

1 GARY S. WINUK  
Chief of Enforcement  
2 MILAD DALJU  
Commission Counsel  
3 **FAIR POLITICAL PRACTICES COMMISSION**  
428 J Street, Suite 620  
Sacramento, CA 95814  
Telephone: (916) 322-5660

5 Attorneys for Complainant  
6  
7

8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA  
10

11  
12 In the Matter of ) FPPC No. 11/1026  
13 )  
14 L. A. COUNTY FIREFIGHTERS LOCAL ) STIPULATION, DECISION and  
15 1014 ORGANIZED, READY & COMMITTED ) ORDER  
16 IN EMERGENCIES, and JOHN SMOLIN,  
TREASURER, )  
Respondents. )

17  
18 Complainant, the Fair Political Practices Commission, and respondent L.A. County Firefighters  
19 Local 1014 Organized, Ready & Committed in Emergencies (“Respondent Committee”) and its  
20 treasurer John Smolin (collectively “Respondents”) agree that this Stipulation will be submitted for  
21 consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

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

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

1 attorney at Respondents' 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           It is further stipulated and agreed that: Respondents violated the Political Reform Act by failing  
5 to include L.A. County Firefighters Local 1014 in the committee's name and failing to disclose L.A.  
6 County Firefighters Local 1014 as a sponsor on the committee's statement of organization, in violation  
7 of Section 84102, subdivisions (a) and (b) (Count 1), and; Respondent Committee violated the Political  
8 Reform Act by mailing over two hundred substantially similar pieces of mail without displaying the  
9 sender's name on the outside of each piece of mail (Counts 2 and 3). All counts are described in Exhibit  
10 1, which is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a  
11 true and accurate summary of the facts in this matter.

12 ///

1 Respondents agree to the issuance of the Decision and Order, which is attached hereto.  
2 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount  
3 of \$3,500, and to the Commission imposing an additional penalty upon Respondent Committee in the  
4 amount of \$4,500. A cashier's check from Respondents in said amount, made payable to the "General  
5 Fund of the State of California," is submitted with this Stipulation as full payment of the administrative  
6 penalty, to be held by the State of California until the Commission issues its decision and order  
7 regarding this matter. The parties agree that in the event the Commission refuses to accept this  
8 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission  
9 meeting at which the Stipulation is rejected, all payments tendered by Respondents in connection with  
10 this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and agree that in the  
11 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission  
12 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be  
13 disqualified because of prior consideration of this Stipulation.

14  
15  
16 Dated: \_\_\_\_\_

\_\_\_\_\_  
Gary Winuk, Enforcement Chief,  
On behalf of the  
Fair Political Practices Commission

17  
18  
19  
20  
21 Dated: \_\_\_\_\_

\_\_\_\_\_  
John Smolin, Respondent,  
Individually and on behalf of  
L.A. County Firefighters Local 1014 Organized, Ready & Committed  
in Emergencies

**DECISION AND ORDER**

The foregoing Stipulation of the parties “In the Matter of L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies, and John Smolin, Treasurer” FPPC No. 11/1026, 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 Chair.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Ann Ravel, Chair  
Fair Political Practices Commission

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies (“Respondent Committee”) has been a recipient committee since October 28, 2005. Respondent John Smolin (“Respondent Smolin”) has been Respondent Committee’s treasurer since January 23, 2008.

On or about October 31, 2011, and again on or about November 2, 2011, Respondent Committee sent 200 or more identical pieces of mail aimed at mayoral candidate Danny Juarez in the 2011 City of Hawthorne Mayoral election without disclosing on the outside of each mailer Respondent Committee’s name. Additionally, Respondent Committee and Respondent Smolin (collectively “Respondents”) failed to include the L.A. County Firefighters Local 1014 in Respondent Committee’s name and failed to disclose the L.A. County Firefighters Local 1014 as a sponsor on Respondent Committee’s statement of organization.

