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

10  
11 In the Matter of:

FPPC No. 11/441

12 REPUBLICAN CENTRAL COMMITTEE  
OF SAN LUIS OBISPO COUNTY,  
13 PATRICIA SMITH, ELIZABETH VAN  
NOTE, and DANIELLE DUBOFF,

STIPULATION, DECISION AND ORDER

14 Respondents.  
15

16 **STIPULATION**

17 Complainant, the Fair Political Practices Commission, and Respondents, Republican Central  
18 Committee of San Luis Obispo County, Patricia Smith, Elizabeth Van Note, and Danielle Duboff, agree  
19 that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its  
20 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 additional administrative  
23 hearing to determine the liability of Respondents.

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

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

3 It is further stipulated and agreed that Respondents committed seven violations of the Political  
4 Reform Act. These violations are described in Exhibit 1, which is a true and accurate summary of the  
5 facts in this matter. Exhibit 1 is attached hereto and incorporated by reference as though fully set forth  
6 herein.

7 Respondents agree to the issuance of the Decision and Order, which is attached hereto, and  
8 Respondents agree to the Commission imposing upon them an administrative penalty in the amount of  
9 \$14,000, of which Respondent Elizabeth Van Note is jointly and severally liable for \$2,000, Respondent  
10 Danielle Duboff is jointly and severally liable for \$10,000, Respondent Patricia Smith is jointly and  
11 severally liable for \$2,000, and Respondent Republican Central Committee of San Luis Obispo County is  
12 jointly and severally liable for the full amount. One or more cashier's checks or money orders totaling  
13 said amount—to be paid to the General Fund of the State of California—is/are submitted with this  
14 Stipulation as full payment of the administrative penalty described above, and same shall be held by the  
15 State of California until the Commission issues its Decision and Order regarding this matter. The parties  
16 agree that in the event the Commission refuses to accept this Stipulation, it shall become null and void,  
17 and within fifteen (15) business days after the Commission meeting at which the Stipulation is rejected,  
18 all payments tendered by Respondents in connection with this Stipulation shall be reimbursed.

19 Respondents further stipulate and agree that in the event the Commission rejects the Stipulation and a full

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1 evidentiary hearing before the Commission becomes necessary, neither any member of the Commission,  
2 nor the Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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

\_\_\_\_\_  
6 Gary S. Winuk, Chief of Enforcement  
Fair Political Practices Commission

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

\_\_\_\_\_  
9 Patricia Smith, Individually and on Behalf of  
10 Republican Central Committee of San Luis  
Obispo County, Respondents

11  
12 Dated: \_\_\_\_\_

\_\_\_\_\_  
13 Elizabeth Van Note, Respondent

14  
15 Dated: \_\_\_\_\_

\_\_\_\_\_  
16 Danielle Duboff, Respondent

17 **DECISION AND ORDER**

18 The foregoing Stipulation of the parties “In the Matter of Republican Central Committee of San  
19 Luis Obispo County, Patricia Smith, Elizabeth Van Note, and Danielle Duboff,” FPPC No. 11/441,  
20 including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political  
21 Practices Commission, effective upon execution below by the Chairman.

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23 IT IS SO ORDERED.

24  
25 Dated: \_\_\_\_\_

\_\_\_\_\_  
26 Ann Ravel, Chair  
Fair Political Practices Commission

## EXHIBIT 1

### INTRODUCTION

Respondent Republican Central Committee of San Luis Obispo County is a political party committee in that it is the Republican county central committee for San Luis Obispo County. (Hereafter, the committee is referred to as “RCCSLOC.”)

Respondent Patricia Smith currently serves as the committee treasurer. She was preceded by Respondents Elizabeth Van Note and Danielle Duboff (who served as treasurers of the committee at different points in time).

This case involves Respondents’ failure to file, and in some cases, late filing, of campaign statements and reports.

For purposes of this stipulation, Respondents’ violations of the Political Reform Act (the “Act”)<sup>1</sup> are set forth as follows:

- Count 1: Respondents RCCSLOC and Elizabeth Van Note failed to file a pre-election campaign statement by the deadline of December 31, 2009, for the reporting period ending December 26, 2009, in violation of Sections 84200.5, subdivision (f), and 84200.8, subdivision (c). (This filing was required because of the special run-off election for the California Assembly, District 72, which was held on January 12, 2010. During the reporting period, on December 1, 2009, Respondent RCCSLOC received a contribution in the amount of \$15,000 from Kevin McCarthy for Lieutenant Governor.)
- Count 2: On or about March 31, 2010, Respondent RCCSLOC received a contribution in the amount of \$7,900 from the California Republican Party, but Respondents RCCSLOC and Danielle Duboff failed to report the contribution by filing a late contribution report within 24 hours of receipt, in violation of Section 84203, subdivisions (a) and (b). (The filing was required because of the special election for the California Senate, District 37, and the California Assembly, District 43, which was held on April 13, 2010.)
- Count 3: On or about April 2, 2010, Respondent RCCSLOC received a contribution in the amount of \$20,000 from the Kevin McCarthy for Lieutenant Governor committee, but Respondents RCCSLOC and Danielle Duboff failed to report the contribution by filing a late contribution report within 24 hours of receipt,

