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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. 10/208
13)
14) STIPULATION, DECISION and
15 JUDITH L. DUNLAP, DUNLAP FOR) ORDER
16 MAYOR 2010, DUNLAP 2009, AND)
17 FRIENDS TO ELECT JUDY DUNLAP,)
Respondents.)

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19 Complainant the Enforcement Division of the Fair Political Practices Commission, and
20 Respondents Judith L. Dunlap, Dunlap For Mayor 2010, Dunlap 2009, and Friends To Elect Judy
21 Dunlap agree that this Stipulation will be submitted for consideration by the Fair Political Practices
22 Commission at its next regularly scheduled meeting.

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 Judith L. Dunlap and Dunlap for Mayor 2010 violated the
5 Political Reform Act by failing to timely file preelection campaign statements, in violation of Sections
6 84200.5, subdivision (b), and 84200.7, subdivision (a), of the Government Code (1 count). Respondents
7 Judith L. Dunlap and Dunlap 2009 violated the Political Reform Act by failing to timely file preelection
8 campaign statements, in violation of Sections 84200.5, subdivision (b), and 84200.7, subdivision (a), of
9 the Government Code (1 count); and failing to timely file semi-annual campaign statements, in violation
10 of Section 84200, subdivision (a), of the Government Code (1 count). Respondents Judith L. Dunlap
11 and Friends to Elect Judy Dunlap violated the Political Reform Act by failing to file campaign
12 statements, in violation of Sections 84200, subdivision (a), 84200.5, subdivision (c), and 84200.8, of the
13 Government Code (1 count). Respondents Judith L. Dunlap, Dunlap for Mayor 2010, Dunlap 2009, and
14 Friends to Elect Judy Dunlap violated the Political Reform Act by failing to maintain the detailed
15 accounts, records, bills, and receipts necessary to prepare campaign statements to establish whether the
16 campaign statements were properly filed and to comply with the campaign reporting provisions of the
17 Act, in violation of Section 84104 of the Government Code (1 count). All counts are described in
18 Exhibit 1, which is attached hereto and incorporated by reference as though fully set forth herein.
19 Exhibit 1 is a true and accurate summary of the facts in this matter.

20 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
21 Respondents Judith L. Dunlap and Dunlap for Mayor 2010 also agree to the Commission imposing upon
22 them an administrative penalty in the amount of Two Thousand Dollars (\$2,000). Respondents Judith L.
23 Dunlap and Dunlap 2009 also agree to the Commission imposing upon them an administrative penalty
24 in the amount of Three Thousand Five Hundred Dollars (\$3,500). Respondents Judith L. Dunlap, and
25 Friends to Elect Judy Dunlap also agree to the Commission imposing upon them an administrative
26 penalty in the amount of Two Thousand Dollars (\$2,000). Respondents Judith L. Dunlap, Dunlap for
27 Mayor 2010, Dunlap 2009, and Friends to Elect Judy Dunlap also agree to the Commission imposing
28 upon them an administrative penalty in the amount of Two Thousand Dollars (\$2,000). Cashier's

1 checks from Respondents in said amounts, made payable to the “General Fund of the State of
2 California,” are submitted with this Stipulation as full payment of the administrative penalty, to be held
3 by the State of California until the Commission issues its decision and order regarding this matter. The
4 parties agree that in the event the Commission refuses to accept this Stipulation, it shall become null and
5 void, and within fifteen (15) business days after the Commission meeting at which the Stipulation is
6 rejected, all payments tendered by Respondents in connection with this Stipulation shall be reimbursed
7 to Respondents. Respondents further stipulate and agree that in the event the Commission rejects the
8 Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any
9 member of the Commission, nor the Executive Director, shall be disqualified because of prior
10 consideration of this Stipulation.
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14 Dated: _____

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

18 Dated: _____

Judith L. Dunlap, Respondent,
Individually and on behalf of
Dunlap For Mayor 2010, Dunlap 2009,
Friends To Elect Judy Dunlap

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Respondents Judith L. Dunlap, Dunlap
3 For Mayor 2010, Dunlap 2009, and Friends To Elect Judy Dunlap,” FPPC No. 10/208, including all
4 attached exhibits, is hereby accepted as the final decision and order of the Fair Political Practices
5 Commission, effective upon execution below by the Chairman.

