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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA  
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12 In the Matter of ) FPPC No. 08/390  
13 )  
14 ) STIPULATION, DECISION and  
DAVIS DEMOCRATIC CLUB AND ) ORDER  
ELIZABETH R. WEIR, )  
15 )  
16 Respondents. )  
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18 Complainant Fair Political Practices Commission, and Respondents Davis Democratic Club and  
19 Elizabeth R. Weir agree that this Stipulation will be submitted for consideration by the Fair Political  
20 Practices Commission at its next regularly scheduled 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, pursuant to Section 83116 of the Government Code.

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

1 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge  
2 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

3 It is further stipulated and agreed that Respondents Davis Democratic Club and Elizabeth R.  
4 Weir violated the Political Reform Act by failing to file a first preelection campaign statement for the  
5 reporting period July 1, 2008, through September 30, 2008 by the October 6, 2008, due date, and a  
6 second preelection campaign statement for the reporting period October 1, 2008 through October 18,  
7 2008, by the October 23, 2008 due date, in violation of Sections 84200.5, subdivision (d), and 84200.7  
8 of the Government Code (1 count); understating and overstating the balance of cash on semiannual  
9 campaign statements, in violation of Section 84211, subdivision (e), of the Government Code (1 count);  
10 failing to disclose information regarding contributions received and expenditures made of \$100 or more  
11 on semiannual campaign statements, in violation of Section 84211, subdivisions (a), (b), (f), and (k) (1  
12 count); and failing to maintain proper records to support the campaign statements filed, in violation of  
13 Section 84104 of the Government Code (1 count). All counts are described in Exhibit 1, which is  
14 attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and  
15 accurate summary of the facts in this matter.

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

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

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

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

\_\_\_\_\_  
Elizabeth R. Weir, Respondent,  
Individually and on behalf of  
Davis Democratic Club

1 **DECISION AND ORDER**

2           The foregoing Stipulation of the parties “In the Matter of Davis Democratic Club and Elizabeth  
3 R. Weir,” FPPC No. 08/390, 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 Chairman.

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6           IT IS SO ORDERED.

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

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Ann Ravel, Chair  
Fair Political Practices Commission

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## EXHIBIT 1

### INTRODUCTION

Respondent Davis Democratic Club (“Respondent Committee”) is a county general purpose committee. At all time relevant, Respondent Elizabeth R. Weir (“Respondent Weir”) served as treasurer of Respondent Committee.

As a general purpose committee under the Political Reform Act<sup>1</sup> (the “Act”), Respondents have a duty to timely file campaign statements, disclose accurately the cash held by the committee, disclose particular information regarding contributions and expenditures, and retain committee records. However, Respondents violated the Act’s requirements for (1) filing of preelection campaign statements, (2) reporting of cash balances, (3) reporting of contributions and expenditures of \$100 or more, and (4) retention of detailed accounts, records and documents for all contributions received and expenditures made related to the campaign.

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

COUNT 1: Respondents Davis Democratic Club and Elizabeth R. Weir failed to file a first preelection campaign statement for the reporting period July 1, 2008, through September 30, 2008 by the October 6, 2008, due date, and a second preelection campaign statement for the reporting period October 1, 2008 through October 18, 2008, by the October 23, 2008 due date, in violation of Sections 84200.5, subdivision (d), and 84200.7 of the Government Code.

COUNT 2: Respondents Davis Democratic Club and Elizabeth R. Weir understated or overstated the balance of cash on the semiannual reporting periods for calendar years 2007, 2008, and 2009, and on the semiannual campaign statement for the reporting period ending June 30, 2010, by up to approximately \$11,449 (understated) and \$9,495 (overstated), in violation of Section 84211, subdivision (e), of the Government Code.

COUNT 3: Respondents Davis Democratic Club and Elizabeth R. Weir failed to disclose information regarding contributions received and expenditures made of \$100 or more on the semiannual reporting periods for calendar years 2007, 2008, 2009, and 2010, in violation of Section 84211, subdivisions (a), (b), (f), and (k).

