enforcement Division discovered evidence that Combellack for Judge and
9 Combellack erroneously disclosed Barsotti as the true source of the loan. Combellack for Judge and
10 Combellack's erroneous reporting that seven individuals loaned the campaign money on December 31,
11 2013 – instead of one person (Gael Barsotti) deprived the public from knowing the true source of the
12 contribution. Combellack for Judge and Combellack contend that the required 24-Hour Contribution
13 Reports were not filed because the funds in question were personal loans, and neither he nor his staff
14 believed personal loans were subject to the reporting requirements for late contributions. Also, they state
15 they were unaware that committees cannot accept cash contributions of \$100.

16 The Commission recently approved a penalty for erroneously reporting the true source of a
17 contribution in the following matter:

18 *In the Matter of Stanislaus Republican Central Committee (State Acct.) and Gary McKinsey*; FPPC
19 Case No. 16/178 (approved March 16, 2016), the Commission approved a penalty of \$5,000 in Count 2
20 against the respondents for erroneously reporting that Stanislaus County Republican Party (“SRCP”) was
21 the true source of a \$20,000 contribution to Strickland for Controller when it was the intermediary and not
22 the true source of the contribution. The evidence showed that all parties understood that SCRCP would act
23 as the undisclosed intermediary and that the contributions would go to Strickland's controller campaign,
24 which resulted in significant non-disclosure.

25 Regarding Counts 1 and 2 of the current case, the erroneous reporting of the loan from Gael Barsotti
26 is the same conduct displayed in *Stanislaus* and justifies imposing the maximum penalty allowed under the
27 Act for this type of conduct. In this matter, the evidence supports the conclusion that Combellack for Judge
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¹⁴ Regulation 18361.5, subd. (d).

1 and Combellack, after receiving a \$5,000 loan from Gael Barsotti, erroneously reported on the semi-annual
2 campaign statement covering the reporting period ending December 31, 2013 that Combellack for Judge
3 received loans totaling \$5,000 from seven different individuals on December 31, 2013, when in fact Gael
4 Barsotti was the sole lender. Combellack for Judge and Combellack to continued to erroneously report to
5 the public the correct lender the following year when they reported that during the semi-annual period
6 covering July 1, 2014 – December 31, 2014, they repaid the seven alleged lenders when in fact they repaid
7 Gael Barsotti only. Combellack for Judge and Combellack’s erroneous reporting deprived the public of an
8 opportunity to learn the true source of the loan, which justifies a penalty of \$5,000 per count for Counts 1
9 and 2.

10 The Commission recently approved a penalty for failing to file a 24-hour report in the following
11 matter:

12 *In the Matter of Robert G. Jones, Robert G. Jones for Los Rios Trustee 2010, and Julianne C.*
13 *Jones*; FPPC Case No. 16/339 (approved Mar. 22, 2018), the Commission imposed a penalty of \$1,500 for
14 failing to timely file two 24-Hour Contribution Reports totaling \$23,000, which were the only contributions
15 received during the campaign. Both reports were filed late, but before the election.

16 Regarding Count 3 of the current case, a higher penalty than the one approved in the comparable
17 case is appropriate due to the distinguishable circumstances. Combellack for Judge failed to file four 24-
18 Hour Contribution Reports totaling \$41,000. The report for the \$1,000 contribution from Browning was
19 filed a day late with the County and not at all with the Secretary of State – mitigating the initial non-
20 disclosure, but the remaining \$40,000 in loans from Combellack never were reported on the three required
21 24-Hour Contribution Reports. The loans were reported on the semi-annual statement, but it was not due
22 until after the election. Based on these circumstances, a penalty of \$2,500 is recommended.

23 The Commission recently approved a penalty for accepting cash contributions in the following
24 matter:

25 *In the Matter of Roger Aceves for Supervisor 2014, Roger S. Aceves, and Tony Vallejo*; FPPC Case
26 No. 17/145 (approved June 21, 2018), the Commission approved a penalty of \$1,500 for unlawfully
27 accepting \$5,100 in cash contributions. This amount represented a very small percentage of the total
28 amount of contributions received by the respondents.

1 Regarding Count 4 of the current case, the same penalty is recommended. Combellack for Judge
2 and Combellack accepted approximately \$1,025 in contributions in cash, which is substantially less than
3 the amount in the comparable case and made up a very small percentage of the contributions that were
4 received. Therefore, a penalty of \$1,500 is recommended.

5 CONCLUSION

6 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
7 respondents Combellack for Judge, Combellack, and Sanders hereby agree as follows:

8 1. Respondents violated the Act as described in the foregoing pages, which are a true and
9 accurate summary of the facts in this matter.

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

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

15 4. Respondents have consulted with their attorney Lance Olson of Olson Hagel & Fishburn
16 LLP and understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth
17 in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not
18 limited to the right to appear personally at any administrative hearing held in this matter, to be represented
19 by an attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the
20 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
21 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

22 5. Respondents agree to the issuance of the decision and order set forth below. Also,
23 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
24 \$14,000. One or more payments totaling this amount—to be paid to the General Fund of the State of
25 California—is/are submitted with this stipulation as full payment of the administrative penalty described
26 above, and same shall be held by the State of California until the Commission issues its decision and order
27 regarding this matter.

28 6. If the Commission refuses to approve this stipulation—then this stipulation shall become

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

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

9
10 Dated: _____
11 Galena West, Chief of Enforcement
12 Fair Political Practices Commission

13 Dated: _____
14 David W. Combellack, individually and on behalf of
15 Committee to Elect David Combellack Judge 2014

16 Dated: _____
17 Verne G. Sanders, Jr., individually

1 The foregoing stipulation of the parties “In the Matter of Committee to Elect David Combella
2 Judge 2014, David W. Combella, and Verne G. Sanders, Jr.,” FPPC No. 17/077, is hereby accepted as
3 the final decision and order of the Fair Political Practices Commission, effective upon execution below by
4 the Chair.

5 IT IS SO ORDERED.

6
7 Dated: _____

_____ Alice T. Germond, Chair
Fair Political Practices Commission