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

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11 In the Matter of) FPPC No. 12/435
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14) **STIPULATION, DECISION and ORDER**
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Respondents.

STIPULATION

Complainant, the Fair Political Practices Commission, and Respondents Oceanside Firefighters Association Political Action Committee, Eric Hanson and Timothy Scott, hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

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

Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of Regulations, title 2, sections 18361.1 through 18361.9. 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 attorney at

1 Respondent's own expense, to confront and cross-examine all witnesses testifying at the hearing, to
2 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
3 the hearing as a hearing officer, and to have the matter judicially reviewed.

4 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing
5 to itemize and disclose required information regarding cumulative contributions of \$100 or more in the
6 calendar year received from union members, in five consecutive campaign statements, three semi-
7 annual and two pre-election, for reporting periods in calendar years 2011 and 2012, in violation of
8 Government Code Section 84211, subdivision (f) (5 counts); and by failing to disclose in a semi-annual
9 campaign statement for the reporting period of July 1 through December 31, 2011, making a \$1,600
10 contribution to Jim Wood, a candidate for Mayor of Oceanside, in violation of Government Code
11 Section 84211, subdivision (k)(5) (1 count), as described in Exhibit 1. Exhibit 1 is attached hereto and
12 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
13 the facts in this matter.

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

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Dated: _____

Gary S. Winuk, on Behalf of the Enforcement Division
Fair Political Practices Commission

Dated: _____

Timothy Scott, Respondent, individually and on behalf of
Respondent Oceanside Firefighters Association Political Action
Committee

Dated: _____

Eric Hanson, Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Oceanside Firefighters Association Political Action Committee, Eric Hanson and Timothy Scott,” 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 Vice-Chairman.

IT IS SO ORDERED.

Dated: _____

Sean Eskovitz, Vice-Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent Oceanside Firefighters Association Political Action Committee (Respondent OFFA-PAC) is a sponsored city general purpose committee located in Oceanside, CA. Respondent OFFA-PAC is sponsored by Oceanside Firefighters' Association Local 3736 (OFFA), a labor organization representing fire agencies in Oceanside, CA. Respondent Eric Hanson was the treasurer for Respondent OFFA-PAC from July 27, 2010 through October 24, 2012. Respondent Timothy Scott was the treasurer for Respondent OFFA-PAC from October 25, 2012 through present.

In this matter, Respondents filed campaign statements for Respondent OFFA-PAC for reporting periods in calendar years 2011 and 2012. In five consecutive campaign statements, Respondents failed to itemize and disclose required information regarding cumulative contributions of \$100 or more received from union members, as required by the Political Reform Act (the "Act")¹. Additionally, Respondents failed to disclose a \$1,600 contribution to a local candidate.

For the purposes of this Stipulation, Respondents' violations are as follows:

- COUNT 1:** Respondents Oceanside Firefighters Association Political Action Committee and Eric Hanson failed to itemize and disclose required information regarding cumulative contributions of \$100 or more received from union members, in a semi-annual campaign statement for the reporting period of July 1 through December 31, 2011, by the January 31, 2012 due date, in violation of Government Code Section 84211, subdivision (f).
- COUNT 2:** Respondents Oceanside Firefighters Association Political Action Committee and Eric Hanson, on or about February 2, 2012, in its semi-annual campaign statement for the reporting period of July 1 through December 31, 2011, failed to disclose making a \$1,600 contribution to Jim Wood, a candidate for Mayor of Oceanside, in violation of Government Code Section 84211, subdivision (k).
- COUNT 3:** Respondents Oceanside Firefighters Association Political Action Committee and Eric Hanson failed to itemize and disclose required information regarding cumulative contributions of \$100 or more received from union members, in a semi-annual campaign statement for the reporting period of January 1 through

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 18109 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.

June 30, 2012, by the July 31, 2012 due date, in violation of Government Code Section 84211, subdivision (f).

COUNT 4: Respondents Oceanside Firefighters Association Political Action Committee and Eric Hanson failed to itemize and disclose required information regarding cumulative contributions of \$100 or more received from union members, in a pre-election campaign statement for the reporting period of July 1 through September 30, 2012, by the October 5, 2012 due date, in violation of Government Code Section 84211, subdivision (f).