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<sup>1</sup>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. The law referenced in this Exhibit is the Act as it was in effect in 2008.

COUNT 4: Respondents Davis Democratic Club and Elizabeth R. Weir failed to maintain supporting records for the reporting periods for calendar years 2007, 2008, 2009, and 2010, in violation of Section 84104 of the Government Code.

### **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 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.

#### **Duty to File Campaign Statements**

Section 82013, subdivision (a), defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly known as a “recipient committee.” Under the Act’s campaign reporting system, county general purpose committees are required to file specified campaign statements and reports disclosing contributions received and expenditures made by certain deadlines with file an original and one copy with the elections official of the county. (Section 84215, subd. (d).) A “contribution” is a payment made for political purposes. (Section 82015.)

#### **Duty to File Preelection Campaign Statements**

In addition to the semiannual campaign statements, Section 84200.5, subdivision (d), requires county general purpose committees to file preelection campaign statements (in accordance with the timelines in Section 84200.7) “if it makes contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the preelection statement.”

For elections held in June or November of an even number year, Section 84200.7 specifies the time for filing the preelection statements. For a November election in an even-numbered year, the two preelection reporting periods are: (1) For the period ending September 30, a statement to be filed no later than October 5; and (2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. Therefore, the filing deadlines for the November 4, 2008 election were as follows: for the first preelection campaign statement for the period July 1, 2008 – September 30, 2008 was due October 6, 2008;<sup>2</sup> and for the second preelection campaign statement the due date was October 23, 2008, for the period October 1, 2008 through October 18, 2008.

#### **Duty to Report The Balance of Cash**

The campaign statement must contain “[t]he balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.” (Section

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<sup>2</sup> Because the October 5 deadline falls on Sunday, this filing deadline is extended to October 6, 2008.

84211, subd. (e).) The cash balance at the beginning and ending of the reporting period is reported as the “Beginning Cash Balance” and the “Ending Cash Balance” on the “Summary Page,” which provides an overview of a committee’s finances. For the purposes of computing the Beginning and the Ending Cash Balance, a committee must accurately report cash receipts (i.e., monetary contributions) and cash payments on the Summary Page.

### **Duty to Disclose Contributions on Campaign Statements**

Section 82015 defines a contribution as a payment made for political purposes. Section 84211, subdivision (a), requires committees to disclose the total amount of contributions received during the period covered by the campaign statement. Additionally, Section 84211, subdivision (f), requires a committee to disclose on each of its campaign statements the following information about a person if the cumulative amount of contributions received from that person is \$100 or more during the reporting period covered by the campaign statement: (1) the contributor’s full name; (2) the contributor’s street address; (3) the contributor’s occupation; (4) the name of the contributor’s employer, or if self-employed, the name of the contributor’s business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor. “Cumulative amount” means the amount of contributions received in the calendar year. (Section 82018, subd. (a).)

A “contribution” includes any payment made for political purposes for which full and adequate consideration is not made to the donor. (Section 82015; regulation 18215.) A contribution can be monetary or non-monetary. All contributions received by a person acting as an agent of a committee are required to be reported to and disclosed by the committee’s treasurer no later than the closing date of the next campaign statement the committee is required to file. (Regulation 18421.1, subd. (c).)

A monetary contribution is “received” on the date the committee, or the agent of the committee, obtains possession or control of the check or other negotiable instrument by which the contribution is made. (Regulation 18421.1, subd. (c).) A non-monetary contribution is “made” by the contributor, and “received” by the committee, on the earlier of the following dates: (1) the date the funds are expended by the contributor for goods or services, if the specific expenditure is made at the behest of the committee; or (2) the date the committee or its agent obtains possession or control of the goods or services, or the date the committee otherwise receives the benefit of the expenditure. (Regulation 18421.1, subd. (f).)

