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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
10 STATE OF CALIFORNIA
11

12 In the Matter of) FPPC No. 10/1119
13)
14 CALIFORNIANS FOR PRIVACY, LUKE)
BREIT, AND MICHAEL GUNTER,) DEFAULT DECISION and ORDER
15 Respondents.) (Gov. Code §§ 11506 and 11520)
16)
17)

18 Complainant, the Fair Political Practices Commission, hereby submits this Default Decision and
19 Order for consideration by the Fair Political Practices Commission at its next regularly scheduled
20 meeting.

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

24 Respondents have had the opportunity to receive advice by an attorney of their choosing as to
25 their rights to a probable cause hearing and administrative hearing under the Political Reform Act,
26 Administrative Procedures Act, and all other relevant laws, and they have chosen to waive all such
27 rights to a probable cause hearing and administrative hearing and to allow this matter to proceed to a
28 default decision.

1 In this case, Respondents Californians for Privacy, Luke Breit and Michael Gunter violated the
2 Political Reform Act as described in Exhibit 1, which is incorporated by reference as though fully set
3 forth herein. Exhibit 1 is a true and accurate summary of the law and evidence in this matter.

4 This Default Decision and Order is submitted to the Commission to obtain a final disposition of
5 this case.

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7 Dated: _____

8 Gary Winuk, Enforcement Chief, on behalf of the
9 Fair Political Practices Commission

DECISION AND ORDER

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The Commission issues this Default Decision and Order and imposes an administrative penalty of Seven Thousand Dollars (\$7,000) for the Respondent Committee, a penalty of Seven Thousand Five Hundred Dollars (\$7,500) for the Respondent Gunter, (of which Respondent Gunter is jointly and severally liable for \$2,500 along with Respondent Committee), and a penalty of Nine Thousand Five Hundred Dollars (\$9,500) for the Respondent Breit, (of which Respondent Breit is jointly and severally liable for \$4,500 along with Respondent Committee), for a total penalty of Seventeen Thousand Dollars (\$17,000). This penalty is payable to the “General Fund of the State of California.”

IT IS SO ORDERED, effective upon execution below by the Chair of the Fair Political Practices Commission at Sacramento, California.

Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Californians for Privacy (“Respondent Committee”) is a State General Purpose Committee, formed to decriminalize prostitution. According to the Statement of Organization, Respondent Luke Breit (“Respondent Breit”) was the treasurer of Respondent Committee from April 2008, through the termination of the Respondent Committee, on or about November 9, 2012. However, in approximately June 2008, Respondent Breit was unable to perform the duties as a treasurer due to a medical reason. Respondent Michael Gunter (“Respondent Gunter”) took over the treasurer duties from approximately June 2008, through approximately April 29, 2009, when Respondent Breit resumed the treasurer duties. Respondents failed to file a Statement of Organization identifying Respondent Gunter as the treasurer during this time.

During the time Respondent Gunter acted as treasurer of Respondent Committee, there were multiple cash withdrawals from Respondent Committee’s bank account, in the amount of approximately \$11,500 from October 15, 2008, through March 11, 2009. According to Respondent Gunter, approximately \$10,000 was used for personal purposes, to start his new business. The remainder, approximately \$1,500 was used for campaign purposes.

On or about December 2, 2009, according to Respondent Breit, he loaned \$2,500 of Respondent Committee campaign funds to a woman he was in a romantic relationship with, for the purpose of hiring an attorney for her child custody case. On February 9, 2011, Respondent Breit disclosed on a campaign statement that the loan was increased to \$3,000. Respondent Breit stated that he believes the money was used for plastic surgery instead of hiring a family law attorney.

In this matter, Respondent Gunter made expenditures of campaign funds, which conferred a substantial personal benefit on him, for purposes other than directly related to political, legislative or governmental purposes. Respondents Committee and Gunter failed to file an amended statement of organization to identify the change in the treasurer of the committee. Respondent Breit made a loan of campaign funds for purposes other than reasonably related to a political, legislative or governmental purpose. Additionally, Respondents Committee and Breit failed to timely file one semi-annual campaign statement, and failed to maintain records, as required by the Act.

