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

10
11 In the Matter of:

FPPC No. 12/727

12 LEAGUE OF CALIFORNIA CITIES
13 CITIPAC aka LEAGUE OF
CALIFORNIA CITIES CITIPAC,
14 SUPPORTING PROPOSITION 22 and
DAN HARRISON

STIPULATION, DECISION, AND ORDER

15 Respondents.
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18 **STIPULATION**

19 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
20 respondents League of California Cities CITIPAC, also known as League of California Cities CITIPAC,
21 Supporting Proposition 22, and Dan Harrison (Respondents) hereby agree that this Stipulation will be
22 submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled
23 meeting.

24 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this
25 matter and to reach a final disposition without the necessity of holding an additional administrative
26 hearing to determine the liability of Respondents.

27 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
28 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of

1 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to
2 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
3 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to
4 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
5 the hearing as a hearing officer, and to have the matter judicially reviewed.

6 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing
7 to report contributions on Late Contribution Reports in violation of Government Code section 84203,
8 subdivision (a), failing to timely report contributions on Late Contribution Reports in violation of
9 Government Code section 84203, subdivision (b), failing to timely report contributions on Election
10 Cycle Reports in violation of Government Code section 85309, subdivision (b), failing to timely report a
11 contribution of \$5,000 or more in violation of Government Code section 85309, subdivision (d), failing
12 to timely report contributions on a Preelection Statement in violation of Government Code sections
13 84211 and 84200.7, subdivision (b), and receiving cash contributions of \$100 or more in violation of
14 Government Code section 84300, subdivision (a), all as described in Exhibit 1. Exhibit 1 is attached
15 hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate
16 summary of the facts in this matter.

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

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Dated: _____
Gary S. Winuk, on behalf of the Enforcement Division
Fair Political Practices Commission

Dated: _____
Dan Harrison, individually, and on behalf of League of
California Cities CITIPAC, Respondents

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of League of California Cities CITIPAC, aka League of California Cities CITIPAC, Supporting Proposition 22, and Dan Harrison” FPPC No. 12/727, including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: _____
Ann Ravel, Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent League of California Cities CITIPAC (formerly League of California Cities CITIPAC, Supporting Proposition 22) (“Respondent Committee”) is a general purpose committee that was a primarily formed committee supporting Proposition 22 on the 2010 General Election. Respondent Dan Harrison was, at all times relevant to this case, the treasurer for Respondent Committee. Under the Political Reform Act (the “Act”)¹ a general purpose committee must file a number of campaign statements and reports. A committee that primarily supports a ballot measure in a single election has additional reporting requirements. Respondents violated the Act by failing to timely file reports required for a primarily formed committee after qualifying as a primarily formed committee. In addition to these violations, Respondents also failed to timely report a number of contributions, and received unlawful cash contributions.

For purposes of this Stipulation, the proposed violations of the Act are as follows:

- COUNT 1: Respondents failed to report two contributions received on November 1, 2010 on a Late Contribution Report in violation of Section 84203, subdivision (a).
- COUNT 2: Respondents failed to timely report a contribution received on October 18, 2010 and a contribution received on October 21, 2010 on Late Contribution Reports in violation of Section 84203, subdivision (b).
- COUNT 3: Respondents failed to report 24 contributions received prior to the 2010 General Election on Election Cycle Reports in violation of Section 85309, subdivision (b).
- COUNT 4: Respondents failed to timely report five contributions received on October 15, 2010 on Election Cycle Reports in violation of Section 85309, subdivision (b).
- COUNT 5: Respondents failed to report a contribution of \$5,000 or more in violation of Section 85309, subdivision (d).
- COUNT 6: Respondents failed to timely report 32 contributions they received on their Preelection Statement for the October 1, 2010 through October 16, 2010 reporting period in violation of Sections 84211 and 84200.7, subdivision (b).
- COUNT 7: Respondents received six cash contributions of \$100 or more in violation of Section 84300, subdivision (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.