6
7 **IT IS SO ORDERED.**

8
9 Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Judith L. Dunlap (“Respondent Dunlap”) was an Inglewood city councilmember since 1993. She ran for Inglewood City Council in the April 7, 2009 election and in a run-off election August 31, 2010 and won both times. She also ran for Mayor of Inglewood in the June 8, 2010 and the November 2, 2010 elections and was defeated both times. Respondents Dunlap for Mayor 2010 committee (“Respondent Mayor 2010 Committee”), Dunlap 2009 committee (“Respondent Dunlap 2009 Committee”), and Friends to Elect Judy Dunlap committee (“Respondent Dunlap Committee”) were the controlled committees of Respondent Dunlap for these elections. Respondent Dunlap served as treasurer of Respondent Committees.

As candidate controlled committees under the Political Reform Act¹ (the “Act”), Respondents have a duty to timely file campaign statements and reports and disclose particular information. However, Respondents 1) failed to file preelection campaign statements; 2) failed to file semi-annual campaign statements; and 3) failed to maintain records to support the information required to be disclosed on campaign statements.

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

Respondents Judith L. Dunlap and Dunlap for Mayor 2010

COUNT 1: Respondents Judith L. Dunlap and Dunlap for Mayor 2010 failed to timely file preelection campaign statements for the reporting periods ending March 17, 2010, and May 22, 2010, by the March 22, 2010 and May 27, 2010, due dates, in violation of Sections 84200.5, subdivision (b), and 84200.7, subdivision (a), of the Government Code.

Respondents Judith L. Dunlap and Dunlap 2009

COUNT 2: Respondents Judith L. Dunlap and Dunlap 2009 failed to timely file semi-annual campaign statements for the reporting periods ending June 30, 2009, and December 31, 2009, by the July 31, 2009, and February 1, 2010 due dates, in violation of Section 84200, subdivision (a), of the Government Code.

COUNT 3: Respondents Judith L. Dunlap and Dunlap 2009 failed to timely file preelection campaign statements for the reporting periods ending March 17, 2010, and

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code as it was in effect at the time of the violations, 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 as in effect at the time of the violations, unless otherwise indicated.

May 22, 2010, by the March 22, 2010, and May 27, 2010, due dates, in violation of Sections 84200.5, subdivision (b), and 84200.7, subdivision (a), of the Government Code.

Respondents Judith L. Dunlap and Friends to Elect Judy Dunlap

COUNT 4: Respondents Judith L. Dunlap and Friends to Elect Judy Dunlap failed to timely file campaign statements for the reporting periods ending February 21, 2009, March 21, 2009, and June 30, 2009, by the February 26, 2009, March 26, 2009, and July 31, 2009, due dates, in violation of Sections 84200, subdivision (a), 84200.5, subdivision (c), and 84200.8, of the Government Code.

Respondents Judith L. Dunlap, Dunlap for Mayor 2010, Dunlap 2009, and Friends to Elect Judy Dunlap

COUNT 5: Respondents Judith L. Dunlap, Dunlap for Mayor 2010, Dunlap 2009, and Friends to Elect Judy Dunlap failed to maintain the detailed accounts, records, bills, and receipts necessary to prepare campaign statements for the calendar years 2009, 2010, and 2011, to establish whether the campaign statements were properly filed, and to comply with the campaign reporting provisions of the Act, 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.

Any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year qualifies as a “committee”. (Section 82013, subd. (a).) A controlled committee is a committee that is controlled directly or indirectly by a candidate. A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions of the committee. (Section 82016, subd. (a).)