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<sup>1</sup> The 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.

in violation of Section 84203, subdivisions (a) and (b). (The filing was required because of the special election for the California Senate, District 37, and the California Assembly, District 43, which was held on April 13, 2010.)

Count 4: On or about June 5, 2010, Respondent RCCSLOC made a contribution in the amount of \$20,876.79 to the Abel Maldonado for Lieutenant Governor 2010 committee, but Respondents RCCSLOC and Danielle Duboff failed to report the contribution by filing an online/electronic late contribution report within 24 hours, in violation of Sections 84203, subdivisions (a) and (b), and 84605, subdivision (b). (The filing was required because of the primary election, which was held on June 8, 2010. Ultimately, the online late contribution report was filed three days late—on June 9, 2010—which was the day after the election.)

Count 5: On or about June 6, 2010, Respondent RCCSLOC made a contribution in the amount of \$20,876.79 to the Abel Maldonado for Lieutenant Governor 2010 committee, but Respondents RCCSLOC and Danielle Duboff failed to report the contribution by filing an online/electronic late contribution report within 24 hours, in violation of Sections 84203, subdivisions (a) and (b), and 84605, subdivision (b). (The filing was required because of the primary election, which was held on June 8, 2010. Ultimately, the online late contribution report was filed two days late—on June 9, 2010—which was the day after the election.)

Count 6: On or about August 13, 2010, Respondent RCCSLOC received a contribution in the amount of \$4,740 from the California Republican Party, but Respondents RCCSLOC and Danielle Duboff failed to report the contribution by filing a late contribution report within 24 hours of receipt, in violation of Section 84203, subdivisions (a) and (b). (The filing was required because of the special run-off election for the California Senate, District 15, which was held on August 17, 2010.)

Count 7: On or about March 2, 2011, Respondent RCCSLOC received a contribution in the amount of \$8,051.61 from the Friends of Blakeslee 2008 committee, but Respondents RCCSLOC and Patricia Smith failed to report the contribution by filing a late contribution report within 24 hours of receipt, in violation of Section 84203, subdivisions (a) and (b). (The filing was required because of the special election for the California Assembly, District 4, which was held on March 8, 2011. Ultimately, the late contribution report was filed, but it was approximately 113 days late.)

## **SUMMARY OF THE LAW**

All statutory references and discussions of law pertain to the Act's provisions as they existed at the time of the violations in question.

## **Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act**

When the Political Reform Act was enacted, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities. (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

One of the purposes of the Act is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited. (Section 81002, subd. (a).) Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.” (Section 81002, subd. (f).)

### **Definition of Political Party Committee**

“Political party committee” means the state or county central committee of an organization that meets the requirements for recognition as a political party. (Section 85205. The exact requirements for being recognized as such are not at issue in this case since the Republican party clearly is a recognized political party.)

### **Required Filing of Campaign Statements and Reports**

At the core of the Act’s campaign reporting system is the requirement that committees, including political party committees, must file campaign statements and reports, including pre-election campaign statements and late contribution reports. Such statements and reports are required to include, among other things, information about the making and receipt of contributions. Generally speaking, pre-election campaign statements cover certain specified reporting periods leading up to an election, and the filing deadline for each reporting period is five days after the end of the period. On the other hand, a late contribution report is required to be filed within 24 hours of the making/receipt of a contribution of \$1,000 or more, but only if the contribution is made or received during the 16 days immediately preceding an election. (See Sections 84200, et seq.)

This case pertains to filings that were required because of various elections, including special and special run-off elections, in 2009, 2010, and 2011. For more information about the reporting periods and filing deadlines associated with these elections, please see the filing schedules attached hereto as Exhibits 2, 3 and 4.

When a political party committee files campaign statements and reports, including pre-election campaign statements and late contribution reports, the statements/reports must be filed—in paper format—with the Secretary of State (along with other filing officers). Also, generally speaking, with respect to a political party committee that cumulatively has received contributions or made expenditures totaling \$50,000 or more to support or oppose candidates for any elective state office or state measure, such committees are required to file online or

electronically with the Secretary of State in addition to filing in paper format. (See Sections 84200.5, 84203, 84215, and 84605.)