For the purposes of this Stipulation, Respondents' violations of the Political Reform Act (the "Act")¹ are stated as follows:

RESPONDENTS GUNTER AND COMMITTEE

COUNT 1: In approximately June 2008, Respondents Michael Gunter and Californians for Privacy failed to timely file an amended statement of organization regarding a change as to the treasurer of the committee, in violation of Section 84103, subdivision (a).

RESPONDENT GUNTER

COUNT 2: Between October 15, 2008, and March 11, 2009, Respondent Michael Gunter caused Californians for Privacy to make expenditures of campaign funds, which conferred a substantial personal benefit on him, for purposes other than directly related to a political, legislative or governmental purpose, in violation of Section 89512.5, subdivision (b).

RESPONDENT BREIT

COUNT 3: On or about December 2, 2009, Respondent Luke Breit made a loan of Californians for Privacy campaign funds for purposes other than reasonably related to a political, legislative or governmental purpose, in violation of Sections 89513, subdivision (g) and 89515.

RESPONDENTS BREIT AND COMMITTEE

COUNT 4: Respondents Californians for Privacy and Luke Breit failed to timely file a semi-annual campaign statement for the reporting period January 1, 2010, through June 30, 2010, which was due by August 2, 2010, in violation of Section 84200, subdivision (a).

COUNT 5: Respondents Californians for Privacy and Luke Breit failed to maintain the detailed accounts, records, bills, and receipts necessary to prepare the semi-annual campaign statement, for the reporting period of July 1, 2009, through December 31, 2009, to establish that the campaign statement was

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.

properly filed, and to comply with the campaign reporting provisions of the Act, in violation of Section 84104.

PROCEDURAL HISTORY

Respondents have been informed of the charges set forth herein. Respondents have also been informed of their rights to a probable cause hearing and an administrative hearing in this matter. Respondents have agreed to waive their rights to both a probable cause hearing and an administrative hearing and all related procedural requirements. Respondents have had the opportunity to consult with an attorney of their choosing as to their rights to a probable cause hearing and an administrative hearing under the Political Reform Act, the Administrative Procedures Act and all other relevant laws. Respondents are aware that by waiving their rights to a probable cause and an administrative hearing and refusing to enter into a stipulated agreement the Enforcement Division is proceeding with a default recommendation to the Commission against them and that they will be liable for the full penalty amount of Seven Thousand Dollars (\$7,000) for the Respondent Committee, a penalty of Seven Thousand Five Hundred Dollars (\$7,500) for the Respondent Gunter, (of which Respondent Gunter is jointly and severally liable for \$2,500 along with Respondent Committee), and a penalty of Nine Thousand Five Hundred Dollars (\$9,500) for the Respondent Breit, (of which Respondent Breit is jointly and severally liable for \$4,500 along with Respondent Committee), for a total penalty of Seventeen Thousand Dollars (\$17,000), if the Enforcement Division's recommendation is approved by the Commission.

NATURE OF DEFAULT PROCEEDINGS

In this situation, where Respondents have waived their rights to a probable cause conference and an administrative hearing, the Commission may take action based upon the Respondents' express admissions or upon other evidence, and affidavits may be used as evidence without any notice to the Respondents. (Section 11520, subd. (a).)

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns be fully and truthfully disclosed, in order for voters to be fully informed, and improper practices inhibited. To that end, the Act sets forth a comprehensive campaign reporting system.

State General Purpose Committee

Under the Act's campaign reporting system, recipient committees, as defined in Section 82013, subdivision (a), are required to file certain specified campaign statements and reports.

Under the Act, there are different types of recipient committees, defined by the type of election activity in which they engage. A recipient committee that is formed or exists to support or oppose candidates or measures voted on in a state election, or in more than one county, in relevant part, is defined, at Section 82027.5, subdivision (b), as a “state general purpose committee.”