### **Duty to Disclose Expenditures on Campaign Statements**

Section 82025 defines “expenditure” as a payment, forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure can be either a monetary or nonmonetary payment made for political purposes. (Section 82025, subd. (a) and Regulation 18225, subd. (a).) Section 84211, subdivision (b), requires committees to disclose the total amount of expenditures made during the period covered by the campaign statement. Additionally, Section 84211, subdivisions (i) and (k), require a committee to disclose

on each of its campaign statements the total amount of expenditures made during the reporting period to persons who have received \$100 or more as well as: (1) the recipient's full name; (2) the recipient's street address; (3) the amount of each expenditure; (4) the description of the consideration for which each expenditure was made. "Expenditure" includes any individual payment or accrued expense (i.e., an unpaid bill). (Sections 82025, 84211, subd. (k)(6).) Further, an expenditure is "made" on the date the payment is made or on the date consideration, if any, is received, whichever is earlier. (Section 82025.) "Cumulative amount" means the amount of expenditures made in the calendar year. (Section 82018, subd. (a).)

### **Duty to Maintain Campaign 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 necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to comply with the campaign 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. Under Regulation 18401, subdivisions (a)(1) through (a)(5), this duty includes maintaining original source documentation and specific information for all contributions received and expenditures made.

For all campaign expenditures of \$25 or more, Regulation 18401, subdivision (a)(4), requires treasurers to maintain records containing the date the expenditure was made, the amount of the expenditure, the full name and street address of the payee, and a description of the goods or services for which each expenditure was made. Original source documentation consists of cancelled checks, wire transfers, credit card charge slips, bills, receipts, invoices, statements, vouchers, and any other documents reflecting obligations incurred by the candidate, elected officer, campaign treasurer, or committee, and disbursements made from the campaign bank account.

For all contributions received of \$25 or more, Regulation 18401, subdivision (a)(2), requires candidates and their controlled committees to maintain accounts and records containing the date of each contribution, the amount, the full name and address of the contributor, the cumulative amount from the contributor and whether the contribution was monetary or nonmonetary. The regulation also requires original source documents be retained, which include copies of contributor checks, deposit slips, contributor cards, and any other documents reflecting all items deposited.

The above-listed records must be maintained for a period of four years following the date the campaign statement to which they relate is filed. (Regulation 18401, subd. (b).)

### **Liability of Committee Treasurers**

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. Under Sections 83116.5 and 91006, a



committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

## **SUMMARY OF THE FACTS**

Respondent Committee is a county general purpose committee. At all time relevant, Respondent Weir served as treasurer of Respondent Committee. As a general purpose committee under the Act, Respondents have a duty to timely file campaign statements, disclose accurately the balance of cash held by the committee, disclose particular information regarding contributions and expenditures, and retain committee records. However, Respondents failed to fulfill these duties.

### COUNT 1

#### **Failure to Timely File Preelection Campaign Statements**

In addition to the semi-annual campaign statements, Section 84200.5, subdivision (d), requires county general purpose committees to file preelection campaign statements "if it makes contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the preelection statement." Bank records show that on September 6, 2008, Respondents made a contribution to Lois Wolk for California State Senate committee in the amount of \$3,600. Respondents were required to report this contribution on the first preelection campaign statement for the period July 1, 2008 – September 30, 2008, which was due October 6, 2008.<sup>3</sup> Records from the Yolo County Clerk's office revealed that Respondents did not file this statement with the Yolo County Clerk's office.

In addition, bank records show that on October 13, 2008, during the second preelection reporting period, Respondents made a contribution to Mariko Yamada for Assembly committee in the amount of \$3,600. Respondents were required to report this contribution on the second preelection campaign statement for the period October 1, 2008 through October 18, 2008, which was due October 23, 2008. Records from the Yolo County Clerk's office revealed that Respondents did not file this statement with the Yolo County Clerk's office.

By failing to file a first and second preelection campaign statement by the filing due date, Respondents violated Sections 84200.5, subdivision (d), and 84200.7 of the Government Code.