SUMMARY OF THE LAW

Primarily Formed Committee

Section 82047.5, subdivision (b) defines a “primarily formed committee” as a committee which is formed or exists primarily to support a single measure. A committee is “formed or exists primarily to support” a single measure if the committee has made more than 70 percent of its total contributions and expenditures on a single measure over the previous 24 months. (Regulation §18247.5, subdivision (d)(3).)

Late Contribution Reports

A committee shall report all late contributions made or received to the office with which the committee is required to file its next campaign statement within 24 hours of receiving or making the contribution. (Section 84203.) A “late contribution” is any contribution that totals \$1,000 or more and is made or received by a primarily formed committee before the date of the election but after the closing date of the last campaign statement required to be filed before the election. (Section 82036.)

Election Cycle Reports

If a committee primarily formed to support one or more state ballot measures receives a contribution of \$1,000 or more during an election cycle, it is required to file an electronic report disclosing the contribution with the Office of the Secretary of State within 24 hours of receipt of the contribution. (Section 85309, subdivision (b).) The “election cycle” begins 90 days before the election and ends on the day of the election. (Section 85204.)

\$5,000 Reports

Any time outside of the election cycle a committee primarily formed to support one or more state ballot measures receives a contribution of \$5,000 or more, it is required to file an electronic report disclosing the contribution with the Secretary of State within ten business days of receipt of the contribution. (Section 85309, subdivision (d).)

Preelection Statements

Committees are required to file Preelection Statements during election years. (Section 84200.5, subdivision (b).) Before a General Election, a primarily formed committee must file one Preelection Statement for the period ending September 30 no later than October 5, and a second Preelection Statement for the period ending 17 days before the election no later than 12 days before the election. (Section 84200.7, subdivision (b).) The Preelection Statement must contain information about the contributions the committee received during the reporting period covered by that statement, including the source and amount of any contribution of \$100 or more. (Section 84211.)

Cash Contributions

Section 84300, subdivision (a), prohibits a committee from receiving a campaign contribution of \$100 or more in cash.

Treasurer Liability

Section 84100 provides that 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. A committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006; Regulation §18316.6.)

SUMMARY OF THE FACTS

Respondent Committee was created as a general purpose committee in 2003. But by July 1, 2010, Respondent Committee qualified as a primarily formed committee because, according to an audit conducted by the Franchise Tax Board ("FTB"), 100 percent of its contributions between July 1, 2008 and June 30, 2010 were to support Proposition 22, a measure on the ballot for the statewide General Election held on November 2, 2010. Respondents did not amend their status from a general purpose committee to a primarily formed committee until October 15, 2010. Respondents told FTB they miscalculated when the Respondent Committee qualified as a primarily formed committee. Counts 1 through 5 are the result of their failure to comply with the additional reporting requirements for primarily formed committees. Counts 6 and 7 concern requirements of the Act that apply to both general purpose committees and primarily formed committees.

Count 1

Failure to Report Contributions on Late Contribution Reports

Respondents received a \$2,500 contribution from the Marion Ashley for Supervisor committee on November 1, 2010. On that same day, Respondents received cumulative contributions totaling \$1,750 from the Willdan Group. These contributions came in after the closing date of the last campaign statement required to be filed before the election, which was the Preelection Statement for the period ending on October 16, 2010. Respondents did not file Late Contribution Reports indicating receipt of these contributions.

As a primarily formed committee, Respondents had a duty to file a Late Contribution Report for the contributions received on November 1, 2010. Respondents failed to report the two contributions on Late Contribution Reports in violation of Section 84203, subdivision (a).

Count 2

Failure to Timely Report Contributions on a Late Contribution Reports

Respondents received a \$200,000 contribution from Edison International and Affiliated Entities on October 18, 2010 and a \$1,000 contribution from Susan Reynolds on October 21, 2010. Respondents filed Late Contribution Reports for these two contributions on January 25, 2011. The period covered by the final Preelection Statement before the 2010 General Election ended on October 16, 2010. Respondents did timely file Late Contribution Reports for nine other contributions totaling \$39,000 received between October 19, 2010 and October 26, 2010.

As a primarily formed committee, Respondents had a duty to timely report these contributions on Late Contribution Reports within 24 hours of receiving the contribution. Respondents failed to timely report the contributions on Late Contribution Reports in violation of Section 84203, subdivisions (a) and (b).

