



## FAIR POLITICAL PRACTICES COMMISSION

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**To:** Vice Chair Eskovitz; Commissioners Casher, Wasserman and Wynne

**From:** Gary S. Winuk, Chief of Enforcement

**Subject:** In the Matter of Americans for Responsible Leadership and Center to Protect Patient's Rights (Fair Political Practices Commission Case No. 12/784)

**Date:** February 5, 2014

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This matter is submitted for informational purposes only. No action is required by the Commission.

On October 17, 2013, the Fair Political Practices Commission ("Commission"), in closed session, approved a civil settlement for the FPPC case In the Matter of Americans for Responsible Leadership (ARL) and Center to Protect Patient's Rights (CPPR), FPPC Case No. 12/784, imposing a penalty in the amount of \$1,000,000 for two counts (only one count applicable to ARL) of making a contribution in the name of another to the Small Business Action Committee (SBAC) and to the California Future Fund (CFF). Attached hereto as Exhibit A is a copy of the Civil Settlement approved in this case. The amount not properly disclosed was \$11,000,000 for the contribution to SBAC and \$5,000,000 for the contribution to CFF.

Following the Commission's approval of the foregoing civil settlement, the Enforcement Division contacted SBAC and CFF and requested that they disgorge the contributions received,

without ARL and CPPR disclosing the true source, to the General Fund of the State of California, pursuant to Government Code section 85701. On January 24, 2014, the Enforcement Division entered into stipulated civil judgments, attached as Exhibit B, with SBAC and CFF obligating SBAC and CFF for full payment of the required disgorgement. Additionally, the FPPC received a payment of \$300,000 from SBAC towards their obligation. As required by law, the funds will be turned over to the General Fund of the State of California in connection with this matter.

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Attorneys for Defendants  
**AMERICANS FOR RESPONSIBLE LEADERSHIP**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SACRAMENTO

FAIR POLITICAL PRACTICES COMMISSION, )  
a state agency, )  
  
Plaintiff, )  
  
v. )

Case No.

STIPULATION FOR ENTRY OF  
JUDGMENT

1 THE CENTER TO PROTECT PATIENTS  
2 RIGHTS and AMERICANS FOR  
3 RESPONSIBLE LEADERSHIP

) (IN FAVOR OF PLAINTIFF  
) AGAINST DEFENDANTS)

) UNLIMITED CIVIL ACTION  
)

4 Defendants.  
5

6 Plaintiff Fair Political Practices Commission (“FPPC” or the “Commission”), a  
7 state agency, by its attorneys, and Defendants the Center to Protect Patient’s Rights  
8 (“CPPR”) and Americans for Responsible Leadership (“ARL”) (collectively  
9 “Defendants”), by their attorneys, enter into this Stipulation to resolve all factual and  
10 legal issues pertaining to the Complaint for civil penalties filed herewith.  
11

12 It is stipulated by and between the parties as follows:

13 Solely for the purposes of this action, that the Complaint on file in this action was  
14 properly filed and jurisdiction of the subject matter and of the parties to this action, and  
15 venue, are properly in the Sacramento Superior Court. Any defects in the Complaint  
16 are expressly waived solely for the purposes of this action.  
17

18 Defendants understand, and hereby knowingly and voluntarily waive, any and all  
19 procedural rights that they could have exercised in this action if this Stipulation had not  
20 been entered into, including, but not limited to, their right to civil discovery, to appear  
21 personally at any civil trial held in this matter, to confront and cross-examine witnesses,  
22 and to have the trial presided over by an impartial judge, and heard and decided by a  
23 jury.  
24

25 **STIPULATED STATEMENT OF LAW AND FACTS**

26 1. **THE PARTIES AND BACKGROUND INFORMATION**

27 Fair Political Practices Commission  
28

1 The FPPC is a state agency created by the Political Reform Act of 1974 (the  
2 “Act”). (Government Code sections 81000–91014).