### COUNT 2

#### **Failure to Disclose Balance of Cash**

Respondents had a duty to disclose the balance of cash on hand at the beginning and end of the period covered by the campaign statement. (Section 84211, subd. (e).) However, Respondents failed to accurately disclose the balance of cash. Respondents understated or overstated the balance of cash on the semiannual campaign statement filed for the reporting periods for calendar years 2007, 2008, and 2009, and on the semiannual campaign statement for

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<sup>3</sup> Because the October 5 deadline falls on Sunday, this filing deadline is extended to October 6, 2008.

the reporting period ending June 30, 2010, by up to approximately \$11,449 (understated) and \$9,495 (overstated). The chart below shows each reporting period, the amount reported as the beginning cash balance, the amount reported as the ending cash balance, and the approximate amounts that should have been reported according to the bank records.

<b>Reporting Period</b>	<b>Reported Beginning Cash Balance</b>	<b>Accurate Beginning Cash Balance</b>	<b>Reported Ending Cash Balance</b>	<b>Accurate Ending Cash Balance</b>
<b>1/1/07 – 6/30/07</b>	\$4,983.42	\$1,489.27	\$10,874.91	\$7,954.20
<b>7/1/07 – 12/31/07</b>	\$10,874.91	\$7,954.20	\$12,053.89	\$2,559.13
<b>1/1/08 – 6/30/08</b>	\$12,053.89	\$2,559.13	\$12,053.89	\$7,421.24
<b>7/1/08 – 9/30/08</b>	NOT FILED (Count 1)	\$7,421.24	NOT FILED (Count 1)	\$26,437.90
<b>10/1/08 – 10/18/08</b>	NOT FILED (Count 1)	\$26,437.90	NOT FILED (Count 1)	\$23,502.40
<b>10/19/08 – 12/31/08</b>	\$12,053.83	\$23,502.40	\$11,416.58	\$12,768.76
<b>1/1/09 – 6/30/09</b>	\$12,053.89	\$12,768.76	\$12,053.89	\$20,586.05
<b>7/1/09 – 12/31/09</b>	\$12,053.89	\$20,586.05	\$13,844.07	\$19,860.31
<b>1/1/10 – 6/30/10</b>	\$13,844.07	\$19,860.31	\$18,902.99	\$14,063.85

By failing to accurately disclose the balance of cash on hand, Respondents violated Section 84211, subdivision (e) of the Government Code.

COUNT 3

**Failure to Disclose Required Information Regarding Contributions Received and Expenditures Made**

Respondents had a duty to itemize and disclose specific information regarding contributions received of \$100 or more. However, according to Respondents' campaign statements and the bank records, Respondents failed to disclose monetary contributions received on the semiannual campaign statements for the reporting periods for calendar years 2007, 2008, and 2009, and on the semiannual campaign statement for the reporting period ending June 30, 2010. In addition, when comparing the bank records to Respondents' campaign statements, Respondents reported receiving contributions when there is no evidence of such contributions ever having been deposited into the campaign bank account.

Respondents also had a duty to itemize and disclose information regarding expenditures made of \$100 or more. However, according to Respondents' campaign statements and the bank records, Respondents failed to disclose *any* expenditures made on the semiannual campaign statements for the reporting period for calendar years 2007, 2008, and 2009. Respondents reported incorrect totals on the Summary Page, and did not disclose any required expenditure information. In fact, Respondents never included an expenditure page (Schedule E, Payments Made) with any of the campaign statements filed.

The information regarding the contributions received of \$100 or more that were not reported, the contributions reported of \$100 or more that were never received, and the expenditures made of \$100 or more that were not disclosed are listed on the chart below by reporting period for 2010 (first half) and by calendar year for 2007, 2008, and 2009.