### **Joint and Several Liability of Committee and Treasurer**

Under Sections 81004, 84100, and Regulation 18427, it is the duty of a committee treasurer to ensure that the committee complies with the Act. A treasurer may be held jointly and severally liable, along with the committee, for violations committed by the committee. (See Sections 83116.5 and 91006.)

### **SUMMARY OF THE FACTS**

As stated above, Respondent RCCSLOC is a political party committee in that it is the Republican county central committee for San Luis Obispo County.

Respondent Patricia Smith currently serves as the committee treasurer, and she was the committee treasurer during the period of time encompassed by Count 1.

Respondent Danielle Duboff was the committee treasurer during the periods of time encompassed by Counts 2 through 6.

Respondent Patricia Smith was the committee treasurer during the period of time encompassed by Count 7.

### **Count 1**

Respondents RCCSLOC and Elizabeth Van Note failed to file a pre-election campaign statement by the deadline of December 31, 2009, for the reporting period ending December 26, 2009. This filing was required because of the special run-off election for the California Assembly, District 72, which was held on January 12, 2010. (See filing schedule attached hereto as Exhibit 2.)

During the reporting period, on December 1, 2009, Respondent RCCSLOC received a contribution in the amount of \$15,000 from the Kevin McCarthy for Lieutenant Governor committee. Receipt of the contribution was reported on a semi-annual campaign statement for the period ending December 31, 2009, but the semi-annual campaign statement was not filed until after the special run-off election of January 12, 2010. The contribution comprised approximately 93% of the total amount of all contributions that the committee reported receiving in 2009.

By failing to file the pre-election campaign statement as described above, Respondents RCCSLOC and Elizabeth Van Note violated Sections 84200.5, subdivision (f), and 84200.8, subdivision (c).

## **Count 2**

On or about March 31, 2010, Respondent RCCSLOC received a contribution in the amount of \$7,900 from the California Republican Party, but Respondents RCCSLOC and Danielle Duboff failed to report the contribution by filing a late contribution report within 24 hours of receipt. The filing was required because of the special election for the California Senate, District 37, and the California Assembly, District 43, which was held on April 13, 2010. (See filing schedule attached hereto as Exhibit 3.) The contribution comprised approximately 6.3% of the total amount of all contributions that the committee reported receiving in 2010.

By failing to file the late contribution report as described above, Respondents RCCSLOC and Danielle Duboff violated Section 84203, subdivisions (a) and (b).

## **Count 3**

On or about April 2, 2010, Respondent RCCSLOC received a contribution in the amount of \$20,000 from the Kevin McCarthy for Lieutenant Governor committee, but Respondents RCCSLOC and Danielle Duboff failed to report the contribution by filing a late contribution report within 24 hours of receipt. The filing was required because of the special election for the California Senate, District 37, and the California Assembly, District 43, which was held on April 13, 2010. (See filing schedule attached hereto as Exhibit 3.) The contribution comprised approximately 15.8% of the total amount of all contributions that the committee reported receiving in 2010.

By failing to file the late contribution report as described above, Respondents RCCSLOC and Danielle Duboff violated Section 84203, subdivisions (a) and (b).

## **Count 4**

On or about June 5, 2010, Respondent RCCSLOC made a contribution in the amount of \$20,876.79 to the Abel Maldonado for Lieutenant Governor 2010 committee, but Respondents RCCSLOC and Danielle Duboff failed to report the contribution by filing an online/electronic late contribution report within 24 hours. The filing was required because of the primary election, which was held on June 8, 2010. (See filing schedule attached hereto as Exhibit 3.)

Ultimately, the online late contribution report was filed three days late—on June 9, 2010—which was the day after the election. (Although the late contribution report was timely filed in paper format before the election, online/electronic filings are more significant than paper filings insofar as public access to information is concerned shortly before an election.) The contribution comprised approximately 15.5% of the total amount of all expenditures that the committee reported making in 2010.

By failing to timely file the online/electronic late contribution report as described above, Respondents RCCSLOC and Danielle Duboff violated Sections 84203, subdivisions (a) and (b), and 84605, subdivision (b).



### **Count 5**

On or about June 6, 2010, Respondent RCCSLOC made a contribution in the amount of \$20,876.79 to the Abel Maldonado for Lieutenant Governor 2010 committee, but Respondents RCCSLOC and Danielle Duboff failed to report the contribution by filing an online/electronic late contribution report within 24 hours. The filing was required because of the primary election, which was held on June 8, 2010. (See filing schedule attached hereto as Exhibit 3.)

Ultimately, the online late contribution report was filed two days late—on June 9, 2010—which was the day after the election. (Although the late contribution report was timely filed in paper format before the election, online/electronic filings are more significant than paper filings insofar as public access to information is concerned shortly before an election.) The contribution comprised approximately 15.5% of the total amount of all expenditures that the committee reported making in 2010.

