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

12 In the Matter of) FPPC No. 12/214
13)
14) STIPULATION, DECISION and
HUMAN RIGHTS CAMPAIGN) ORDER
15 CALIFORNIA MARRIAGE PAC – NO ON)
PROP 8 AND JAMES RINEFIERD,)
16)
Respondents.)
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18 Complainant the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Human Rights Campaign California Marriage PAC – No On Prop 8 and James Rinefierd
20 agree that this Stipulation will be submitted for consideration by the Fair Political Practices Commission
21 at its next regularly scheduled meeting.
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23 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
24 matter and to reach a final disposition without the necessity of holding an administrative hearing to
25 determine the liability of Respondents, pursuant to Section 83116 of the Government Code.

26 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
27 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
28 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
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. It is further
4 stipulated and agreed that Respondents Human Rights Campaign California Marriage PAC – No On
5 Prop 8 and James Rinefierd violated the Political Reform Act by failing to timely disclose information
6 regarding contributions received, including those of \$100 or more, on three campaign statements for the
7 reporting periods January 1, 2008 through June 30, 2008, July 1, 2008 through September 30, 2008, and
8 October 1, 2008 through October 18, 2008, in violation of Section 84211, subdivisions (a), (c), (d), and
9 (f) (3 counts). All counts are described in Exhibit 1, which is attached hereto and incorporated by
10 reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this
11 matter.

12 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
13 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount
14 of Six Thousand Dollars (\$6,000). A cashier's check from Respondents in said amount, made payable
15 to the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
16 administrative penalty, to be held by the State of California until the Commission issues its decision and
17 order regarding this matter. The parties agree that in the event the Commission refuses to accept this
18 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
19 meeting at which the Stipulation is rejected, all payments tendered by Respondents in connection with
20 this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and agree that in the
21 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
22 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
23 disqualified because of prior consideration of this Stipulation.

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Dated: _____

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

Dated: _____

James Rinefierd, Respondent,
Individually and on behalf of
Human Rights Campaign California
Marriage PAC – No On Prop 8

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Human Rights Campaign California
3 Marriage PAC – No On Prop 8 and James Rinefierd,” FPPC No. 12/214, including all attached exhibits,
4 is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective
5 upon execution below by the Chairman.

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7 IT IS SO ORDERED.

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9 Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Human Rights Campaign California Marriage PAC – No On Prop 8 Committee (“Respondent Committee”) was, at all times relevant herein, a state primarily formed committee. At all times relevant, Respondent James Rinefierd (“Respondent Rinefierd”) served as treasurer of Respondent Committee. Respondent Committee was sponsored by the Human Rights Campaign, a national advocacy organization established under Section 501(c)(4) of the Internal Revenue Code. This case arose from the Franchise Tax Board (“FTB”) audit of Respondent Committee for the period January 1, 2008 through December 31, 2008. During the period covered by the audit, Respondent Committee reported receiving contributions of approximately \$3,628,462 and making expenditures of approximately \$3,631,262.

As a primarily formed committee under the Political Reform Act¹ (the “Act”), Respondents had a duty to disclose accurately the contributions received by the committee as well as particular information regarding these contributions. However, Respondents violated the Act’s requirements for reporting of contributions.

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

COUNT 1: Respondents Human Rights Campaign California Marriage PAC – No On Prop 8 Committee and James Rinefierd failed to timely disclose information regarding contributions received, including those of \$100 or more, on a semi-annual campaign statement for the reporting period January 1, 2008 through June 30, 2008, by the July 31, 2008 due date, in violation of Section 84211, subdivisions (a), (c), (d), and (f).

COUNT 2: Respondents Human Rights Campaign California Marriage PAC – No On Prop 8 Committee and James Rinefierd failed to timely disclose information regarding contributions received, including those of \$100 or more, on a pre-election campaign statement for the reporting period July 1, 2008 through September 30, 2008, by the October 6, 2008 due date, in violation of Section 84211, subdivisions (a), (c), (d), and (f).

COUNT 3: Respondents Human Rights Campaign California Marriage PAC – No On Prop 8 Committee and James Rinefierd failed to timely disclose information regarding contributions received, including those of \$100 or more, on a pre-election campaign statement for the reporting period October 1, 2008 through October 18, 2008, by the October 23, 2008 due date, in violation of Section 84211, subdivisions (a), (c), (d), and (f).