<b>Reporting Period/ Calendar Year</b>	<b>Contributions Rec'd: Not Disclosed (≥ \$100)</b>	<b>Total Amount</b>	<b>Contributions Rptd: No Evidence to Support</b>	<b>Total Amount</b>	<b>Expenditures Made: Not Reported</b>	<b>Total Amount</b>
1/1/07 – 12/31/07	10 contributions	\$3,770	6 contributions	\$600	14 expenditures	\$15,299
1/1/08 – 12/31/08	21 contributions	\$14,870	3 contributions	\$300	39 expenditures	\$40,886
1/1/09 – 12/31/09	9 contributions	\$1,225	15 contributions	\$1,600	40 expenditures	\$7,529
1/1/10 – 6/30/10 <sup>4</sup>	2 contributions	\$300	n/a	n/a	4 expenditures	\$571
<b>CONTRIBUTIONS TOTAL: \$20,165</b>				<b>EXPENDITURES TOTAL: \$64,285</b>		

By failing to disclose the information regarding contributions of \$100 or more and failing to disclose the information regarding expenditures of \$100 or more, Respondents violated Section 84211, subdivisions (a), (b), (f) and (k) of the Government Code.

COUNT 4  
**Failure to Maintain Campaign Records**

Pursuant to Section 84104 and Regulation 18401, subdivision (a), Respondents had a duty to maintain detailed accounts and records for all contributions received and expenditures made. Additionally, Respondents had a duty to maintain original source documentation for each expenditure and contribution of \$25 or more. Respondents failed to maintain these required records for contributions received and expenditures made to support the campaign statements for all reporting periods for calendar years 2007, 2008, 2009, and 2010, in violation of Section 84104 of the Government Code.

<sup>4</sup> In addition, although not charged separately, during the second half of 2010, Respondents made a \$10,000 contribution to the Yolo County Democratic Central Committee and failed to report it. The Yolo County Democratic Central Committee timely reported the contribution received.

Respondents did not maintain records to support contributions received and expenditures made. According to the bank records, Respondents made deposits totaling \$104,671 and withdrawals totaling \$92,097. Records were not maintained regarding the majority of these contributions and expenditures. In addition, no records were maintained regarding mailers, advertisements, t-shirts and lawn signs purchased.

By failing to maintain required campaign records, Respondents violated Section 84104 of the Government Code.

## CONCLUSION

This matter consists of four counts of violating the Act, which carry a maximum administrative penalty of five thousand dollars (\$5,000) per count.

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

Preelection Campaign Statements: The typical administrative penalty for failing to timely file a preelection campaign statement has been in the middle of the penalty range, depending on the circumstances.

Bank records show that besides the two contributions made directly to state candidates for \$7,200, over \$15,000 in other expenses occurred during these two reporting periods, immediately before the November 2008 election. Respondent Committee is a long-standing, established committee that has been in existence since 1975; as such Respondents should have known or been familiar with the requirements of the Act. Respondents do not have a history of violations of the Act. The state candidates receiving the contributions from Respondent Committee timely filed the appropriate late contribution reports, lessening the public harm. In addition, this is a volunteer organization who asserts that they unintentionally violated the Act and they had no intention to conceal the information but instead were unaware of the required preelection campaign statements.

Other similar cases approved recently by the Commission regarding the late filing or non-filing of pre-election campaign statements include a \$2,500 penalty per count for similar campaign statements missed (See *In the Matter of Yolo County Democratic Central Committee Local Account, Bob Bockwinkel and William Julian II*, FPPC No. 08/357, approved January 28, 2011, and *In the Matter of Arturo Chacon and Art Chacon for Water Board 2010*, FPPC No. 08/652, approved February 10, 2011). Both of these previous cases also dealt with multiple other reporting violations, and the *Yolo County* case also combined two pre-election campaign statements per count. However, in this case, the activity which triggered the statements was

limited to only one contribution per reporting period. After taking the specific facts of this case into consideration, a fine amount of \$2,000 per violation is appropriate and recommended for this negligent behavior of not filing pre-election campaign statements.

