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FAIR POLITICAL PRACTICES COMMISSION

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6
7 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

8 **STATE OF CALIFORNIA**

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10 In the Matter of) FPPC No. 10/607
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16 Complainant Roman G. Porter, Executive Director of the Fair Political Practices Commission,
17 and Respondent Santa Ynez Band of Chumash Indians, hereby agree that this Stipulation will be
18 submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled
19 meeting.

20 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
21 matter and to reach a final disposition without the necessity of holding an administrative hearing to
22 determine the liability of Respondent.

23 Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural
24 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Section 18361.1
25 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
26 the right to personally appear at any administrative hearing held in this matter, to be represented by an
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1 attorney at Respondent's 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 Respondent Santa Ynez Band of Chumash Indians stipulates and agrees that they violated the
5 Political Reform Act by failing to timely file lobbyist employer disclosure reports, pursuant to
6 Government Code Section 86115 (15 counts), as described in Exhibit 1. Exhibit 1 is attached hereto and
7 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
8 the facts in this matter.

9 Respondent Santa Ynez Band of Chumash Indians agrees to the issuance of the Decision and
10 Order, which is attached hereto. Respondent Santa Ynez Band of Chumash Indians, also agrees to the
11 Commission imposing upon it an administrative penalty in the amount of Fifteen Thousand Dollars
12 (\$15,000).

13 A cashier's check from Respondent totaling Fifteen Thousand Dollars (\$15,000), made payable
14 to the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
15 administrative penalty, to be held by the State of California until the Commission issues its Decision and
16 Order regarding this matter. The parties agree that in the event the Commission refuses to accept this
17 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
18 meeting at which the Stipulation is rejected, all payments tendered by Respondent in connection with
19 this Stipulation shall be reimbursed to Respondent. Respondent further stipulates and agrees that in the
20 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
21 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
22 disqualified because of prior consideration of this Stipulation.

23
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25 Dated: _____

Roman G. Porter, Executive Director
Fair Political Practices Commission

1 Dated: _____

Richard Gomez, on behalf of Santa Ynez Band of
Chumash Indians

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4 **DECISION AND ORDER**

5 The foregoing Stipulation of the parties "In the Matter of Santa Ynez Band of Chumash Indians,
6 FPPC No. 10/607," including all attached exhibits, is hereby accepted as the final Decision and Order of
7 the Fair Political Practices Commission, effective upon execution below by the Chairman.
8

9 IT IS SO ORDERED.

10
11 Dated: _____

Chair, Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Santa Ynez Band of Chumash Indians (“Respondent”) is a federally recognized Indian tribe in California. Respondent has also been a lobbyist employer since 1995. As a lobbyist employer, Respondent is required to file quarterly disclosure reports of lobbyist payments and activities.

Respondent employed Strategic Solutions Advisors, a Lobbying Firm in California with a single lobbyist, Frank Molina, to lobby the California State Legislature, from January 1, 2007 through September 30, 2010 without timely filing any of its’ required quarterly disclosure reports.

Respondent made payments for lobbying services of \$312,000 for the period from January 2007 through September 2010.

Despite qualifying as a lobbyist employer under the Political Reform Act (the “Act”)¹, Respondent did not timely file quarterly reporting statements as a lobbyist employer as required from January 2007 through September 2010.

For the purposes of this Stipulation, Respondents’ violations are as follows:

COUNT 1: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the January 1, 2007 through March 31, 2007 reporting period, in violation of Government Code Section 86115.

COUNT 2: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the April 1, 2007 through June 30, 2007 reporting period, in violation of Government Code Section 86115.

COUNT 3: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the July 1, 2007 through September 30, 2007 reporting period, in violation of Government Code Section 86115.

COUNT 4: Respondent Santa Ynez Band of Chumash Indians failed to timely

¹ The Political Reform 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 18109 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.

file a quarterly lobbyist employer report for the October 1, 2007 through December 31, 2007 reporting period, in violation of Government Code Section 86115.

COUNT 5: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the January 1, 2008 through March 31, 2008 reporting period, in violation of Government Code Section 86115.

COUNT 6: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the April 1, 2008 through June 30, 2008 reporting period, in violation of Government Code Section 86115.

COUNT 7: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the July 1, 2008 through September 30, 2008 reporting period, in violation of Government Code Section 86115.

COUNT 8: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the October 1, 2008 through December 31, 2008 reporting period, in violation of Government Code Section 86115.

COUNT 9: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the January 1, 2009 through March 31, 2009 reporting period, in violation of Government Code Section 86115.

COUNT 10: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the April 1, 2009 through June 30, 2009 reporting period, in violation of Government Code Section 86115.

COUNT 11: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the July 1, 2009 through September 30, 2009 reporting period, in violation of Government Code Section 86115.

COUNT 12: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the October 1, 2009 through December 31, 2009 reporting period, in violation of Government Code Section 86115.