By failing to timely file the online/electronic late contribution report as described above, Respondents RCCSLOC and Danielle Duboff violated Sections 84203, subdivisions (a) and (b), and 84605, subdivision (b).

### **Count 6**

On or about August 13, 2010, Respondent RCCSLOC received a contribution in the amount of \$4,740 from the California Republican Party, but Respondents RCCSLOC and Danielle Duboff failed to report the contribution by filing a late contribution report within 24 hours of receipt. The filing was required because of the special run-off election for the California Senate, District 15, which was held on August 17, 2010. (See filing schedule attached hereto as Exhibit 3.) The contribution comprised approximately 3.8% of the total amount of all contributions that the committee reported receiving in 2010.

By failing to file the late contribution report as described above, Respondents RCCSLOC and Danielle Duboff violated Section 84203, subdivisions (a) and (b).

### **Count 7**

On or about March 2, 2011, Respondent RCCSLOC received a contribution in the amount of \$8,051.61 from the Friends of Blakeslee 2008 committee, but Respondents RCCSLOC and Patricia Smith failed to report the contribution by filing a late contribution report within 24 hours of receipt. The filing was required because of the special election for the California Assembly, District 4, which was held on March 8, 2011. (See filing schedule attached hereto as Exhibit 4.)

Ultimately, the late contribution report was filed after the election, but it was approximately 113 days late. The contribution comprised approximately 1.3% of the total amount of all contributions that the committee reported receiving in 2011.

By failing to timely file the late contribution report as described above, Respondents RCCSLOC and Patricia Smith violated Section 84203, subdivisions (a) and (b).

## CONCLUSION

This matter consists of seven counts of violating the Act. The maximum penalty that may be imposed per count is \$5,000. Thus, the maximum penalty that may be imposed for all seven counts is \$35,000. (See Section 83116, subd. (c).)

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. Additionally, the Enforcement Division considers the facts and circumstances of the violation in the context of the following factors set forth in Regulation 18361.5, subdivision (d)(1) through (6):

- (1) The seriousness of the violation;
- (2) The presence or absence of any intention to conceal, deceive or mislead;
- (3) Whether the violation was deliberate, negligent or inadvertent;
- (4) Whether the violator demonstrated good faith by consulting the Commission staff or any other government agency in a manner not constituting a complete defense under Government Code section 83114(b);
- (5) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
- (6) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

The failure to file pre-election campaign statements and late contribution reports is a serious violation of the Act because it deprives the public of important information prior to an election.

Regarding Count 1, a fairly recent stipulation involving failure to file pre-election campaign statements imposed a penalty in the mid-range. (See *In the Matter of Davis Democratic Club and Elizabeth R. Weir*, FPPC No. 08/390, approved Mar. 15, 2012 [\$2,000 penalty imposed for failure to file pre-election campaign statements by county general purpose committee and its treasurer].)

In this case, imposition of an agreed upon penalty in the amount of \$2,000 for Count 1 also is justified. A higher penalty is not being sought because Respondents cooperated with the

Enforcement Division of the Fair Political Practices Commission by agreeing to an early settlement of this matter well in advance of the Probable Cause Conference that otherwise would have been held. Also, there is no history of prior violations of the Act by Respondents.

Regarding Counts 2 through 7, a fairly recent stipulation involving failure to file late contribution reports imposed a penalty in the mid-range. (See *In the Matter of Abel Maldonado, Abel Maldonado for Senate, Christopher J. Raymer, and Chris Steinbruner*, FPPC No. 10/70, approved Apr. 11, 2011 [\$2,000 penalty imposed per count for failure to file late contribution reports by candidate, committee and treasurers].)

In this case, imposition of an agreed upon penalty in the amount of \$2,000 per count for Counts 2 through 7 also is justified. A higher penalty is not being sought because Respondents cooperated with the Enforcement Division of the Fair Political Practices Commission by agreeing to an early settlement of this matter well in advance of the Probable Cause Conference that otherwise would have been held. Also, there is no history of prior violations of the Act by Respondents.

In summary, it is respectfully submitted that the facts of this case justify imposition of an agreed upon penalty as follows:

<b>Count(s)</b>	<b>Description</b>	<b>Named Respondents</b>	<b>Penalty</b>
<b>1</b>	Failure to File Pre-Election Campaign Statement	RCCSLOC Elizabeth Van Note	\$2,000
<b>2-6</b>	Failure to File Late Contribution Reports	RCCSLOC Danielle Duboff	\$2,000 per count
<b>7</b>	Failure to File Late Contribution Report	RCCSLOC Patricia Smith	\$2,000
<b>Total:</b>			<b>\$14,000</b>