¹The 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.

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.” Section 82047.5 defines a “primarily formed committee” to include “a committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose... [a] single measure....” Under the Act’s campaign reporting system, state primarily formed ballot measure committees are required to file specified campaign statements and reports disclosing contributions received and expenditures made by certain deadlines with the Secretary of State’s office (“SOS”). (See Sections 84200 – 84209.)

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. Subdivision (c) of Section 84211 requires that the total amount of contributions of \$100 or more received must be disclosed and subdivision (d) requires that the total amount of contributions totaling less than \$100 also be disclosed. 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 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).)

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 was a state primarily formed committee formed to oppose Proposition 8 in the November 4, 2008 General Election. At all times relevant, Respondent Rinefierd served as treasurer of Respondent Committee, which was sponsored by the Human Rights Campaign.

COUNTS 1 - 3

Failure to Timely Disclose Required Information For Contributions Received

Respondents had a duty to timely report the total amount of contributions received each period. These totals are required to include the total amount of contributions received, the total amount of contributions received of \$100 or more, and the total amount of contributions received of less than \$100. In addition, 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 timely disclose some monetary contributions received on three campaign statements for the reporting periods ending June 30, 2008, September 30, 2008, and October 18, 2008. In addition, Respondents erroneously reported some contributions which were not received. Respondents filed amendments after the election to remove these contributions from the campaign statements and to add the missing contribution information.

The information for the contributions received of \$100 or more that were not disclosed, the contributions reported of \$100 or more that were reported in error, and the amount of contributions received of less than \$100 that were not reported are listed below by reporting period.

Reporting Period	Contributions Rec'd: Not Disclosed (≥ \$100)	Total Amount	Contributions Rptd But Not Received	Total Amount	Contributions Rec'd: Not Reported (< \$100)	Amount Cash Balance Under reported
1/1/08 – 6/30/08	46 contributions	\$12,350	6 contributions	\$3,800	\$5,739	\$14,289
7/1/08 – 9/30/08	249 contributions	\$63,936	23 contributions	\$8,257	\$27,697	\$83,376
10/1/08 – 10/18/08	33 contributions	\$46,250	7 contributions	\$31,560	\$8,225	\$22,915

By failing to timely disclose the total amount of contributions received, the total amount of contributions received of \$100 or more, the total amount of contributions received of less than

\$100, and the information regarding contributions of \$100 or more, Respondents violated Section 84211, subdivisions (a), (c), (d) and (f) of the Government Code.

CONCLUSION

This matter consists of three 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.

Required Information For Contributions Received: The public harm inherent in campaign reporting violations is that the public is deprived of important information such as the contributors to the committee and the correct cash balances. At the March 15, 2012 Commission meeting, the Commission approved a \$3,500 fine *In the Matter of Davis Democratic Club and Elizabeth R. Weir*, FPPC No. 08/390 for violations including contributions not reported, contributions incorrectly reported and expenditures not reported. This fine was higher than the typical, mid-range fine since it *combined* contributions and expenditures not reported into a single count. At the same meeting, the Commission approved a \$2,000 per count penalty for *In the Matter of Vasquez for Downey Council 2010 and Jane Leiderman*, FPPC No. 11/057 for failure to report contributions. The amounts not reported in that case were smaller than in the current case; however, Respondents in both cases had undertaken steps to cure reporting errors and amended their campaign statements prior to being contacted by the Commission, albeit after the election.

In this case, Respondents assert that the violations were inadvertent and that they had hired a professional compliance firm to prepare the reports in a good faith effort to comply with the applicable disclosure requirements. The evidence reviewed by the Commission suggests that the violations were unintentional. As stated above, following the election, Respondents conducted an internal review of the Committee's finances and, upon their own initiative, filed amendments to remove the incorrect contributions from the campaign statements and to add the missing contribution information. Even though the amounts and the number of contributions are significant, a higher penalty is not being sought because Respondents cooperated fully with the post-election audit and have no prior enforcement history. Based on the foregoing facts and mitigating circumstances, a fine of \$2,000 per count is recommended.

Accordingly, the facts of this case justify imposition of a total proposed administrative penalty of \$6,000.