COUNT 5: Respondents Oceanside Firefighters Association Political Action Committee and Timothy Scott failed to itemize and disclose required information regarding cumulative contributions of \$100 or more received from union members, in a pre-election campaign statement for the reporting period of October 1 through October 20, 2012, by the October 25, 2012 due date, in violation of Government Code Section 84211, subdivision (f).

COUNT 6: Respondents Oceanside Firefighters Association Political Action Committee and Timothy Scott failed to itemize and disclose required information regarding cumulative contributions of \$100 or more received from union members, in a semi-annual campaign statement for the reporting period of October 21 through December 31, 2012, by the January 31, 2013 due date, in violation of Government Code Section 84211, subdivision (f).

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.

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

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.

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. Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.” (Section 81002, subd. (f).)

Duty to Disclose and Itemize Contributions Received

Section 82013, subdivision (a), defines a “committee” to include any person who receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly known as a “recipient committee.” A recipient committee, other than a candidate controlled committee, with one or more sponsors, is known as a sponsored committee. (Section 82048.7, subd. (a).) Under the Act’s campaign reporting system, sponsored committees are required to file specified campaign statements and reports disclosing contributions received and expenditures made.

Section 84200, subdivision (a), requires all recipient committees to file semi-annual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31. Sections 84200.5 and 84200.7, subdivision (b), require city general purpose committees to file pre-election campaign statements for elections in November of even-numbered years no later than October 5 for the period ending September 30, and no later than 12 days before the election for the period ending 17 days before the election. All filing obligations continue until the recipient 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 committee’s original campaign statements. (Section 84214; Regulation 18404.)

Section 84211, subdivision (a) requires a committee to disclose in each of its campaign statements the total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received. All contributions received by a committee are required to be reported to, and disclosed by, the committee’s treasurer no later than the closing date of the next campaign statement the committee is required to file. (Regulation 18421.1, subdivision (c).) The total amount of contributions received during the period covered by the campaign statement must be disclosed from persons who have given a cumulative amount of one hundred dollars (\$100) or more. (Section 84211, subdivision (c).) Generally, “cumulative amount” means the amount of contributions received or expenditures made in the calendar year. (Section 82018, subdivision (a).)

Section 84211, subdivision (f), requires a committee to report in each of its campaign statements the following information about a person if the cumulative amount of contributions received from that person is one hundred dollars (\$100) or more and a contribution has been received from that person during the reporting period covered by the campaign statement: (1) the contributor’s full name; (2) the contributor’s street address; (3) the contributor’s occupation; (4) the name of the contributor’s employer, or if self-employed, the name of the contributor’s business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor.

Duty to Disclose Contributions to Candidates

Section 82015 defines a contribution as a payment made for political purposes. A contribution can be monetary or nonmonetary. (Section 82015, subd. (d).) Additionally, Section 82025 defines “expenditure” as a payment, forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure includes monetary and nonmonetary contributions made by committees. (See Sections 82015, 82025, and 82044.)

Section 84211, subdivision (k)(5), requires that in the case of an expenditure of one hundred dollars (\$100) or more which is a contribution to a candidate, elected officer, or committee, the following information be disclosed: (1) the payee’s full name; (2) the payee’s street address; (3) the amount of each expenditure; (4) a brief description of the consideration for which each expenditure was made; (5) the date of the contribution; (6) the cumulative amount of contributions made to a candidate, elected officer, or committee; (7) the full name of the candidate, and the office and district for which he or she seeks nomination or election; and (8) the jurisdiction in which the candidate is voted upon.

Treasurer Liability

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. 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 Oceanside Firefighters Association Political Action Committee (Respondent OFFA-PAC) is a sponsored city general purpose committee located in Oceanside, CA. Respondent OFFA-PAC is sponsored by Oceanside Firefighters’ Association Local 3736 (OFFA), a labor organization representing fire agencies in Oceanside, CA. Respondent Eric Hanson was the treasurer for Respondent OFFA-PAC from July 27, 2010 through October 24, 2012. Respondent Timothy Scott was the treasurer for Respondent OFFA-PAC from October 25, 2012 through present.

Respondent OFFA-PAC received semi-monthly contributions in the amount of \$32.50 from each of OFFA’s active members for political activity. Respondents, who were unfamiliar with the requirements of the Act, hired and relied upon a professional accounting firm to prepare all campaign statements required by the Act.