3 Plaintiff FPPC has primary responsibility for the impartial and effective  
4 administration and implementation of the Act. (Government Code section 83111).  
5 Pursuant to Government Code section 91001, subdivision (b), Plaintiff FPPC is the civil  
6 prosecutor for matters involving state candidates, state committees, and state election  
7 campaigns, and is authorized to maintain this action under Government Code sections  
8 91001, subdivision (b), 91004, 91005, and 91005.5. The FPPC has concluded after a  
9 thorough investigation that *all* actions undertaken by Defendants, and their Directors,  
10 Officers, employees, and agents in relation to the conduct described in the Complaint  
11 were neither knowing nor willful within the meaning of Government Code  
12 section 91000(a).  
13

#### 14 Attorney General of California

15 The Attorney General for the State of California is a State Constitutional officer  
16 whose duties include serving as the chief law enforcement officer for the State and also  
17 as civil counsel to California State agencies and commissions. Government Code  
18 Section 83117 provides that, upon request of the FPPC, the Attorney General shall  
19 provide legal advice and representation to the Commission. The FPPC requested such  
20 advice and representation from the Attorney General in this matter.  
21  
22

#### 23 Defendant Center to Protect Patient Rights

24 Defendant CPPR is a bona fide non-profit corporation organized in 2009 and  
25 recognized by the IRS as a tax exempt organization under Internal Revenue Code,  
26 section 501(c)(4). CPPR is located in Phoenix, Arizona. Prior to the events which are  
27  
28

1 the subject of this Complaint, CPPR had not made any contributions or expenditures in  
2 California.

3 Defendant Americans for Responsible Leadership

4 Defendant ARL is a bona fide non-profit corporation organized in 2011 and has  
5 applied for recognition as a tax exempt organization under Internal Revenue Code  
6 section 501(c)(4). ARL is located in Phoenix, Arizona. Prior to the events which are the  
7 subject of this Complaint, ARL had not made any contributions or expenditures in  
8 California.  
9

10 2. SUMMARY OF THE LAW

11 Campaign Reporting Requirements

12 An express purpose of the Act, as set forth in Government Code section 81002,  
13 subdivision (a), is to ensure that the contributions and expenditures affecting election  
14 campaigns are fully and truthfully disclosed to the public, so that voters may be better  
15 informed, and so that improper practices may be inhibited. In furtherance of this  
16 purpose of disclosure, the Act sets forth a comprehensive campaign reporting system.  
17 (Government Code section 84200, *et seq.*)  
18  
19

20 Civil Liability

21 Government Code section 91004 provides that any person who negligently or  
22 intentionally violates any of the reporting requirements of the Act shall be liable in a civil  
23 action for an amount up to the amount(s) not properly reported. Persons who violate  
24 Government Code section 84301 and 84302 are liable in a civil action brought pursuant  
25 to Government Code section 91004.  
26

27 Disclosure Requirements  
28

1 Section 81002, subdivision (a) of the Act provides that “receipts and expenditures  
2 in election campaigns shall be fully and truthfully disclosed in order that the voters may  
3 be fully informed and improper practices may be inhibited.” Timely and truthful  
4 disclosure of the source of campaign contributions is an essential part of the Act’s  
5 mandate.

6  
7 Government Code section 84301 provides that no contribution shall be made by  
8 any person in a name other than the name by which such person is identified for legal  
9 purposes.

10 Government Code section 84302 provides that no person shall make a  
11 contribution on behalf of another, or while acting as the intermediary or agent of  
12 another, without disclosing both the name of the intermediary and the contributor.  
13  
14 2 California Code of Regulations section 18432.5 states that a person is an intermediary  
15 for a contribution if the recipient of the contribution “would consider the person to be the  
16 contributor without the disclosure of the identity of the true source of the contribution.”

17  
18 Government Code section 84302 provides that the recipient of the contribution  
19 shall include in his campaign statement the full name and street address, occupation,  
20 and the name of the employer, if any, of both the intermediary and the contributor.