Count 3
Failure to Report Contributions on Election Cycle Reports

Respondents received 24 contributions of \$1,000 or more during the election cycle preceding the November 2, 2010 election for which they failed to file Election Cycle Reports. Those contributions consisted of the following:

	Date Received	Contributor	Amount
1	8/12/2010	American Public Works Association	\$5,000
2	8/12/2010	Zanker Road Resource Management, Ltd.	\$1,000
3	8/24/2010	A.G. Spanos	\$1,500
4	8/24/2010	Best, Best & Krieger, LLP	\$5,000
5	8/24/2010	Dart Container	\$2,000
6	8/26/2010	Louie Lujan	\$2,000
7	8/26/2010	Louie Lujan	\$1,000
8	8/30/2010	Western Manufactured Housing Communities Assn. PAC	\$1,000
9	8/31/2010	Daniel Frank	\$1,500
10	9/2/2010	Colantuono & Levin, PC	\$2,500
11	9/2/2010	West Coast Arborists, Inc.	\$2,000
12	9/9/2010	Pacific Gas & Electric Company	\$150,000
13	9/21/2010	Alvarez-Glasman & Colvin	\$2,500
14	9/21/2010	Cox Communications, Inc.	\$2,000
15	9/21/2010	Griffin Structures, Inc.	\$1,000
16	9/21/2010	Jones & Mayer	\$7,500
17	9/21/2010	Loeb & Loeb LLP	\$7,500
18	9/21/2010	Waste Management	\$1,000
19	9/21/2010	Willard MacAloney	\$1,000
20	9/27/2010	Anthony Gonsalves	\$2,999
21	9/29/2010	C&C Development Co., LLC	\$1,000
22	9/29/2010	Nicholas Conway	\$2,000
23	9/30/2010	West Coast Arborists, Inc.	\$2,500
24	11/2/2010	Cox Communications, Inc.	\$1,000
		Total	\$206,499

As a primarily formed committee, Respondents had a duty to report on Election Cycle Reports each contribution of \$1,000 or more it received during the election cycle period (August 4, 2010 through November 2, 2010). Respondents failed to report these contributions on Election Cycle Reports in violation of Section 85309, subdivision (b).

Count 4
Failure to Timely Report Contributions on Election Cycle Reports

Respondents received five contributions of \$1,000 or more on October 15, 2010. They reported these contributions on Election Cycle Reports filed on January 25, 2011. The contributions consisted of the following:

	Contributor	Amount
1	American Public Works Association	\$5,000
2	Best, Best & Krieger, LLP	\$20,000
3	Burke, Williams & Sorensen, LLP	\$5,000
4	Laborers' Int'l Union of North America, Local 300 – Issues Committee	\$2,500
5	Pacific Gas & Electric	\$100,000
	Total	\$132,500

As a primarily formed committee, Respondents had a duty to timely report these contributions on Election Cycle Report within 24 hours of receiving the contributions. Respondents failed to report the contributions on Election Cycle Reports within 24 hours of receipt in violation of Section 85309, subdivision (b).

Count 5
Failure to Timely Report a Contribution of \$5,000 or more

On July 14, 2010, Respondents received a \$15,000 contribution from MuniServices, LLC. Respondents did not file an electronic report disclosing the contribution.

As a primarily formed committee, Respondents had a duty to file a “\$5,000 Report” disclosing the contribution of \$15,000. Respondents failed to report the contribution in violation of Section 85309, subdivision (d).