Duty to File Campaign Statements

Under the Act’s campaign reporting system, candidate controlled 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.) A “contribution” is a payment made for political purposes. (Section 82015.)

Duty to File Semi-Annual Campaign Statements

Section 84200, subdivision (a), requires recipient committees to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1 through June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 through December 31, and must be filed by January 31 of the following year. All filing obligations continue until the committee is terminated by filing a statement of termination (“Form 410”) with the Secretary of State and a copy with the local filing officer receiving the campaign’s original campaign statements. (Section 84214; Regulation 18404.)

Duty to File Preelection Campaign Statements

In addition to the semi-annual campaign statements, Section 84200.5, subdivisions (b) and (c), requires candidate controlled committees to file preelection campaign statements in accordance with the timelines in Sections 84200.7 and 84200.8. For elections held in June of an even number year, Section 84200.7, subdivision (a), specifies the time for filing the preelection statements. The two preelection reporting periods are: (1) For the period ending March 17, a statement to be filed no later than March 22; and (2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election.

For controlled committees being voted upon in an election not in June or November of an even-numbered year, one preelection statement for the reporting period ending 45 days before the election must be filed no later than 40 days before the election and another preelection must be filed for the reporting period ending 17 days before the election must be filed no later than 12 days before the election. (Sections 84200.5, subd. (c), 84200.8.)

Duty to Maintain and Retain 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 that are necessary to prepare campaign statements, to establish that campaign statements were properly filed and to comply with the campaign reporting 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. Regulation 18401, subdivision (b)(2), requires the filer of the committee campaign statements to retain the above described campaign records for four years following the date that the campaign statement to which they relate is filed.

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 Judith L. Dunlap ("Respondent Dunlap") has been an Inglewood city councilmember since 1993. She ran for Inglewood City Council in the April 7, 2009 and August 31, 2010 elections and won both times. She also ran for Mayor of Inglewood in the June 8, 2010 and the November 2, 2010 elections and was defeated both times. Respondents Dunlap for Mayor 2010 committee ("Respondent Mayor 2010 Committee"), Dunlap 2009 committee ("Respondent Dunlap 2009 Committee"), and Friends to Elect Judy Dunlap committee ("Respondent Dunlap Committee") were the controlled committees of Respondent Dunlap for these elections. Respondent Dunlap served as treasurer of Respondent Committees.

Respondents Judith L. Dunlap and Dunlap for Mayor 2010

COUNT 1

Failure to Timely File Campaign Statements

Respondent Committee qualified as a candidate controlled recipient committee. Section 84200.5, subdivisions (b) and (c), requires a candidate controlled committees to file preelection campaign statements for each preelection reporting period. As a recipient committee, Respondents were required to and failed to file preelection campaign statements for the period ending March 17, 2010 (due March 22, 2010) and for the period ending May 22, 2010 (due May 27, 2010). Records from the Inglewood City Clerk's office revealed that Respondents did not file these statements. Respondents' bank records show approximately \$9,898 in contributions were received and approximately \$5,881 in expenditures were made during the period ending May 22, 2010. Respondents were required to and failed to file two preelection campaign statements, in violation of Sections 84200.5, subdivision (b) and 84200.7, subdivision (a).

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

Respondents Judith L. Dunlap and Dunlap 2009

COUNTS 2 & 3

Failure to Timely File Campaign Statements

Respondent Committee qualified as a candidate controlled recipient committee. As a recipient committee, Respondents was required to and failed to file semi-annual campaign statements including: (1) for the period ending on June 30, 2009 (due July 31, 2009); and (2) for the period ending on December 31, 2009 (due February 1, 2010). Records from the Inglewood City Clerk's office revealed that Respondents did not file these statements. Respondents' bank records show approximately \$9,250 in contributions were received and approximately \$19,126 in expenditures were made during the period ending June 30, 2009 and approximately \$5,000 in

contributions were received and \$9,660 in expenditures were made during the period ending December 31, 2009. Respondents were required to and failed to file two semi-annual campaign statements, in violation of Section 84200, subdivision (a).