VIOLATIONS

In this matter, Respondents violated the Act, as follows:

Counts 1, and 3 – 6

(Failure to Disclose Required Contributor Information)

Respondents filed campaign statements for Respondent OFFA-PAC for reporting periods in calendar years 2011, 2012, and 2013. Specifically relevant to this case, Respondents filed the following original campaign statements:

Count	Reporting Period	Date Statement Filed
1	7/1/2011 – 12/31/2011	2/2/2012
3	1/1/2012 – 6/30/2012	7/31/2012
4	7/1/2012 – 9/30/2012	10/8/2012
5	10/1/2012 – 10/20/2012	10/29/2012
6	10/21/2012 – 12/31/2012	1/31/2013

For the campaign statements identified in Counts 1, 3, 4, and 5, Respondents failed to itemize and disclose information for contributions received from OFFA’s members as required by the Act, including name, street address, occupation, employer, the amount contributed in the reporting period and the cumulative amount each member contributed to date. For the campaign statement identified in Count 6, Respondents disclosed receiving no contributions in its original campaign statement.

Respondents subsequently filed amended campaign statements which included the information required by the Act, as follows:

Count	Reporting Period	Date Amended Statement Filed	Total Number of Individuals Whose Contributions Should Have Been Itemized in Original Campaign Statement	Total Amount of Contributions That Should Have Been Itemized in Original Campaign Statement	Total Contributions Reported as Received
1	7/1/2011 – 12/31/2011	11/2/2012	102	\$46,377.50	\$46,377.50
3	1/1/2012 – 6/30/2012	11/2/2012	99	\$41,307.50	\$41,437.50
4	7/1/2012 – 9/30/2012	11/2/2012	95	\$15,437.50	\$15,470.00
5	10/1/2012 – 10/20/2012	11/2/2012	95	\$3,087.50	\$3,087.50
6	10/21/2012 – 12/31/2012	3/7/2013	94	\$15,275.00	\$15,275.00
TOTALS				\$121,485.00	\$121,647.50

Thus, Respondents originally failed to itemize and disclose required information regarding cumulative contributions of \$100 or more received from union members for contributions totaling \$121,485, which was 99.9% of the total contributions reported received during the identified reporting periods. The subsequently filed amended campaign statements itemized and disclosed all information required by the Act regarding cumulative contributions of

\$100 or more received from union members.

Respondents had a duty to itemize and disclose information for individuals who had made cumulative contributions of \$100 or more in the calendar year in Respondent OFFA-PAC's campaign statements. Respondents disclosed receiving no contributions in the original campaign statement for Count 6, thus failing to itemize and disclose the required information regarding cumulative contributions of \$100 or more received from union members. Respondents disclosed the total amount of contributions received by Respondent OFFA-PAC in the original campaign statements for Counts 1, 3, 4, and 5, but failed to itemize and disclose the required information regarding cumulative contributions of \$100 or more received from union members for the relevant reporting periods. By failing to itemize and disclose the required information regarding cumulative contributions of \$100 or more received from union members, Respondents OFFA-PAC, Hanson, and Scott, violated Government Code Section 84211, subdivision (f).

Count 2

(Failure to Disclose Contribution to Candidate)

On or about February 2, 2012, Respondent OFFA-PAC filed a semi-annual campaign statement for the reporting period of July 1 through December 31, 2011. In the semi-annual statement, Respondent OFFA-PAC disclosed that it made no contributions to candidates during this reporting period.

However, the evidence obtained in this case shows that in September 2011, Respondent OFFA-PAC made a contribution totaling \$1,600 to Committee to Reelect Mayor Jim Wood, the candidate controlled committee of Jim Wood who was a candidate for Mayor of the City of Oceanside. Respondent OFFA-PAC failed to disclose this contribution in its semi-annual statement for the reporting period of July 1 through December 31, 2011. The contribution was properly reported in a campaign statement for Committee to Reelect Mayor Jim Wood.

On or about November 2, 2012, Respondent OFFA-PAC filed an amended semi-annual campaign statement for the reporting period of July 1 through December 31, 2011, which was signed by its current treasurer, Timothy Scott. The amended statement disclosed the \$1,600 contribution to Jim Wood's committee.

The evidence suggests that the lack of proper disclosure in this regard was inadvertent. It appears that an authorized staff member of OFFA wrote the check for the contribution from OFFA's General Fund account, not knowing it should have been written from OFFA-PAC's checking account. Thus, the disclosure information for this contribution was not forwarded to the OFFA-PAC's accountant for disclosure in the campaign statement.

