

1 GARY S. WINUK
Chief of Enforcement
2 DAVE BAINBRIDGE
Commission Counsel
3 Fair Political Practices Commission
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5660
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant

7
8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**

10
11 In the Matter of:

FPPC No. 12/506

12
13 **VENTURA BLUE COMMITTEE and**
SANDRA KINSLER

STIPULATION, DECISION, AND ORDER

14 Respondents.
15

16
17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 respondents Ventura Blue Committee and Sandra Kinsler (Respondents) hereby agree that this
20 Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next
21 regularly scheduled meeting.

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

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

1 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to
2 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
3 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 sending
5 two slate mailers that did not display the required "Notice to Voters" nor indicate which of the
6 candidates paid to appear on the mailer in violation of Government Code section 84305.5, subdivisions
7 (a)(2) and (4), and as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by reference
8 as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

9 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
10 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
11 One Thousand Five Hundred Dollars (\$1,500). Respondents submitted with this Stipulation a cashier's
12 check from Respondents in said amount, made payable to the "General Fund of the State of California,"
13 as full payment of the administrative penalty that shall be held by the State of California until the
14 Commission issues its Decision and Order regarding this matter. The parties agree that in the event the
15 Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen (15)
16 business days after the Commission meeting at which the Stipulation is rejected, all payments tendered
17 by Respondents in connection with this Stipulation shall be reimbursed to Respondents. Respondents
18 further stipulate and agree that in the event the Commission rejects the Stipulation, and a full evidentiary
19 hearing before the Commission becomes necessary, neither any member of the Commission, nor the
20 Executive Director, shall be disqualified because of prior consideration of this Stipulation.

21
22 Dated: _____ Gary S. Winuk, on behalf of the Enforcement Division
23 Fair Political Practices Commission

24
25 Dated: _____ Sandra Kinsler, individually, and on behalf of Ventura
26 Blue Committee, Respondents

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Ventura Blue Committee and Sandra
3 Kinsler” FPPC No. 12/506, including all attached exhibits, is hereby accepted as the final decision and
4 order of the Fair Political Practices Commission, effective upon execution below by the Chair.

5
6 IT IS SO ORDERED.

7
8 Dated: _____
9 Ann Ravel, Chair
10 Fair Political Practices Commission
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

INTRODUCTION

Respondent Ventura Blue Committee (“Respondent Ventura Blue”) is a slate mailer organization. Respondent Sandra Kinsler (“Respondent Kinsler”) is the treasurer for Respondent Ventura Blue. Under the Political Reform Act (the “Act”)¹, a slate mailer organization must include a “Notice to Voters” containing specific language regarding the source of the mailer on any slate mailer the organization sends out and must indicate on the slate mailer which candidates paid to appear on the mailer. As set forth below, Respondents violated the Act by failing to include the required “Notice to Voters” on two slate mailers they sent out and failing to indicate on the slate mailers which candidates paid to appear on the mailer.

For purposes of this Stipulation, the proposed violation of the Act is as follows:

COUNT 1: Respondents sent out two slate mailers prior to the 2010 Primary Election that did not contain the “Notice to Voters” language required by Section 84305.5, subdivision (a)(2) and did not include asterisks to indicate those candidates who paid to appear on the slate mailer in violation of Section 84305.5, subdivision (a)(4).

SUMMARY OF THE LAW

Definition of Slate Mailer

A “slate mailer” is a mass mailing that supports or opposes a total of four or more candidates or ballot measures. (Section 82048.3.) A “mass mailing” is 200 or more substantially similar pieces of mail. (Section 82041.5.)

Definition of Slate Mailer Organization

Section 82048.4 defines a “slate mailer organization” as any person who directly or indirectly (1) is involved in the production of one or more slate mailers and exercises control over the selection of the candidates and measures to be supported or opposed in the mailer, and (2) receives or is promised payments totaling \$500 or more in a calendar year for the production of one or more slate mailers.

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.

Slate Mailer Organization Identification Requirements

A slate mailer organization must include on each slate mailer it sends out the “Notice to Voters” language detailed at Section 84305.5, subdivision (a)(2) on the top or bottom of one side of a mailer in the format described. A slate mailer organization also must identify each candidate who paid to appear on the mailer by designating the candidate with an asterisk on the mailer. (Section 84305.5, subd. (a)(4).)

Treasurer Liability

Section 84108 requires slate mailer organizations to comply with Section 84100 which requires every committee to 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 FACTS

Prior to the 2010 Primary Election, Respondents mailed out a slate mailer on cardstock with printing on both side that encouraged voters to vote for six candidates for the Democratic County Central Committee, District 1. The candidates who appeared on that slate mailer were David Atkins, Helen Conly, Chip Fraser, Sandra Kinsler, Marie Lakin, and Brian Leshon. Respondents also mailed out a similar slate mailer that encouraged voters to vote for four candidates for Democratic County Central Committee, District 3. The candidates who appeared on that slate mailer were Melissa DeMarco, Sharon Hillbrant, Bruce Little, and Jodene Morrell. The slate mailers did not include a “Notice to Voters” and did not have asterisks next to the name of any of the candidates.

Respondents filed a Slate Mailer Organization Campaign Statement (Form 401) for the period covering January 1, 2010 through May 22, 2010. The statement shows Respondents received \$8,550 in payments during that period and made payments of \$7,864.80. The statement also indicates that Respondents received payments of \$100 or more from the following candidates who appeared on the slate mailers: Melissa DeMarco, David Atkins, Bruce Little, Jodene Morrell, Sharon Hillbrant, Helen Conly, and Marie Lakin.

COUNT 1

Failure to include Identifying Information on Slate Mailer

The slates mailers that Respondents sent out did not contain the “Notice to Voters” language required by Section 84305.5, subdivision (a)(2) and did not include asterisks to indicate those candidates who paid to appear on the slate mailer in violation of Section 84305.5, subdivision (a)(4).

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 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 Commission 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 Respondents demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

Recent cases before the Commission involving violations of Section 84305.5 include the following:

- *In the Matter of Paul Fickas and Decline to State Voter Guide, FPPC No. 10/959:* Respondents improperly identified all candidates as having contributed to pay for a slate mailer when in fact one candidate had not contributed. The respondents had no prior experience with producing slate mailers. The Commission approved a penalty of \$1,500 on September 22, 2011 for this violation.
- *In the Matter of California Voter Guide and Gary Crummitt, FPPC No. 12/374:* Respondent, a slate mailer organization, sent out two slate mailers that did not include the address and city of the organization. Respondents stipulated to two counts for violating the Act and on September 13, 2012, the Commission approved a penalty of \$1,500 per count for a total penalty of \$3,000.

In the case now before the Commission, Respondents failed to include the “Notice to Voters” which is required by the Act to ensure voters are not mistaken or confused regarding the source of a slate mailer. Respondents also did not indicate on the slate mailer which candidates paid to appear on the mailer thereby denying voters information regarding the source of the mailers they receive.

In mitigation, Respondents do not have a history of violating the Act and cooperated with the Commission in reaching a swift settlement of the case.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, including Respondents’ history of compliance, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of \$1,500 for Count 1 is recommended.