



## **FAIR POLITICAL PRACTICES COMMISSION**

428 J Street, Suite 620, Sacramento, CA 95814  
(916) 322-5660 / Fax (916) 322-0886

**To:** Chair Ravel; Commissioners Eskovitz, Garrett, Montgomery and Rotunda

**From:** Gary S. Winuk, Chief of Enforcement  
Neal P. Bucknell, Senior Commission Counsel

**Subject:** In the Matter of Neiland Kenneth Derry and Neil Derry for Supervisor  
Fair Political Practices Commission Case No. 11/736

**Date:** December 20, 2011

---

This matter is submitted for informational purposes only. No action is required by the Commission.

Neiland Kenneth Derry was a successful candidate for the San Bernardino County Board of Supervisors in the election held on June 3, 2008. Neil Derry for Supervisor was his candidate controlled committee.

On July 19, 2011, as part of a joint effort by the California Attorney General's office and the Enforcement Division of the Fair Political Practices Commission ("FPPC"), Mr. Derry pled guilty to the following count in a criminal complaint filed by the California Attorney General's office:

### **Failure to Report Contribution**

On or about July 31, 2007, in the County of San Bernardino, State of California, NEILAND KENNETH DERRY did knowingly

and willfully fail to include in his Recipient Committee Campaign Statement, Fair Political Practices Commission Form 460, the full name and street address, occupation, name of employer, or principal place of business of a contributor or intermediary, to wit: Arnold Stubblefield-Highland Town Shops, in violation of Government Code section 84302, a Misdemeanor.

A copy of the criminal complaint is attached hereto as Exhibit A. Also, a copy of the minute order that pertains to Mr. Derry's plea bargain and sentence is attached hereto as Exhibit B.

The above-described violation involved a contribution in the amount of \$10,000 from the Inland Empire Political Action Committee ("IEPAC"). Mr. Derry and his committee accepted the contribution, and on a semi-annual campaign statement for the period ending June 30, 2007, they reported that the source of the entire contribution was the IEPAC. However, this was a misrepresentation. Mr. Derry knew that Arnold Stubblefield/Highland Town Shops was the true source of one-half of the contribution, but Mr. Derry knowingly and willfully failed to disclose this on his campaign statement. This was a violation of Government Code section 84302, which provides that the recipient of a contribution must report—on the applicable campaign statement—the full name and street address, occupation, and the name of the employer, if any, or the principal place of business if self-employed, of both the contributor and any intermediary.

After pleading guilty to a violation of Government Code section 84302, Mr. Derry was sentenced by the Honorable Michael M. Dest, Judge of the San Bernardino County Superior Court. Mr. Derry's sentence included a \$10,000 fine, and Judge Dest ordered Respondent Derry to pay \$5,820 of the total fine to the FPPC. Government Code section 91000, subdivision (b), provides that such a criminal penalty is "[i]n addition to other penalties provided by law," which means that, technically, administrative prosecution by the Enforcement Division of the FPPC is not barred.

However, per agreement with the Attorney General's office and Respondent, the Enforcement Division is closing its file on this matter for the two reasons set forth below.

First, Mr. Derry has complied with Judge Dest's order that he pay a fine to the FPPC in the amount of \$5,820.

Second, based upon Mr. Derry's campaign statements, committee records, and the collateral estoppel effect of Mr. Derry's guilty plea, it is clear that the Stubblefield contribution in the amount of \$5,000 was made in the name of the IEPAC in violation of Government Code section 84301, which provides that no contribution may be made in the name of another. This is relevant because Government Code section 85701 provides that any candidate or committee that receives a contribution in violation of Government Code section 84301 must disgorge the unlawful contribution to the General Fund of the State of California. In this case, Mr. Derry has cooperated

with the Enforcement Division by making a disgorgement payment of \$5,000 to the FPPC (which is the amount of the Stubblefield contribution) in addition to paying the criminal penalty described above. The disgorgement payment will be turned over to the General Fund of the State of California in connection with the complete resolution of this matter.

\* \* \* \* \*