21 A campaign committee is required to disclose the date and amount of any  
22 contribution as well as the identity of any person or entity making a contribution to the  
23 committee. (Government Code section 84211). A “contribution” is defined by the Act  
24 as “any payment made for political purposes for which full and adequate consideration  
25 is not made to the donor.” (2 California Code of Regulations section 18215).  
26  
27  
28

1 The FPPC has enacted by regulation special rules for “contributions” made by  
2 non-profit organizations. (2 California Code of Regulations sections 18215(b)(1) and  
3 18412). Regulation 18412 was promulgated by the Commission in May of 2012, and  
4 provides for certain presumptions regarding the source of non-profit “contributions” as  
5 follows:

6  
7 (a) Application. This regulation establishes rules governing  
8 organizations that are formed and operate as tax exempt  
9 organizations under Internal Revenue Code Sections  
10 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6), as well as  
11 federal or out-of-state political organizations, which make  
12 contributions or independent expenditures totaling \$1,000 or  
13 more from their general treasuries to support or oppose a  
14 candidate or ballot measure in California, and report the  
15 sources of the funds used to make those contributions or  
16 independent expenditures as required by Regulation  
17 18215(b)(1).

18 (b) If a donor to such an organization requests or knows that  
19 the payment will be used by the organization to make a  
20 contribution or an independent expenditure to support or  
21 oppose a candidate or ballot measure in California, the full  
22 amount of the donor’s payment shall be disclosed by the  
23 organization as a contribution. For purposes of this  
24 regulation, a donor “knows” that a payment will be used to  
25 make a contribution or an independent expenditure if a  
26 donor makes a payment in response to a message or a  
27 solicitation indicating the organization’s intent to make a  
28 contribution or independent expenditure. An organization  
that solicits and receives contributions totaling \$1,000 or  
more becomes a committee pursuant to Section 82013(a).

### Campaign Disclosure

24 An express purpose of the Act, as set forth in Government Code section 81002,  
25 subdivision (a), is to ensure that the contributions and expenditures affecting election  
26 campaigns are fully and truthfully disclosed to the public, so that voters may be better  
27 informed, and so that improper practices may be inhibited.



1 In furtherance of this purpose of disclosure, the Act requires candidates, their  
2 controlled committees, and the treasurers of those committees, to file periodic campaign  
3 statements and reports, disclosing their financial activities. (Government Code section  
4 84200, *et seq.*)

5 Government Code section 82013, subdivision (a) provides that any person or  
6 combination of persons who directly or indirectly receives \$1,000 or more in a calendar  
7 year is a “committee.” This type of committee is commonly referred to as a “recipient  
8 committee” under the Act.  
9

10 To further ensure that the express purposes of the Act are achieved,  
11 Government Code section 84211 prescribes the contents of campaign statements.  
12 Government Code section 84211, subdivisions (c) and (i), requires each campaign  
13 statement to contain information regarding the total amount of contributions received  
14 during the period covered by the campaign statement from persons who have given a  
15 cumulative amount of \$100 or more, and information regarding the total amount of  
16 expenditures made during the period covered by the campaign statement to persons  
17 who have received \$100 or more.  
18

19 Government Code section 84211, subdivision (f) requires detailed information for  
20 contributions of \$100 or more. It provides that if the cumulative amount of contributions  
21 received from a person is \$100 or more, and a contribution has been received from that  
22 person during the period covered by the campaign statement, the statement must  
23 disclose identifying information about the contributor, the date and amount of each  
24 contribution received from the contributor during the reporting period, and the  
25 cumulative amount of the contributor’s contributions.  
26  
27  
28

1 3. CIVIL LIABILITY PROVISIONS

2 Government Code section 91004 provides that any person who intentionally or  
3 negligently violates any of the reporting requirements of the Act shall be liable in a civil  
4 action in an amount up to the amount(s) not properly reported. Persons who violate  
5 Government Code section 84301 and 84302 are liable in a civil action brought pursuant  
6 to Government Code section 91004.  
7

8  
9 4. SUMMARY OF FACTS

10 In November 2012, a statewide general election was held in California.  
11 Propositions 30 and 32 were on the statewide election ballot. The FPPC, during the  
12 course of its review, has determined that both Propositions saw well-funded ballot  
13 measure committees opposed to and supportive of their passage created with the  
14 California Secretary of State so that they could receive contributions and make  
15 expenditures for or in opposition to these measures. One such committee, opposed to  
16 one of the ballot measures, was registered with the Secretary of State under the name  
17 Small Business Action Committee PAC ("SBAC-PAC"). Other entities planned to  
18 engage in issue advocacy on the issues raised by Propositions 30 and 32, which is  
19 differentiated under California law from campaign activity.  
20  
21

22 California law, under the Political Reform Act (Government Code section 81000,  
23 *et seq.*), requires any person (defined to include individuals, entities, and corporations  
24 under Government Code section 82047) who receives \$1,000 or more in contributions  
25 or makes \$1,000 or more in expenditures to expressly advocate for the passage or  
26 defeat of a ballot measure to form a campaign committee and disclose their campaign  
27  
28

1 activity. The term “express advocacy” has been defined under regulations promulgated  
2 by the FPPC to exclude communication which, when considering their timing and tenor,  
3 are not for the purpose of attempting to influence the action of the voters.