COUNT 13: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the January 1, 2010 through March 31, 2010 reporting period, in violation of

Government Code Section 86115.

COUNT 14: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the April 1, 2010 through June 30, 2010 reporting period, in violation of Government Code Section 86115.

COUNT 15: Respondent Santa Ynez Band of Chumash Indians failed to timely file a quarterly lobbyist employer report for the July 1, 2010 through September 30, 2010 reporting period, in violation of Government Code Section 86115.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (b), is that the activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials. The Act therefore establishes a lobbyist employer, lobbying firm and lobbyist reporting system designed to accomplish this purpose of disclosure.

Lobbyist Employer

“Lobbyist employer” means any person, other than a lobbying firm, who: (a) Employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action, or (b) Contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense, for the purpose of influencing legislative or administrative action.” Government Code Section 82039.5.

Duty to File Lobbyist Employer Reports

The following persons are required to file the statements required by Section 86116:
(a) Any lobbyist employer; and (b) Any person who directly or indirectly makes payments to influence legislative or administrative action of five thousand dollars (\$5,000) or more in value in any calendar quarter. Government Code Section 86115

Every person described in Section 86115 shall file periodic reports containing the following information: (a) The name, business address, and telephone number of the lobbyist employer or other person filing the report. (b) The total amount of payments to each lobbying firm. (c) The total amount of all payments to lobbyists employed by the filer. (d) A description of the specific lobbying interests of the filer. (e) A periodic report completed and verified by each lobbyist employed by a lobbyist employer pursuant to Section 86113. (f) Each activity expense of the filer. A total of all activity expenses of the filer shall be included. (g) The date, amount, and the name of the recipient of any contribution of one hundred dollars

(\$100) or more made by the filer to an elected state officer, a state candidate, or a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support the officer or candidate. If this contribution is reported by the filer or by a committee sponsored by the filer in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the name of the committee, and the identification number of the committee. (h) (1) Except as set forth in paragraph (2), the total of all other payments to influence legislative or administrative action including overhead expenses and all payments to employees who spend 10 percent or more of their compensated time in any one month in activities related to influencing legislative or administrative action. Government Code Section 86116

The following persons shall file the statements required by Section 86116: (a) Any lobbyist employer; and (b) Any person who directly or indirectly makes payments to influence legislative or administrative action of five thousand dollars (\$5,000) or more in value in any calendar quarter,

Reports required by Sections 86114 and 86116 shall be filed during the month following each calendar quarter. The period covered shall be from the first day of January of each new biennial legislative session through the last day of the calendar quarter prior to the month during which the report is filed. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire legislative session to date. Government Code Section 86117

SUMMARY OF THE FACTS

Respondent Santa Ynez Band of Chumash Indians (“Respondent”) is a federally recognized Indian tribe in California. Respondent has also been a lobbyist employer since 1995. As a lobbyist employer, Respondent is required to file quarterly disclosure reports of lobbyist payments and activities.

Respondent employed Strategic Solutions Advisors, a Lobbying Firm in California with a single lobbyist, Frank Molina, to lobby the California State Legislature, from January 1, 2007 through September 30, 2010 without timely filing any of its required quarterly disclosure reports.

Respondent made payments for lobbying services of a total of \$312,000 for the period from January 2007 through September 2010.

COUNTS 1-15

(Failure to File Required Lobbyist Employer Reports)

Respondent Santa Ynez Band of Chumash Indians failed to timely file quarterly lobbyist employer reports for the January 1, 2007 through September 30, 2010 reporting periods, in violation of Government Code Section 86115.

CONCLUSION

This matter consists of fifteen counts of violating the Act, carrying a maximum administrative penalty of \$75,000.

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division 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 Enforcement Division 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 deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

For Counts 1-15, failing to file lobbyist employer disclosure statements is a serious violation of the Act as it violates one of its central purposes, that the activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials. The public harm inherent in these violations is that the public is deprived of important and timely information from Respondent regarding the amounts and nature of lobbying activity. The typical administrative penalty for failing to file lobbyist employer statements has been in the low range of penalties.

FACTORS IN AGGRAVATION

In this matter, Respondents failed to file lobbyist employer reports for fifteen reporting periods and failed to file until the non-filing was brought to the attention of the Respondent by the FPPC.

Respondent also failed to disclose over \$240,000 worth of lobbying payments and activity, depriving the public of information on a significant amount of lobbying activity. Additionally, Respondents had a previous history of filing lobbyist employer reports and, thus, were aware of their obligations.

FACTORS IN MITIGATION

Respondent has no history of violating the Act and cooperated with the investigation. Additionally, Respondents contend they had an oral agreement with Frank J. Molina and Strategic Solutions Advisors to file their lobbyist employer reports, as had been done for them previously by their former lobbyist.

PENALTY

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of the agreed upon penalty of Fifteen Thousand Dollars (\$15,000), One Thousand Dollars (\$1,000) each for Counts 1 – 15.