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

- Count 1:** Respondent L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies, and its treasurer Respondent John Smolin, failed to include L.A. County Firefighters Local 1014 in the committee’s name and failed to disclose L.A. County Firefighters Local 1014 as a sponsor on the committee’s statement of organization, in violation of Government Code section 84102, subdivisions (a) and (b).
- Count 2:** On or about October 31, 2011, Respondent L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies mailed over two hundred substantially similar pieces of mail without displaying the sender’s name on the outside of each piece of mail, in violation of Government Code section 84305, subdivisions (a) and (b).
- Count 3:** On or about November 2, 2011, Respondent L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies mailed over two hundred substantially similar pieces of mail without displaying the sender’s name on the outside of each piece of mail, in violation of Government Code section 84305, subdivisions (a) and (b).

### **SUMMARY OF THE LAW**

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

#### **Liberal Construction and Vigorous Enforcement of the Political Reform Act**

When the Act was enacted, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and

local authorities. (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

One of the purposes of the Act is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited. (Section 81002, subd. (a).) Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.” (Section 81002, subd. (f).)

### **Committee Sponsor**

Section 82013, subdivision (a), defines a “committee” to include any person who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. Under Section 84101, subdivision (a), a person who qualifies as a committee must file a statement of organization (Form 410) with the Secretary of State within 10 days of qualifying.

Section 82048.7, subdivision (a), defines a “sponsored committee” as a committee, other than a candidate controlled committee, with one or more sponsors. Under Section 82048.7, subdivision (b), an organization sponsors a committee if any of the following apply: (1) the committee receives 80 percent or more of its contributions from the organization; (2) the organization collects contributions for the committee by use of payroll deductions or dues; (3) the organization provides all or nearly all of the administrative services for the committee; or (4) the organization sets the policies for soliciting contributions or making expenditures of committee funds.

Section 84102, subdivision (a), requires, in the case of a sponsored committee, the name of the committee to include the name of the sponsor. Section 84102, subdivision (b), requires that the name, street address, and telephone number of each sponsor be disclosed on the committee’s statement of organization.

### **Mass Mailing**

Section 82041.5 defines “mass mailing” as over two hundred substantially similar pieces of mail, not including form letters or other mail which is sent to an unsolicited request, letter or other inquiry.

Section 84305, subdivisions (a) and (b), require that all mass mailing sent by a single committee to disclose the name, street address and city of the committee on the outside of each piece of mail.

## **SUMMARY OF THE FACTS**

Respondent Committee qualified as a committee on October 28, 2005. Since Respondent Committee qualified as a committee, L.A. County Firefighters Local 1014 (“Local 1014”) has been Respondent Committee’s only contributor. Between October 28, 2005, and November 14, 2011, Local 1014 contributed over \$1,100,000 to Respondent Committee, and Respondent Committee used those contributions to make over \$900,000 in expenditures. During that entire

period, Respondent Committee's name was "Firefighters Organized, Ready & Committed in Emergencies", and Respondent Committee did not disclose Local 1014 in any campaign statements or statements of organization that it filed.

On or about October 31, 2011, and again on or about November 2, 2011, Respondent Committee sent 200 or more identical pieces of mail aimed at Danny Juarez, a candidate in the November 8, 2011, City of Hawthorne Mayoral election. The mailers disclosed "F.O.R.C.E." as the sender.

On or about November 14, 2011, Respondents filed an amended statement of organization with the Secretary of State, which changed Respondent Committee's name to "L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies" and disclosed Local 1014 as Respondent Committee's sponsor.

Accordingly, Respondents committed a violation of the Act, and Respondent Committee committed two additional violations of the Act, as follows:

Count 1

**Failure to Disclose Sponsor**

As a sponsored committee, Respondent L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies was required to include its sponsor L.A. County Firefighters Local 1014 in its name and disclose L.A. County Firefighters Local 1014 as its sponsor on its statement of organization. Respondent L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies, and its treasurer Respondent John Smolin, failed to include L.A. County Firefighters Local 1014 in the committee's name and failed to disclose L.A. County Firefighters Local 1014 as a sponsor on the committee's statement of organization, in violation of Government Code section 84102, subdivisions (a) and (b).

Count 2

(Respondent Committee Only)

**Failure to Include Proper Identification on Mass Mailing**

No single committee shall send a mass mailing unless the name, street address, and city of the committee are shown on the outside of each piece of mail in the mass mailing. On or about October 31, 2011, Respondent L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies mailed over two hundred substantially similar pieces of mail without displaying the sender's name on the outside of each piece of mail, in violation of Government Code section 84305, subdivisions (a) and (b).