By failing to disclose the \$1,600 contribution to Jim Wood's committee in its semi-annual statement for the reporting period of July 1 through December 31, 2011, Respondents OFFA-PAC and Hanson violated Government Code Section 84211, subdivision (k)(5).

CONCLUSION

This matter consists of six counts of violating the Act, which carry a maximum administrative penalty of Five Thousand Dollars (\$5,000) per count for a total of Thirty Thousand Dollars (\$30,000).

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

1. The seriousness of the violations;
2. The presence or lack of intent to deceive the voting public;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the Respondent demonstrated good faith in consulting with Commission staff;
5. Whether there was a pattern of violations; and
6. Whether, upon learning of the violation, the violator voluntarily provided amendments to provide full disclosure.

Failing to itemize and disclose required information regarding cumulative contributions of \$100 or more received from union members, and failing to disclose making contributions to candidates are both serious violations of the Act as both violate one of the central purposes of the Act: that receipts and expenditures in election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. The public was deprived of important information from Respondent OFFA-PAC regarding its contributors and regarding the contributions Respondent OFFA-PAC made to local candidates. The typical administrative penalty for failing to disclose required contribution and expenditure information has varied depending on the facts of each case.

In Counts 1, and 3 – 6 of this matter, Respondents failed to itemize and disclose, in five consecutive original campaign statements for Respondent OFFA-PAC, any of the information required by the Act regarding cumulative contributions of \$100 or more received from union members. Respondents failed to itemize and disclose the required information for contributions totaling \$121,485. This amount is 99.9% of the total contributions reported received in the identified campaign statements, and the relevant reporting periods spanned two years. Additionally, after filing several amended campaign statements on November 2, 2012, to itemize and disclose the required information, Respondents continued the pattern of failing to itemize and disclose the required information when Respondents again failed to itemize and disclose the required information in Respondent OFFA-PAC's next campaign statement.

In Count 2 of this matter, Respondent OFFA-PAC failed to disclose in its semi-annual campaign statement making a \$1,600 contribution to Jim Wood, a local candidate for mayor. Thus, in both Counts 1 and 2, the public was deprived of timely and accurate campaign financing information.

In mitigation, Respondents fully cooperated during the investigation of this matter, and Respondents have no prior history of violating the Act. The evidence obtained in this

investigation shows that Respondents' violations of the Act were inadvertent. Respondent treasurers had no prior experience regarding the requirements of the Act, and thus, Respondent OFFA hired and relied upon a professional accounting firm to prepare all of Respondent OFFA's campaign statements. Respondents, in reliance upon their hired professional accounting firm, inadvertently and unintentionally violated the Political Reform Act. Respondents ultimately filed amended campaign statements for each of the relevant reporting periods, itemizing and disclosing the contributions from individual union member contributors and disclosing the contribution to Mr. Wood. Additionally, the evidence suggests that the lack of proper disclosure regarding the contribution to Mr. Wood was also inadvertent, and the public harm was minimized because the contribution was reported by the recipient.

Recent penalties approved by the Commission concerning similar violations of the Act include:

Failure to Disclose Required Contributor Information:

In the Matter of Friends of Rancho Santa Fe Schools and Richard Burdge, FPPC No. 06/455. Respondents, a primarily formed ballot measure committee, and its treasurer, failed to itemize and disclose information regarding 21 contributors on one semi-annual campaign statement, in violation of Government Code section 84211, subdivision (f) (1 count). The amount of the contributions received from these contributors represented 54% of the total contributions Respondent Committee received for that reporting period. In May 2009, the Commission imposed a penalty of \$2,000 for this violation.

Failure to Disclose Contribution to Candidate:

In the Matter of Marin Professional Firefighters Political Action Committee, FPPC No. 06/255. Respondents, a sponsored state general purpose recipient committee, in its semi-annual campaign statement filed for the reporting period of July 1 through December 31, 2005, failed to disclose making nonmonetary contributions valued at approximately \$5,001, to seven local candidates, in violation of Government Code Section 84211, subdivision (k)(5) (2 counts). In April 2010, the Commission imposed a penalty of \$2,000 per count.

PROPOSED PENALTY

The facts of this case, including the aggravating and mitigating factors above, justify imposition of the agreed upon penalty of Twelve Thousand Dollars (\$12,000): Two Thousand Dollars (\$2,000) each for Counts 1 and 3 – 6, and Two Thousand Dollars (\$2,000) for Count 2. 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.

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