Duty to Amend the Statement of Organization

Whenever there is a change as to any of the information contained in a statement of organization (Form 410), an amended statement of organization reflecting the change must be filed with all filing officers within 10 days. (Section 84103, subd. (a).) The information required on a statement of organization includes the: “full name, street address, and telephone number, if any, of the treasurer and other principal officers.” (Section 84102, subd. (c).)

Duty to File Semi-Annual Campaign Statements

Section 84200, subdivision (a), requires recipient committees to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1 through June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 through December 31, and must be filed by January 31 of the following year. Section 84215, subdivision (c), requires a state general purpose committee to file the original and one copy of campaign statements with the election official of the county.

Duty to Use Campaign Funds for a Political, Legislative or Governmental Purpose

Section 89512.5, subdivision (b), requires that any expenditure by a committee that confers a substantial personal benefit on any individual of individuals with authority to approve the expenditure of campaign funds held by the committee, shall be directly related to a political, legislative, or governmental purpose of the committee.

Loans Made with Campaign Funds

The “personal use” provisions of the Act govern the permissible uses of campaign funds held by, in relevant part, any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013. (Section 89511 subd. (a).)

Section 82013, subdivision (a), defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling one thousand dollars or more in a calendar year.

Section 89513, subdivision (g), in relevant part, states that campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

Section 89515 states that campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organizations, where no substantial part of the proceeds will have a material financial effect on the candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or member of his or her immediate family, and where the donation or loan bears reasonable relation to a political, legislative, or governmental purpose.

Duty to Maintain and Retain Records

To ensure accurate campaign reporting, Section 84104 imposes a mandatory duty on each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills and receipts that are necessary to prepare campaign statements, to establish that campaign statements were properly filed and to comply with the campaign reporting provisions of the Act. This requirement, as further stated by Regulation 18401, includes a duty to maintain detailed information and original source documentation for all contributions and expenditures.

Regulation 18401, subdivision (b)(2), requires the filer of the committee campaign statements to retain the above described campaign records for four years following the date that the campaign statement to which they relate is filed.

Treasurer Liability

As provided in Section 84100, every committee shall have a treasurer. Under Section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee’s treasurer 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 such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006; Regulation 18316.6.)

SUMMARY OF THE EVIDENCE

Respondent Committee is a state general purpose committee. According to an interview with Respondent Breit, the Respondent Committee treasurer, Respondent Committee was formed to decriminalize prostitution. Respondent Gunter was a member of the Respondent Committee.

According to interviews of Respondents Breit and Gunter, in approximately June of 2008, Respondent Breit was unable to take care of the treasurer duties due to a medical reason. As a result, Respondent Breit added Respondent Gunter to the Respondent Committee bank account. Respondent Gunter acted as Respondent Committee treasurer until approximately April 29, 2009, when Respondent Breit was able to resume the treasurer duties. Respondent Gunter and Respondent Committee failed to file an amended statement of organization to disclose the change in the treasurer. According to Respondent Breit, during the time he had medical issues, all of the Respondent Committee records were lost. The Enforcement Division obtained Respondent Committee's bank records.

According to bank statements, multiple cash withdrawals of Respondent Committee's bank account occurred during the time Respondent Gunter acted as treasurer. In total, approximately \$11,500 was withdrawn from the bank account from October 15, 2008 to March 11, 2009. According to Respondent Gunter, approximately \$1,500 was used for campaign purposes. The remainder of the money, approximately \$10,000, was used for him to start his new business. Respondent Gunter stated that Respondent Breit was aware of these monetary withdraws and approved his use of the campaign money. However, according to an interview of Respondent Breit, Respondent Breit stated that he learned of the account balance when he took over as treasurer at the end of April 2009. Respondent Breit disclosed \$11,150 as a loan to Respondent Gunter and stated that he asked him to sign a promissory note after the money had been taken. According to the campaign statement for the period July 1, 2009, through December 31, 2009, \$500 of the \$11,500 was repaid to the Respondent Committee.