Count 6
Failure to Timely Disclose Contributions on Preelection Statement

Respondents received 32 contributions on October 15, 2010 that totaled \$138,375. Respondents did not report these contributions on the Preelection Statement they filed on October 20, 2010 for the October 1 through October 16 reporting period. Respondents reported the contributions on an amended statement filed on January 28, 2011. Respondents Preelection Statement filed on October 20, 2010 reported only \$34,020 in contributions. So the contributions that Respondents failed to timely report made up approximately 80% of all contributions received by Respondents during that reporting period. Those contributions consisted of the following:

	Contributor	Amount
1	Alonzo Carroll	\$250
2	American Public Works Association	\$5,000
3	Bartle Wells Associates	\$250
4	Best, Best & Krieger, LLP	\$20,000
5	Brian Hamblet	\$100
6	Building Industry Association of Central CA	\$250
7	Burke, Williams & Sorensen, LLP	\$5,000
8	C. Forrest Bannan	\$500
9	Cary Keaten	\$125
10	Eric S. Vail	\$750
11	Frederick E. Meurer	\$250
12	Gerald J. Ramiza	\$250
13	James M. Rodems	\$125
14	John M. Bramble	\$125
15	Jordan Ayers	\$125
16	Judith M. Mitchell	\$150
17	Kenneth William Zuidervaart	\$100
18	Kevin Werner	\$100
19	Laborers' Int'l Union of North America Local 300	\$2,500
20	Larry Hansen	\$100
21	Orange Housing Development Corporation	\$500
22	Pacific Gas & Electric Company	\$100,000
23	Perkowitz + Ruth Architects	\$200
24	Phil Katzakian	\$100
25	Piper Jaffray	\$500
26	Ralph D. Hanson	\$200
27	Richard R. Terzian	\$200
28	Scott Ochoa	\$200
29	Suzie Steres	\$125
30	Tom Jex	\$100
31	Wayne Padilla	\$100
32	Zachary A. Crawford	\$100
	Total	\$138,375

As a primarily formed committee, Respondents had a duty to disclose the 32 contributions listed above on their Preelection Statement no later than 12 days before the General Election held on November 2, 2010. Respondents failed to timely report those contributions on the Preelection Statement in violation of Sections 84211 and 84200.7, subdivision (b).

Count 7
Receiving Cash Contributions of \$100 or More

Respondents received six contributions of \$100 or more in cash. The contributions consisted of the following:

	Date Received	Contributor	Amount
1	7/30/2010	Paul Arevalo	\$100
2	7/30/2010	Ron Gould	\$100
3	8/24/2010	John Noguez	\$100
4	9/22/2010	Ray Tahir	\$100
5	9/22/2010	Ron Bertsch	\$150
6	10/15/2010	Scott Ochoa	\$100
		Total	\$650

Respondents received and accepted six contributions of \$100 or more in cash in violation of Section 84300, subdivision (a).

CONCLUSION

This matter consists of seven counts of violating the Act, which carry a maximum administrative penalty of five thousand dollars (\$5,000) per count, or \$35,000 total.

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 conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the Respondents demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

A central purpose of the Act is to ensure receipts and expenditures in election campaigns are fully and truthfully disclosed. (Section 81002, subdivision (a).) Counts 1 through 6 in this case involve Respondents' multiple failures to report contributions received in support of their campaign for Proposition 22 in the 2010 General Election. Respondents' inadequate reporting during the campaign caused public harm by denying voters important information before the election about the sources of political contributions used to support Proposition 22.

Counts 1 and 2

Penalties in similar cases typically fall in the middle of the range for fines. For the case *In the Matter of Arturo Chacon and Art Chacon for Water Board 2010*, FPPC No. 08/652 (settlement approved on February 10, 2011), the Commission approved a penalty of \$3,000 for one count of failing to report five contributions that totaled approximately \$13,000 on Late Contribution Reports. For the case of *In the Matter of Sacramento County Democratic Central Committee and William Guy Crouch*, FPPC No. 09/740 (settlement approved on August 12, 2010), the respondents stipulated to seven counts for failing to report 17 contributions that totaled \$355,805.50 on Late

Contribution Reports, and the Commission approved a penalty of \$2,500 per count. For the case of *In the Matter of Friends of Rancho Santa Fe Schools and Richard Burdge*, FPPC No. 06/455 (settlement approved on May 21, 2009) the respondents stipulated to four counts for failure to report contributions on Late Contribution Reports. The Commission approved penalties of \$2,500 for one of the counts, which involved a \$15,000 contribution, and \$1,500 for the other three counts, which involved contributions of approximately \$5,000, \$6,000, and \$4,000.

