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3 **FAIR POLITICAL PRACTICES COMMISSION**
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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. 10/1046
13)
LIMITED GOVERNMENT PAC AND)
14 CASEY EVANS) STIPULATION, DECISION and
15 Respondents.) ORDER
16)
17)

18 Complainant Gary S. Winuk, Enforcement Chief of the Fair Political Practices Commission, and
19 Respondents Limited Government PAC and Casey Evans agree that this Stipulation will be submitted
20 for consideration by the Fair Political 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 the Respondent, 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 Limited Government PAC and Casey Evans
4 violated the Political Reform Act by (1) failing to file an amended statement of organization within 10
5 days to disclose that Respondent Committee was a primarily formed committee, failed to add the title
6 and ballot number supported as its primary activity, and failed to include the name of a major donor in
7 the name of the Respondent Committee, in violation of Government Code sections 84102, subdivisions
8 (d) and (g), and 84103, subdivision (a) (1 count). This count is described in Exhibit 1, which is attached
9 hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate
10 summary of the facts in this matter.

11 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
12 Respondent also agrees to the Commission imposing upon them an administrative penalty in the amount
13 of Three Thousand Dollars (\$3,000). A cashier's check from Respondents in said amount, made
14 payable to the "General Fund of the State of California," is submitted with this Stipulation as full
15 payment of the administrative penalty, to be held by the State of California until the Commission issues
16 its decision and order regarding this matter. The parties agree that in the event the Commission refuses
17 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
18 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
19 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
20 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
21 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
22 shall be disqualified because of prior consideration of this Stipulation.

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24 Dated: _____

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

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27 Dated: _____

Respondent Casey Evans, Individually
and on behalf of Limited Government PAC, Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Limited Government PAC and Casey
3 Evans,” FPPC No. 10/1046, 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.

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6 IT IS SO ORDERED.

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8 Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent Limited Government PAC (“Respondent Committee”) formed as a city general purpose committee on or about September 24, 2007. At all relevant times, Respondent Casey Evans (“Respondent Evans”) was the treasurer of the Respondent Committee. Robert Kowell is the Committee’s principal officer.

The Political Reform Act (the “Act”) ¹ requires that whenever there is a change in any of the information contained in the statement of organization, an amendment shall be filed within 10 days to reflect the change. In addition, the Act requires that a mass mailing must include complete disclosure statements. In this matter, Respondents Committee and Evans failed to amend the statement of organization to disclose that the Respondent Committee was a primarily formed committee, which supported three City of Murrieta ballot measures; Measure C, Measure D, and Measure E, in the November 2, 2010 Election.

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

Count1: Respondent Limited Government PAC failed to file an amended statement of organization within 10 days to disclose that Respondent Committee was a primarily formed committee, failed to add the title and ballot number supported as its primary activity, and failed to include the name of a major donor in the name of the Respondent Committee, in violation of Government Code sections 84102, subdivisions (d) and (g), and 84103, subdivision (a).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that contributions and expenditures effecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose.

City General Purpose Committee

The Act defines a state general purpose committee, in relevant part, as a committee to support or oppose candidates or measures voted on in only one city. (Section 82027.5, subdivision (d).)

Primarily Formed Committee

Section 82047.5 defines a primarily formed committee, in relevant part, as a committee which is formed or exists primarily to support or oppose a single candidate, a single measure, a

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.

group of specific candidates being voted upon in the same city, county, or multicounty election, or two or more measures being voted upon in the same city, county, multicounty, or state election. Regulation 18247.5, subdivision (a), states that a recipient committee that makes more than 70% of its total contributions and expenditures on a single candidate or against that candidate's opponents, is a primarily formed committee.

Further, Regulation 18247.5, subdivision (c)(1), requires that a recipient committee formed pursuant to Section 82013(a) shall count contributions and expenditures made to support or oppose candidates or measures during: (A) the current two year period, beginning with January 1 of an odd-numbered year and ending with December 31 of the following even-numbered year, or (B) the immediately preceding 24 months, whichever period most accurately reflects the current and upcoming activities of the committee. A committee shall calculate the applicable percentage quarterly at the end of March, June, September and December.

Section 84102, subdivision (d), in relevant part, requires that the title and ballot number, if any, of any measure the committee supports or opposes as its primary activity must be included in the statement of organization.

Section 84102, subdivision (g), states that other information must be included in the statement of organization required by the rules or regulations of the Commission consistent with the purposes and provisions of this chapter. Regulation 18402, subdivision (c), requires that Whenever identification of a committee is required by law, the identification shall include the full name of the committee as required in the statement of organization.