According to an interview with Respondent Breit, in 2009, he began a romantic relationship with a woman named Allyssa Pierce. On or about December 2, 2009, Respondent Breit disclosed making a loan from Respondent Committee campaign funds to Allyssa Pierce in the amount of \$2,500. On February 9, 2011, Respondent Breit disclosed on a campaign statement that the loan was for \$3,000 from the Respondent Committee to Allyssa Pierce. According to Respondent Breit, he understood the money would be used for attorney fees associated with a custody case. However, Respondent Breit stated that he believes the money was used for plastic surgery instead. None of this money was repaid to the Respondent Committee.

On or about February 9, 2011, Respondent Breit forgave the loans to Allyssa Pierce and Respondent Gunter.

Further, Respondent Committee has failed to timely file the semi-annual campaign statement for the period January 1, 2010, through June 30, 2010.

Respondents Gunter and Committee

Count 1

Failure to File an Amended Statement of Organization

Respondents Committee and Gunter were required to file an amended statement of organization to identify the change in treasurer within 10 days of the change. (84103, subd. (a)) In approximately June of 2008, Respondent Gunter began acting as the Respondent Committee treasurer as Mr. Breit was unavailable due to a medical condition. In fact, Respondent Gunter was added onto the Respondent Committee bank account so that he could access the account in his role as the treasurer.

Respondent Gunter acted as the Respondent Committee treasurer from approximately June 2008, through approximately April 2009. As a result, Respondents Committee and Gunter failed to file an amended statement of organization to identify this change in treasurer, in violation of Government Code section 84103, subdivision (a).

Respondent Gunter

Count 2

Personal Use of Campaign Funds

Respondent Gunter was the treasurer of the Committee from approximately June 2008, through April 2009. Respondent Gunter's duties included access to the Committee bank account to pay committee expenses. In addition to making payments for Committee related expenses, Respondent Gunter withdrew cash that he used for personal purposes that conferred a substantial personal benefit on Respondent Gunter and were not directly related to a political, legislative, or governmental purpose.

According to bank records, between the period October 15, 2008, through March 11, 2009, approximately \$11,500 was withdrawn in cash by Respondent Gunter, during the time Respondent Gunter was the treasurer. In an interview, Respondent Gunter admitted that approximately \$10,000 was used for him to start a personal business and that he was having financial difficulties. Additionally, Respondent Gunter stated that Mr. Breit was aware of these cash withdraws and approved the use of the money. However, according to an interview of Mr. Breit, he stated that he learned of the account balance when he took over as treasurer at the end of April 2009. Mr. Breit disclosed \$11,150 as a loan from the Committee to Respondent Gunter and stated that he asked him to sign a promissory note after the money had been taken. According to the campaign statement for the period July 1, 2009, through December 31, 2009,

\$500 of the \$11,500 was repaid to the Committee. No Committee records were maintained during this period and the promissory note could not be produced in this matter.

Between October 15, 2008, and March 11, 2009, Respondent Michael Gunter caused Californians for Privacy to make expenditures of campaign funds, which conferred a substantial personal benefit on him, for purposes other than directly related to a political, legislative or governmental purpose, in violation of Section 89512.5, subdivision (b).

Respondent Breit

Count 3 **Loans Made with Campaign Funds**

According to Section 89513, subdivision (g), campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

Section 89515 states that campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organizations, where no substantial part of the proceeds will have a material financial effect on the candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or member of his or her immediate family, and where the donation or loan bears reasonable relation to a political, legislative, or governmental purpose.

According to an interview with Respondent Breit, in 2009, he began a romantic relationship with a woman named Allyssa Pierce. Respondent Briet stated that she told him she needed money for attorney fees associated with her child custody case. According to Respondent Breit, he loaned her \$3,000 from Respondent Committee funds, in \$500 increments. Respondent Breit stated that he believes this money was actually used for plastic surgery instead.