In this case, the total dollar amount of the contributions that Respondents failed to report on Late Contribution Reports in Count 1 (\$4,250) is fairly similar to the amount of the contributions that resulted in the \$1,500 fine in the *In the Matter of Friends of Rancho Santa Fe Schools and Richard Burdge* case. Respondents had less contributions that went unreported than in the other cases mentioned above that resulted in larger fines. For those reasons, a fine of \$1,500 for Count 1 is recommended.

For Count 2, the total amount of the contributions at issue was much larger than in Count 1 so the potential public harm was greater. Also, the contributions at issue in Count 2 represented approximately 82% of the value of all contributions Respondents received for which they were required to file Late Contribution Reports. This justifies a higher penalty than in Count 1. Respondents did eventually file a Late Contribution Report for these contributions but the filing was of little value to the public because it occurred after the election. But filing the report, albeit late, shows Respondents attempted to correct their mistake. For these reasons, a fine of \$2,500 for Count 2 is recommended.

Counts 3 and 4

Penalties in similar cases where respondents failed to report contributions on Election Cycle Reports typically range from \$1,500 to \$2,500, depending on the amounts of the contributions. For example, in the case of *In the Matter of No on 54: Teachers, Workers, Healthcare, Civil Liberties & Entertainment Groups and Abdi Soltani*, FPPC No. 05/527 (settlement approved September 11, 2008), the respondents stipulated to a total of four counts for failing to timely report contributions on Election Cycle Reports. For two of those counts, respondents paid a penalty of \$2,500 per count. The amount of the contributions for those two counts totaled \$38,599 and \$46,781. For the other two counts, the contributions totaled \$3,909 and \$1,000 and respondents paid a penalty of \$1,500 per count. For the case *In the Matter of T-Bird Restaurants Committee Opposing Proposition 72 and Mikkel Christensen*, FPPC No. 05/806 (settlement approved on January 10, 2008), the Commission approved a penalty of \$2,000 for one count of failing to timely report 32 contributions totaling \$64,000 on Election Cycle Reports. Respondents filed the reports approximately a year after the election after being informed of their filing obligation by the Commission.

The total amount of the contributions at issue for Counts 3 and 4 are much greater than in the comparative cases discussed above. However, all of the contributions in Count 3 and 4, except for a \$1,000 contribution from Cox Communications, Inc., were received on or before October 15, 2010. That is the date Respondents filed an amended Statement of Organization identifying Respondent Committee as a primarily formed committee. Respondents claim it was on or around this date they believed Respondent Committee qualified as a primarily formed committee.

Consequently, Respondents' failure to file all but one of the Election Cycle Reports resulted from a miscalculation of when Respondent Committee became a primarily formed committee and there was no intent to conceal the contributions. For these reasons, penalties of \$2,000 for Count 3 and \$2,000 for Count 4 are recommended.

Count 5

Similar cases for failure to file a \$5,000 Report have resulted in penalties in the low to middle of the Act's fine range. For example, in the case of *In the Matter of No on 8, Equality for All and Steven Mele*, FPPC No. 11/355 (settlement approved September 13, 2012) the respondents failed report six contributions that totaled \$192,356 for which they stipulated to two counts and the Commission imposed a penalty of \$2,000 per count. For the case of *In the Matter of Michael Glover, Michael G. Glover for Assembly, Glover for Assembly 2008, Committee to Elect Mike Glover for 70th AD, 2010, and Doris Neel*, FPPC No. 09/615 (settlement approved March 15, 2012), the Commission approved a fine of \$1,500 for one count of failing to file a \$5,000 Report where respondents failed to report a loan of \$27,000 made by respondent Michael Glover to his campaign. For the case of *In the Matter of Abel Maldonado, Abel Maldonado for Senate, Christopher J. Raymer, and Chris Steinbruner*, FPPC No. 10/070 (settlement approved on April 11, 2011), respondents stipulated to four counts and agreed to pay a fine of \$2,000 per count for failing to file \$5,000 Reports for 18 contributions totaling \$721,572.