In addition to the semi-annual campaign statements, Section 84200.5, subdivision (b), requires a candidate controlled committees to file preelection campaign statements for each preelection reporting period. Respondents were required to and failed to file preelection campaign statements including: (1) for the period ending March 17, 2010 (due March 22, 2010); and (2) for the period ending May 22, 2010 (due May 27, 2010). Records from the Inglewood City Clerk's office revealed that Respondents did not file these statements. Respondents' bank records show approximately \$5,000 in contributions were received and approximately \$1,442 in expenditures were made during the period ending March 17, 2010, and approximately \$2,711 in expenditures were made during the period ending May 22, 2010. Respondents were required to and failed to file two preelection campaign statements, in violation of Sections 84200.5, subdivision (b), and 84200.7, subdivision (a).

By failing to file semi-annual and preelection campaign statements by the filing due date, Respondents violated of Sections 84200, subdivision (a), 84200.5, subdivision (b), and 84200.7, subdivision (a), of the Government Code.

Respondents Judith L. Dunlap and Friends to Elect Judy Dunlap

COUNT 4

Failure to Timely File Campaign Statements

Respondent Committee qualified as a candidate controlled recipient committee. As a recipient committee, Respondents was required to and failed to file semi-annual campaign statements including one for the period ending on June 30, 2009 (due July 31, 2009). Records from the Inglewood City Clerk's office revealed that Respondents did not file this statement. Respondents' bank records show approximately \$300 in expenditures were made during the period ending June 30, 2009. Respondents were required to and failed to file this semi-annual campaign statement, in violation of Section 84200, subdivision (a).

In addition to the semi-annual campaign statements, Section 84200.5, subdivision (c), requires a candidate controlled committees to file preelection campaign statements for each preelection reporting period. Respondents were required to and failed to file preelection campaign statements including: (1) for the period ending February 21, 2009 (due February 26, 2009); and (2) for the period ending March 21, 2009 (due March 26, 2009). Records from the Inglewood City Clerk's office revealed that Respondents did not file these statements. Respondents' bank records show approximately \$5,000 in contributions were received and approximately \$4,000 in expenditures were made during the period ending February 21, 2009, and approximately \$800 in expenditures were made during the period ending March 21, 2009. Respondents were required to and failed to file two preelection campaign statements, in violation of Sections 84200.5, subdivision (c), and 84200.8.

By failing to file semi-annual and preelection campaign statements by the filing due date, Respondents violated Sections 84200, subdivision (a), 84200.5, subdivision (c), and 84200.8, of the Government Code.

Respondents Judith L. Dunlap, Dunlap for Mayor 2010, Dunlap 2009, and Friends to Elect Judy Dunlap

COUNT 5

Duty to Maintain and Retain Records

Respondents had a duty to and failed to maintain and retain campaign records for all of the reporting periods in calendar years 2009, 2010, and 2011. Respondent Dunlap was unable to produce any campaign records for these reporting periods. As a result, the Enforcement Division issued bank subpoenas to determine financial activity of the Respondent Committee.

Therefore, Respondents failed to maintain and retain detailed accounts, records, bills, and receipts necessary to prepare the campaign statements for the reporting periods of calendar years 2009, 2010, and 2011, and to comply with the campaign reporting provisions of the Act, in violation of Section 84104.

CONCLUSION

This matter consists of five 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. Failing to timely file a preelection statement deprives the public of important information about Respondent's financial activities before an election. In this matter, Respondent failed to timely file a total of six preelection statements for three different campaign committees. Recent fines approved by the Commission include:

- *In the Matter of Independent Coalition of Educators Sponsored by the California Association of Private Postsecondary School, and Robert Johnson*, FPPC No. 12/559. At the December 13, 2012 Commission meeting, the Commission approved a fine of \$2,000 per count for two counts of failure to file preelection campaign statements, which accounted for approximately 75% of all contributions received during the audit period.