Statement of Organization

Section 84103, subdivision (a), requires that whenever there is a change in any of the information contained in a statement of organization, an amendment shall be filed within 10 days to reflect the change.

Identification of Major Donor

Section 84504(a) requires any committee that supports or opposes one or more ballot measures to name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of fifty thousand dollars (\$50,000) or more in any reference to the committee required by law, including, but not limited, to its statement of organization.

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

The Respondent Committee filed a statement of organization stating that it had qualified as a committee on or about September 24, 2007. At all relevant times, Respondent Evans was the treasurer of the Respondent Committee. Campaign statements covering the time period from the date of qualification through the end of the 2010 calendar year state that approximately \$57, 000, or 94% of the Committee's total expenditures were related to Measures C, D, and E.

At no time prior to the November 2, 2010 Election did the total contributions or expenditures in support of Measures C, D, and E fall below 70%.

Count 1 **Failure to Amend Statement of Organization**

Section 82047.5 defines a primarily formed committee, in relevant part, as a committee which is formed or exists primarily to support or oppose a single candidate, a single measure, a group of specific candidates being voted upon in the same city, county, or multicounty election, or two or more measures being voted upon in the same city, county, multicounty, or state election. Regulation 18247.5, subdivision (a), states that a committee that makes more than 70% of its total contributions and expenditures on a single candidate or against that candidate's opponents, is a primarily formed committee

On September 24, 2007, Respondent Committee filed a statement of organization as a city general purpose committee, disclosing the Respondent Committee expected to make expenditures to support or oppose numerous candidates for city offices and city measures. The Respondent Committee made multiple expenditures in support of City of Murrieta Measures C, D, and E, in connection with the November 2, 2010 Election.

Respondents failed to amend the statement of organization. At no time prior to the November 2, 2010 Election was the Respondent Committee's financial activity consistent with a city general purpose committee.

As a non-candidate controlled primarily formed committee, Respondents were required to include in the name of the Respondent Committee the title and ballot number supported as its primary activity. Respondents failed to provide this required information in the name of Respondent Committee as a result of failing to amend the statement of organization.

Thus, Respondents Committee and Evans failed to amend the Respondent Committee statement of organization to disclose that it was a primarily formed committee, failed to add the title and ballot number supported as its primary activity, and failed to include the name of a major donor in the name of the Respondent Committee, in violation of Government Code sections 84102, subdivisions (d) and (g), and 84103, subdivision (a).

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 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. The Enforcement Division also considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6), which include: 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; whether there was a pattern of violations; and whether upon learning of the violation the Respondent voluntarily filed amendment to provide full disclosure. Additionally, liability under the Act is governed in significant part by the provisions of Section 91001, subdivision (c), which requires the Commission to consider whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith, in applying remedies and sanctions.

Count 1: Respondents had a duty to file an amendment to the statement of organization to disclose it was a primarily formed committee, to add the title and ballot number supported as its primary activity, and to include the name of a major donor in the name of the Respondent Committee. Due to the failure to amend the statement of organization, the public was not informed of the true nature of the Respondent Committee's activity. In mitigation, Respondents cooperated with the investigation. Further, Respondents timely filed campaign statements disclosing financial activity.

Other cases regarding the failure to amend a statement of organization recently approved by the Commission include:

In the Matter of Put California Back to Work, Sponsored by the Civil Justice Association of California and J. Richard Eichman, FPPC No. 10/504, imposed a fine for failure to amend a statement of organization, in violation of Government Code Sections 84102, subdivisions (d) and (g), and 84103, subdivision (a). Respondent Committee formed as a state general purpose committee on January 19, 2010. Respondents failed to file an amended statement of organization within 10 days to disclose that Respondent Committee was a primarily formed committee; by failing to add the full name and office of the candidate it supported as its primary activity, and by failing to identify the name of the candidate, including the office sought, the election year and whether the committee supported or opposed the candidate, in the name of the Respondent Committee. In this matter, the treasurer a \$3,500 penalty for this count was approved by the Commission on March 15, 2012.

In the Matter of Californians for SAFE Food, a coalition of public health and food safety experts, labor unions, consumers, family farmers, and veterinarians. No on Proposition 2, FPPC No. 08/515 imposed a fine for failure to amend a statement of organization. This case involved 1 count of failing to name a sponsor on the statement of organization and one count of failing to amend the statement of organization to include a sponsor. A \$2,500 penalty for the each count was approved by the Commission on April 8, 2010.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of Three Thousand Dollars (\$3,000) is recommended.