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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of	) FPPC No. 10/1085
CYNTHIA LASHBROOK and CINDY LASHBROOK FOR MERCED COLLEGE TRUSTEE 2010	) STIPULATION, DECISION and ORDER
Respondents.	)

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondents Cynthia Lashbrook and Cindy Lashbrook For Merced College Trustee 2010, hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this matter and to reach a final disposition without the necessity of holding an administrative hearing to determine the liability of Respondents, pursuant to Section 83116 of the Government Code.

Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to, the right to personally appear at any administrative hearing held in this matter, to be represented by an

attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

It is further stipulated and agreed that Respondents Cynthia Lashbrook and Cindy Lashbrook For Merced College Trustee 2010 violated the Political Reform Act by failing to file a pre-election campaign statement for the reporting period of October 1 – 16, 2010, by the October 21, 2010 due date, in violation of Government Code Sections 84200.5, subdivision (b), and 84200.7, subdivision (b)(2) (1 count). All counts are described in Exhibit 1, which is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

Respondents agree to the issuance of the Decision and Order, which is attached hereto. Respondents also agree to the Commission imposing upon them an administrative penalty in the amount of Two Thousand Five Hundred Dollars ($2,500). A cashier's check from Respondents in said amount, made payable to the "General Fund of the State of California," is submitted with this Stipulation as full payment of the administrative penalty, to be held by the State of California until the Commission issues its Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any member of the Commission, nor the Executive Director, shall be disqualified because of prior consideration of this Stipulation.

Dated:_____

_____
Gary S. Winuk, Chief of Enforcement, on behalf of the Fair Political Practices Commission

Dated:_____

_____
Cynthia Lashbrook, individually and on behalf of Cindy Lashbrook For Merced College Trustee 2010, Respondents

DECISION AND ORDER

The foregoing Stipulation of the parties "In the Matter of Cynthia Lashbrook and Cindy Lashbrook For Merced College Trustee 2010, FPPC No. 10/1085," 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 Chairman.

IT IS SO ORDERED.

Dated: _____

_____
Ann Ravel, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Cynthia "Cindy" Lashbrook (Respondent Lashbrook) was a successful candidate for Merced Community College Trustee for Area 1 in the November 2, 2010 election. Respondent Cindy Lashbrook For Merced College Trustee 2010 (Respondent Committee) was Respondent Lashbrook's candidate controlled committee.

This matter arose out of a non-filer referral from the Merced County Clerk. Additionally, in March 2011, an anonymous complaint was submitted to the Commission alleging that Respondents appeared to have spent more than $1,000 toward the campaign, and therefore Respondents should have filed pre-election and semi-annual campaign statements related to the November 2010 election.

Under the Political Reform Act (the "Act")[1], Respondents were required to file, and did file, a statement of intention, and a statement of organization. However, Respondents were also required to file a pre-election statement for the reporting period ending October 16, 2010. In this matter, Respondents failed to file this campaign statement.

For purposes of this Stipulation, Respondents' violations of the Act are stated as follows:

COUNT 1: Respondents Cynthia Lashbrook and Cindy Lashbrook For Merced College Trustee 2010, failed to file a pre-election campaign statement for the reporting period of October 1 – 16, 2010, by the October 21, 2010 due date, in violation of Government Code Sections 84200.5, subdivision (b), and 84200.7, subdivision (b)(2).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that contributions and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

The following reflects the Act as it was in effect at the time of the relevant violations.

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[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 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.

Duty to File Pre-Election Campaign Statements

During an even-numbered year, candidates for county office and their controlled committees who are being voted upon on the first Tuesday after the first Monday in November are required to file a pre-election campaign statement as specified in Section 84200.7, subdivision (b). (Section 84200.5, subd. (b).)

Section 84200.7, subdivision (b) provides for the filing of two pre-election campaign statements covering two reporting periods prior to elections held in November of an even-numbered year. The reporting period for the first pre-election campaign statement ends September 30. This first pre-election campaign statement must be filed no later than October 5. (Section 84200.7, subd. (b)(1).) The reporting period for the second pre-election campaign statement runs from October 1 through 17 days before the election. This second pre-election campaign statement must be filed no later than 12 days before the election. (Section 84200.7, subd. (b)(2).)

Candidate Liability

Under Section 84213, a candidate must verify, and under Regulation 18427, subdivision (c), it is the duty of a candidate to ensure, that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of funds. A candidate may be held jointly and severally liable, along with the committee, for any violations committed by the committee under Sections 83116.5 and 91006.

SUMMARY OF THE FACTS

Respondent Cynthia "Cindy" Lashbrook (Respondent Lashbrook) was a successful candidate for Merced Community College Trustee for Area 1 in the November 2, 2010 election. Respondent Cindy Lashbrook For Merced College Trustee 2010 (Respondent Committee) was Respondent Lashbrook's candidate controlled committee.