Respondents did not file the preelection statements until after being contacted by Commission but had no history of enforcement actions, cooperated in the investigation, and agreed to an early resolution of the matter. Respondents self-reported one of the violations.

- *In the Matter of Colton Police Officers Association PAC*, FPPC No. 10/1026. At the December 13, 2012 Commission meeting, the Commission approved a \$2,500 penalty for this violation. Respondent, a city general purpose committee, did not file the preelection statement until after being contacted by the Enforcement Division after the election and the activity that should have been disclosed accounted for 100% of all the expenditures made by Respondent for this election (totaling \$23,892). However, Respondent had no history of violating the Act and cooperated with the investigation.

In this case, as a condition of settlement Respondents have terminated all of the committees and filed the outstanding campaign statements for her current campaign committee. In addition, the amount of activity required to be reported on these statements was minimal. No evidence was found to indicate that these violations were anything but negligence. The lack of filing coincided with the leaving of the former treasurer. Respondent has now hired a professional treasurer to stay current in the future. After consideration of the factors of Regulation 18361.5, and consideration of penalties in prior enforcement actions, the imposition of a \$2,000 penalty for each count is recommended.

Semi-Annual Campaign Statements: The typical administrative penalty for failing to timely file a semi-annual campaign statement has been on the lower end of the penalty range. The failure to timely file a campaign statement deprives the public of important information about a campaign's contributors and financial activities. In this matter, Respondent failed to timely file a total of three semi-annual campaign statements for two campaign committees. Other similar cases regarding a violation of Section 84200, subdivision (a), that have been recently approved by the Commission include:

- *In the Matter of Carl Hilliard and Hilliard for Supervisor 2012*, FPPC No. 12/108. At the December 13, 2012 Commission meeting, the Commission approved a fine of \$1,500 for one count. Respondents failed to timely file a campaign statement that included a \$15,000 contribution received by and a \$15,000 expenditure made by Respondent Committee. Respondents cooperated with the Enforcement Division's investigation and filed the delinquent campaign statement.
- *In the Matter of Ronald Smith and the Friends of Ron Smith*, FPPC No. 11/1053. This case involved one count of failing to timely file two semi-annual campaign statements. Respondents had a history of not timely filing campaign statements but cooperated with the Commission and had only minimal activity for the year. A \$1,500 penalty was approved by the Commission on December 13, 2012.

As stated above, Respondents has closed the outstanding committees and become current on all other campaign filings as a condition of settlement. She has also hired a professional treasurer to maintain the filings. After consideration of the factors of Regulation 18361.5, and

consideration of penalties in prior enforcement actions, the imposition of a \$1,500 penalty for this count is recommended.

Failure to Maintain and Retain Campaign Records: The typical administrative penalty for failing to maintain and retain campaign records has been on the lower end of the penalty range, depending on the circumstances. Failing to maintain and retain campaign records makes it difficult to determine the financial activity of a committee and ascertain the accuracy of the activity reported on the campaign statements. In this matter, Respondent failed to maintain and retain campaign records for the campaign committees. Recent fines approved by the Commission include:

- *In the Matter of Californians for Privacy, Luke Breit and Michael Gunter*, FPPC No. 10/1119 (Default). In December 13, 2012, the Commission approved a fine of \$2,000 for one count of a recordkeeping violation. Respondents were required to and failed to maintain campaign records.
- *In the Matter of Lynwood Teacher's Association PAC and Michael Jochum*, FPPC No. 11/337. In August of 2012, the Commission approved a \$2,000 penalty for this violation, making it difficult to determine the financial activity of the committee.

Imposition of a penalty in the amount of \$2,000 for this violation is recommended.

PROPOSED PENALTY

After review of the facts of this case, including consideration of the factors of Regulation 18361.5, and the factors discussed above, it is respectfully submitted that imposition of the following penalties are recommended:

Count 1	\$2,000
Count 2	\$1,500
Count 3	\$2,000
Count 4	\$2,000
Count 5	\$2,000

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