In this case, the amount of the contribution Respondents failed to report was fairly low compared to the cases discussed above. Further, this count concerns just a single contribution, not multiple contributions. Also, similar to Respondents' failure to file Election Cycle Reports, Respondents failure to file the \$5,000 Report was likely unintentional and the result of a miscalculation of when Respondent Committee qualified as a primarily formed committee. For these reasons, a penalty of \$1,500 for Count 5 is recommended.

Count 6

Respondents failure to disclose contributions on a Preelection Statement meant that the 32 contributions they received totaling \$138,375 were not reported to the public until after the election. In the recent case of *In the Matter of Fernando Vasquez, Vasquez for Downey Council 2010, and Jane Leiderman, Treasurer*, FPPC No. 11/057 (settlement approved on March 15, 2012), the respondents stipulated to two counts for failure to report 17 contributions received totaling \$7,696 over two Preelection Statement periods, and the Commission imposed a penalty of \$2,000 per count. The respondents filed amended Preelection Statements disclosing the contributions approximately three months after the election. Similarly, in the *In the Matter of Arturo Chacon and Art Chacon for Water Board 2010*, FPPC No. 08/652 (settlement approved on February 2, 2011) case, respondents failed to report 44 contributions received over three reporting periods and totaling \$37,138. Respondents stipulated to three counts and agreed to pay penalties of \$2,500 for the first two counts and \$2,000 for the third count. The amounts of the unreported contributions for the first two counts were \$22,388 and \$11,650, while the unreported contributions for the third count totaled \$3,100.

In the cases discussed above, the respondents were charged with multiple counts because the violations occurred over multiple reporting periods. In this case, all of the unreported contributions were received in the same reporting period so Respondents are only being charged with a single count. However, given that the total dollar amount of the contributions Respondents failed to report was significantly higher than in the comparable cases and represented 80% of the total value of all contributions received by Respondents during the reporting period, a higher penalty per count is justified in this case. To their credit, Respondents filed an amendment to the Preelection Statement on January 28, 2011 reflecting the contributions received on October 15, 2010 upon. But this occurred after the election so it did little to mitigate the public harm caused by the failure to file. Also, unlike Counts 1 through 5, this count was unrelated to Respondents' change from a general purpose committee to a primarily formed committee. For these reasons, a penalty of \$3,000 is recommended.

Count 7

Penalties for accepting cash contributions in similar cases typically range from \$1,000 to \$2,000. For example, in the case of *In the Matter of Arturo Chacon and Art Chacon for Water Board 2010*, FPPC No. 08/652 (settlement approved February 10, 2011), the respondents, who received three cash campaign contributions of \$100 or more that all together totaled \$4,350, stipulated to one count and the Commission imposed a penalty of \$2,000. Similarly, in the case of *In the Matter of Hubert Walsh, Hub Walsh for Supervisor, and Marcia B. Hall*, FPPC No. 10/771 (settlement approved January 28, 2011), the respondents received seven cash campaign contributions of \$100 or more that all together totaled \$825. Respondents reported the contributions on their campaign statements. The Commission imposed a penalty of \$1,500 for one count of violating the Act. In the case of *In the Matter of Tracy McMahon, Committee to Elect Tracy McMahon and Noreen Considine*, FPPC No. 08/668 (settlement approved on January 28, 2011) the respondent loaned her campaign \$2,000 in cash. The respondents had no history of violating the Act, had never run for political office before, and cooperated with the investigation. The Commission imposed a penalty of \$1,000.

Here, Respondents had significant experience with campaign reporting and should have been aware of the prohibition against accepting cash contributions of \$100 or more. Further, this was not an isolated mistake since they accepted six unlawful cash contributions. But Respondents did report the cash contributions on their campaign statements. Also, the total amount of the cash contributions was not very high, especially considering the overall size of the campaign. Further, Respondents agreed to return the cash contributions. For these reasons, a penalty of \$1,500 is recommended.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, and the penalties imposed in prior cases, the imposition of the following penalties are recommended: \$1,500 for Count 1; \$2,500 for Count 2; \$2,000 for Count 3; \$2,000 for Count 4; \$1,500 for Count 5; \$3,000 for Count 6; and \$1,500 for Count 7. The recommended total penalty for all counts is \$14,000.