According to Respondent Breit, Allyssa Pierce did not acknowledge this as a loan. As a result, none of this loan was repaid. On or about December 2, 2009, Respondent Breit disclosed on a campaign statement, making a loan from Respondent Committee campaign funds to Allyssa Pierce in the amount of \$2,500. On or about February 9, 2010, Respondent Breit disclosed on a campaign statement that the loan was increased to \$3,000 from the Respondent Committee to Allyssa Pierce, and, on the same campaign statement, Respondent Breit forgave this loan.

On or about December 2, 2009, Respondent Breit made a loan of campaign funds for purposes other than reasonably related to a political, legislative or governmental purpose, in violation of Sections 89513, subdivision (g) and 89515.

Respondents Breit and Committee

Count 4

Failure to Timely File a Semi-Annual Campaign Statement

Respondents Committee and Breit were required to and failed to timely file a semi-annual campaign statement for the reporting period January 1, 2010, through June 30, 2010, which was due by August 2, 2010. On February 10, 2011, over six months late, Respondent Committee and Breit filed a semi-annual campaign statement for the period January 1, 2010, through June 30, 2010.

Therefore, Respondents Committee and Breit were required to and failed to timely file a semi-annual campaign statement that covered the reporting period January 1, 2010, through June 30, 2010, on or before August 2, 2010, in violation of Section 84200, subdivision (a).

Count 5

Duty to Maintain and Retain Records

Respondents Committee and Breit had a duty to and failed to maintain and retain campaign records for the reporting period of July 1, 2009, through December 31, 2009. Respondent Breit was unable to produce any campaign records for this reporting period. As a result, the Enforcement Division issued bank subpoenas to determine financial activity of the Respondent Committee.

Therefore, Respondents Committee and Breit failed to maintain and retain detailed accounts, records, bills, and receipts necessary to prepare the semi-annual campaign statement for the reporting period July 1, 2009, through December 31, 2009, to establish that the campaign statement was properly filed, and to comply with the campaign reporting provisions of the Act, in violation of Section 84104.

CONCLUSION

This matter consists of five counts of violating the Act, which carries a maximum administrative penalty of Twenty Five Thousand Dollars (\$25,000).

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. 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; whether there was a pattern of violations; and whether upon learning of the violation the Respondent voluntarily filed amendments to provide full disclosure.

In aggravation, the personal use of campaign funds violates the trust of contributors and is a serious violation of the Act. The fact that the Respondents failed to maintain records made it difficult to determine the campaign activity.

In mitigation, Respondents have not previously been found to have violated the Act and cooperated with the Enforcement Division investigation.

Count 1: Respondents Gunter and Committee had a duty to file an amended statement of organization regarding the change of treasurer and failed to do so.

Recent penalties approved by the Commission concerning violations of Section 84103 include:

In the Matter of Maxine Sherard, , Sherard for Assembly 2006 and Sherard for Assembly 2008, FPPC No. 10/026 (Default Decision). In this matter, the Committee filed a statement of organization, naming a person as the treasurer who did not act as the treasurer, in violation of Government Code Section 84103 (2 counts). In October of 2011, the Commission imposed a penalty of \$2,500 per count, for a total of \$5,000 for these two counts.

In the Matter of Mary Ann Andreas, Andreas for Assembly, Marta Baca and Phyllis Nelson, FPPC No. 06/77. In this matter, among multiple counts, Respondents failed to file an amended statement of organization to disclose a change to the treasurer and assistant treasurer, in violation of Government Code section 84103 (1 count). In June of 2010, the Commission imposed a penalty of \$2,250 for this count.

In this matter, imposition of a fine amount of \$2,500 for Count 1 is recommended.

Count 2: Respondent Gunter used the campaign funds for his personal use in this matter, while acting as the campaign treasurer. Personal use of campaign funds is a serious violation of the Act.