Balance of Cash: These violations have been infrequently addressed in enforcement matters as stand-alone issues. Although there are no recent comparative cases approved by the Commission, when inaccurate cash balances have been addressed, the stipulated administrative penalty has been in the low-to-middle range of the available penalties (See *In the Matter of Carole Migden, Re-Elect Senator Carole Migden, Roger Sanders, and Eric Potashner, FPPC No. 07/441*, a case with seven counts of inaccurate cash balances in a total of 89 separate violations with a fine of \$2,000 per count, approved March 20, 2008.) In this matter, the failure to accurately disclose cash balances was repetitious and grossly inaccurate for many years. For example, the same total was reported as the accurate amount six different times even though significant activity had occurred and the cash balances were off by as much as \$11,449. Consequently, Respondents repeatedly deprived the public of information regarding the accurate cash on hand. Since this count encompasses many years of activity, a penalty of \$2,500 for this violation is recommended.

Required Information Regarding Contributions Received and Expenditures Made: The public harm inherent in campaign reporting violations is that the public is deprived of important information such as the contributors to the committee, the information for expenses made by the campaign, the identities of the recipients of such expenditures and the reasons for such expenditures. Two stipulations adopted recently by the Commission have addressed failure to disclose required expenditure information and have each assessed a \$2,500 fine. (See *In the Matter of Michael Ramos, Committee to Re Elect Mike Ramos San Bernardino County District Attorney – 2010*, FPPC No. 10/269, approved January 28, 2011, and *In the Matter of Stuart Waldman, Friends of Stuart Waldman, and Kindee Durkee*, FPPC No. 10/643, approved September 22, 2011.) Each case included only expenditure information in each count, whereas in the case at hand, we propose charging Respondents for both contributions received as well as expenditures made and not reported for all the reporting periods. We propose doing this, and comparing the proper penalty to cases addressing expenditures made rather than contributions received, since not a single expenditure was reported from 2007 until 2010, when an incomplete listing was attached to the statement filed for the first half of 2010 in response to multiple requests made by the Enforcement Division, and the contributions amounts not reported were significantly smaller than the amount of expenditures unreported. In the *Ramos* case, the amount not reported was small (\$8,619) and was a small percentage of the total expenditures for that reporting period (7.9%), but the expenditures were identified in bulk as not needing to be itemized, which was misleading and inaccurate. In the *Waldman* case, the amount was much larger (\$76,000) and spread out over a year and a half, but partial disclosure was provided since the expenditures were misreported as non-monetary contributions from the candidate.

In this case, the lack of itemizing expenditures and contributions encompassed several years, exhibiting a pattern of non-disclosure and causing there to be no check and balance to the campaign statements. The public had no means to learn how the over \$65,000 in expenditures were spent. Respondents, and the Board of Directors of Respondent Committee, have expressed an interest in correcting these errors in the future and have amended the three most recent

campaign statements to become in compliance with the rules of the Act. In addition, Respondents have emphasized that they will be hiring a professional bookkeeper and treasurer to keep in compliance. Therefore, for these reasons, a penalty is proposed of \$3,500 for this count, which is slightly higher than the cases cited reflecting only expenditures made and reported inaccurately but takes into consideration that the multiple years are being charged together in this count.

Maintaining Campaign Records: The administrative penalty for cases with similar facts regarding the failure to maintain campaign records has been in the lower end of the penalty range. The Commission recently approved a \$2,000 per count fine *In the Matter of Arturo Chacon and Art Chacon for Water Board 2010*, FPPC No. 08/652, approved February 10, 2011, for missing records, which made it difficult to ascertain the true source of funds and what specific goods and services were provided in exchange for payments. In addition, *In the Matter of Jennifer Rodriguez, et al.*, FPPC No. 05/158, approved June 10, 2010, no documentation was provided to support any campaign activity for two years despite numerous attempts by the Enforcement Division staff. The Commission approved a \$1,500 fine per count in that case.

In this case, the recordkeeping problems span four years and provide almost no information regarding contributions received and expenditures made. However, summary disclosure was provided and the activity was limited to infrequent expenditures over the years. In addition, the Board of Directors for Respondent Committee provided what records they could obtain when asked by the Enforcement Division. Therefore, for these reasons, a penalty is proposed of \$1,500 for this count.

Accordingly, the facts of this case justify imposition of a total proposed administrative penalty of \$9,500.