Respondent Lashbrook filed a statement of intention to run for Merced Community College Trustee for Area 1 and a short form campaign statement[2] on August 2, 2010. Respondent Committee also filed a statement of organization on September 29, 2010, which identified Lorraine Passadori as treasurer for Respondent Committee, and indicated that it had not yet qualified as a committee.

At all relevant times, Lorraine Passadori was treasurer of record for Respondent Committee. However, the investigation of this matter revealed that Ms. Passadori attempted on multiple occasions to obtain the information necessary to prepare campaign statements for Respondent Committee from Respondent Lashbrook. Respondent Lashbrook failed to deliver

[2] The Officeholder and Candidate Campaign Statement – Short Form (FPPC Form 470), states that the officeholder/candidate anticipates that he/she will receive less than $1,000 in contributions, and spend less that $1,000 in expenditures during the calendar year.

the necessary information to Ms. Passadori. Respondent Lashbrook accepts full responsibility for the failure to file Respondent Committee's campaign statements.

The investigation in this matter showed that Respondents qualified as a committee during the October 1 – 16, 2010 pre-election period, and Respondents failed to file a pre-election statement for that reporting period until August 19, 2011. Respondents filed the required campaign statement because of the investigation in this matter, reporting as follows:

Reporting Period	Contributions Received	Expenditures Made
10/01 – 10/16/2010	$2,855	$1,121

Additionally, Respondents reported that Respondent Committee received a total of $4,982 in contributions, and made a total of $5,148 in expenditures.

Respondent Lashbrook stated that the campaign statements were not timely filed because she was too busy to work on them, and she never took the records to Respondent Passadori. Respondent Lashbrook stated that she knew she had to file the campaign statements, and she planned on doing it, but her life was so crazy that she didn't get to it.

Accordingly, Respondents committed one violation of the Act, as follows:

COUNT 1

(Failure to Timely File a Pre-Election Campaign Statement)

As a candidate for Merced Community College Trustee for Area 1 in the November 2, 2010 election, and her candidate controlled committee, Respondents had a duty to file a pre-election campaign statement for the reporting period of October 1 through October 16, 2010 (on or before October 21, 2010). Respondents failed to file the required pre-election campaign statement by the due date. By failing to timely file the pre-election campaign statement, Respondents violated Sections 84200.5, subdivision (b), and 84200.7, subdivision (b)(2).

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of Five Thousand Dollars ($5,000).

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):

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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 failure to file campaign statements is a serious violation of the Act because it deprives the public of important information about a candidate's contributors and financial activities. In this matter, regarding the November 2, 2010 election, Respondents failed to file a pre-election campaign statement until over nine months after the election. Thus, Respondents failed to disclose any contributions received and expenditures made by Respondents before the election. Respondent Lashbrook knew she had filing obligations under the Act, but never got around to filing the campaign statements until over nine months after the election. Respondents' failure to file these campaign statements appears to be grossly negligent.

In aggravation, Respondent Lashbrook has two prior enforcement actions for failure to timely file statements of economic interests as a Merced County Planning Commissioner, as follows:

- 07/445: (09/12/2007 Commission Agenda) Cynthia Lashbrook, Merced County Planning Commissioner, failed to timely file her Assuming Office Statement of Economic Interests in violation of Government Code Section 87202 (1 count). Total penalty: $200.

- 08/447: (06/10/2010 Commission Agenda) Respondent Cynthia Lashbrook, Planning Commissioner for the County of Merced, failed to timely file her 2007 Annual Statement of Economic Interests, in violation of Government Code Sections 87200 and 87203 (1 count). Total penalty: $600.

There are no mitigating factors in this case.

Recent penalties approved by the Commission concerning violations of Sections 84200.5, subdivision (b), and 84200.7, subdivision (b)(2), include:

- ***In the Matter of John Futch, Friends of John Futch and Fermin Ramirez,* FPPC No. 08/728.** This case involved two counts of failure to timely file a pre-election campaign statement. The pre-election campaign statements were not filed before the election, and would have included $37,386 in contributions received as well as $32,293 in expenditures made by the committee. Respondents had no prior enforcement history. A $3,000 penalty per count was approved by the Commission on May 13, 2010.

- ***In the Matter of Arturo Chacon, and Art Chacon for Water Board 2010,* FPPC No. 08/652.** This case involved two counts of failure to file a pre-election campaign statement. The pre-election campaign statements were not filed before the election, and would have included $25,496 in contributions received as well as $25,016 in expenditures made by the committee. Respondents had no prior enforcement history. A $2,500 penalty per count was approved by the Commission on February 10, 2011.

Because Respondents failed to timely file a pre-election campaign statement in this matter, imposition of an administrative penalty in the amount of Two Thousand Five Hundred Dollars ($2,500) for Count 1 is recommended. This is in the mid-range of penalties but below the maximum penalty recommended for violations of Sections 84200.5, subdivision (b), and 84200.7, subdivision (b)(2).

After consideration of the factors of Regulation 18361.5, and consideration of penalties in prior enforcement actions, the imposition of a penalty of Two Thousand Five Hundred Dollars ($2,500) is recommended.

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