A recent penalty approved by the Commission for a violation of Government Code sections 89512.5, subdivision (a) (personal use), 84200 (filing of semi-annual campaign statements), and 84104 (recordkeeping), include:

In the Matter of Lynwood Teacher's Association PAC and Michael Jochum, FPPC No. 11/337. In this matter, Respondents used \$5,000 of campaign funds to pay Lynwood Teachers Association bills and payroll, but not for the benefit of an individual. Further, in this case,

Respondents failed to timely file a semi-annual campaign statement and failed to maintain records. In August of 2012, the Commission approved a \$3,000 penalty for the violation of Government Code section 89512.5, subdivision (a), a \$2,500 penalty for the violation of Government Code section 84200, and a \$2,000 penalty for the violation of Government Code section 84104.

In this matter, Respondent Gunter's violation is distinguishable because he used the campaign funds for his own personal benefit. Therefore, imposition of a maximum fine of \$5,000 for Count 2 is recommended.

Count 3: Respondent Breit made a loan of campaign funds for purposes other than reasonably related to a political, legislative, or governmental purpose.

The most recent penalty approved by the Commission concerning a violation of Section 89513 includes:

In the Matter of Maria Santillian, Committee to Re-Elect Maria Santillian, and Raul Beas, FPPC No. 02/222. In this matter, among multiple filing, disclosure and recordkeeping violations, Respondent used campaign funds for clothing to attend meetings and appearances for her campaign, in violation of Government Code section 89513, subdivision (d)(1 count). However, in this matter, Respondent believed these expenditures were justified because they were associated with appearances for her campaign, the amount of campaign funds used was small, and she paid back her committee. In June of 2009, the Commission imposed a penalty of \$2,000 for this count.

This matter can be distinguished from the *Santillian* case. Respondent Breit was aware that the loan he made was for purposes other than reasonably related to a political, legislative, or governmental purpose. In his interview, he stated that he initially believed the loan was for his girlfriend's child custody case. Therefore, imposition of a maximum fine in the amount of \$5,000 is recommended.

Count 4: Respondents Committee and Breit were required to and failed to timely file a semi-annual campaign statement for the reporting period January 1, 2010, through June 30, 2010.

Recent penalties approved by the Commission include:

In the Matter of Lynwood Teacher's Association PAC and Michael Jochum, FPPC No. 11/337. See Above. In August of 2012, the Commission approved a \$2,500 penalty for the violation of Government Code section 84200.

In the Matter of Kai Stinchcombe and Vote for Kai-Assembly 2010, FPPC No. 10/652. This case involved 2 counts of failing to timely file semi-annual campaign statements. A penalty of \$2,000 per count was approved by the Commission on May 17, 2012.

Respondents Committee and Breit filed the campaign statement over six months late. Imposition of a penalty in the amount of \$2,500 for this violation is recommended.

Count 5: Respondents Committee and Breit were required to and failed to maintain campaign records.

Recent penalties approved by the Commission include:

In the Matter of Lynwood Teacher's Association PAC and Michael Jochum, FPPC No. 11/337. *See Above*. In August of 2012, the Commission approved a \$2,000 penalty for the violation of Government Code section 84104.

In the Matter of Arturo Chacon and Art Chacon for Water Board 2010, FPPC No. 08/652. This case involved two counts of recordkeeping violations, along with multiple reporting violations and making and receiving cash over \$100, for a total of 13 Counts. A \$2,000 penalty for each recordkeeping count was approved by the Commission on February 10, 2011.

Regarding Count 5, these cases are similar in that the failure to maintain and retain records makes it difficult to determine the financial activity of a committee. Imposition of a penalty in the amount of \$2,000 for this violation is recommended.

PROPOSED PENALTY

After review of the facts of this case, including consideration of the factors of Regulation 18361.5, and the factors discussed above, it is respectfully submitted that imposition of the penalty of Seven Thousand Dollars (\$7,000) for the Respondent Committee, a penalty of Seven Thousand Five Hundred Dollars (\$7,500) for the Respondent Gunter, (of which Respondent Gunter is jointly and severally liable for \$2,500 along with Respondent Committee), and a penalty of Nine Thousand Five Hundred Dollars (\$9,500) for the Respondent Breit, (of which Respondent Breit is jointly and severally liable for \$4,500 along with Respondent Committee), for a total penalty of Seventeen Thousand Dollars (\$17,000), is recommended.