Count 3  
(Respondent Committee Only)  
**Failure to Include Proper Identification on Mass Mailing**

No single committee shall send a mass mailing unless the name, street address, and city of the committee are shown on the outside of each piece of mail in the mass mailing. On or about November 2, 2011, Respondent L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies mailed over two hundred substantially similar pieces of mail without displaying the sender's name on the outside of each piece of mail, in violation of Government Code section 84305, subdivisions (a) and (b).

**CONCLUSION**

This matter involves three counts of violating the Act which carries a maximum administrative penalty of \$15,000.

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division of the Fair Political Practices Commission (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 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(s) demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether upon learning of the violation the respondent voluntarily filed amendments to provide full disclosure. The facts are required to be considered by the Commission under Regulation 18361.5.

Respondents have no history of enforcement actions and have cooperated with the Commission's investigation into the matter.

Regarding Count 1, the failure to disclose a sponsor on a committee's statement of organization and to include the sponsor in the committee's name is serious violation of the Act, as it conceals the true nature of the sponsored committee's interests from the public.

Respondents failed to properly identify their sole sponsor for over seven years. Respondents' failure to properly identify their sole sponsor had the effect of masking the source of over \$1,100,000 in political contributions. During this time, Respondents made over \$900,000 in political expenditures in several different elections in which Respondents' failure to disclose their sole sponsor had the effect of concealing the source of the political expenditures.

According to Respondents, Respondents believed in good faith that the use of the word "Firefighters" in Respondent Committee's name was sufficient to meet Respondents' obligation to identify Respondent Committee's sponsor to the public. Additionally, Respondents contend they retained experienced accountants specializing in campaign finance reporting to assist with the drafting and filing of the statements, and that Respondents were never informed by the accountants that there was any deficiency in its statement of organization or in the adequacy of the identification of its sponsor in its name.



Recent penalties approved by the Commission concerning violations of Section 84102, subdivisions (a) and (b), include:

- *In the Matter of Californians for SAFE Food, a coalition of public health and food safety experts, labor unions, consumers, family farmers and veterinarians. No on Proposition 2 and J. Richard Eichman, FPPC No. 08/515. A penalty of \$2,500 was approved by the Commission on April 8, 2011, for one count of failing to disclose a sponsor on respondent committee's statement of organization and failing to include a sponsor in respondent's name for thirteen months.*

In this matter, Respondents' violation was much more serious due to the length of time and the amount of money. Therefore an imposition of an administrative penalty in the amount of \$3,500 for Count 1 is recommended. This is in the high-range of penalties recommended for violations of Section 84102, subdivisions (a) and (b).

Regarding Counts 2 and 3, failure to disclose the proper sender information in a mass mailing is a serious violation of the Act because it deprives the public of important information regarding the sponsor of the mass mailing. In this matter, Respondent Committee sent two different mailers, totaling more than 400 individual pieces of mail, that failed to properly disclose the sender. Additionally, the mailers were negative ads that made very serious allegations against a single candidate. However, the mailers did disclose the acronym of Respondent Committee's name and Respondent Committee's address.

Recent penalties approved by the Commission concerning violations of Section 84305, subdivisions (a) and (b), include:

- *In the Matter of San Mateo County League for Coastsides Protection, FPPC No. 06/191. A penalty of \$2,000 was approved by the Commission on January, 14, 2010, for one count of failing to identify the sender's name, street address and city on a mass mailer.*

In this matter, Respondent Committee's violations were cumulatively more serious because there were two mailings both of which were negative ads and aimed at a single candidate. Therefore an imposition of an administrative penalty in the amount of \$2,250 for the first violation (Count 2) and \$2,250 for the second violation (Count 3) is recommended. This is in the mid-range of penalties recommended for violations of Section 84305, subdivisions (a) and (b).

After consideration of the factors of Regulation 18361.5, and consideration of penalties in prior enforcement actions, the imposition of a \$3,500 penalty on Respondent L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies and Respondent John Smolin, and an additional \$4,500 penalty on Respondent L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies is recommended.

\* \* \* \* \*