4         The FPPC has learned that in the spring of 2012, a California-based political  
5 consultant and fundraiser embarked on a campaign to raise funds to oppose  
6 Propositions 30 and support Proposition 32. After consultation with attorneys, the  
7 consultant began raising funds for express advocacy to be given to either the ballot  
8 measure committees against Proposition 30 and for Proposition 32, or to SBAC-PAC.  
9 He also began raising funds for issue advocacy to be given to Americans for Job  
10 Security (“AJS”), a 501(c)(4) non-profit corporation registered in Virginia. The  
11 solicitation to contributors gave donors the option, consistent with California law, to  
12 either have their contributions reported in campaign disclosure forms by contributing to  
13 SBAC-PAC or the ballot measure committees for express advocacy, or not to have their  
14 contributions disclosed by donating to AJS for issue advocacy.  
15  
16

17         By October 2012, \$29 million from 150 donors had been raised by AJS for issue  
18 advocacy. AJS and the staff of the FPPC have determined that the donors’ names are  
19 not subject to disclosure under California law. In September 2012, with the election for  
20 the Propositions less than 60 days away and, after consultation with their attorneys,  
21 AJS determined that the remaining funds would no longer be spent on issue advocacy.  
22 This was due to their interpretation of a FPPC regulation defining express advocacy,  
23 which provides that proximity to the election day is one of the factors to be examined  
24 when determining whether the tenor and timing of a communication makes it “express  
25 advocacy,” even without words such as “Vote No on Proposition 30.”  
26  
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1 A decision was made by AJS to contribute the remaining funds, and any other  
2 funds that were received, to CPPR, a 501(c)(4) with social views similar to those held by  
3 AJS. The funds were explicitly provided with no specific direction as to how they would  
4 be used, and could be used for any purpose by CPPR. The funds were provided in  
5 three payments, as funds came in from donors: \$4,050,000 on September 10, 2012;  
6 \$14,000,000 on October 11, 2012; and \$6,500,000 on October 19, 2012. These  
7 transfers were all consistent with California law and not subject to disclosure.  
8

9 In making each of the contributions, AJS hoped, but did not require, that CPPR,  
10 which shared the same social views of AJS, would assist with the efforts to defeat  
11 Proposition 30, , and with efforts to pass Proposition 32. These actions would also be  
12 consistent with California law. CPPR contributed approximately \$7,000,000 to AFF on  
13 September 11, 2012, of which AFF contributed \$4,080,000 to a new California  
14 committee, California Future Fund for Free Markets ("CFF"). CPPR did not solicit any  
15 contributions from donors for political purposes in California and communicated with its  
16 attorneys during this time period. AFF and CFF shared CPPR's social views. CPPR,  
17 which had never previously made contributions in California, inadvertently, or at worst  
18 negligently, did not report CPPR as a contributor to AFF although the Commission  
19 would have advised CPPR to do so had inquiry then been made of the FPPC. AFF and  
20 CFF filed disclosure statements for the contributions in a timely manner disclosing AFF  
21 as the source of the contribution to CFF, but did not disclose CPPR's contribution.  
22

23 On October 12, 2012, CPPR contributed \$13 million to ARL, and on October 15,  
24 2012, it contributed an additional \$5 million to ARL, recommending to ARL that once the  
25 funds were received, ARL should use the funds to support common social interests,  
26 including support for SBAC-PAC. CPPR did not solicit funds for political purposes in  
27 California during this time period, and from the instance of the AFF donation to the  
28

1 making of the SBAC-PAC donation, CPPR's donors did not know or have reason to  
2 know that their donations, or funds with which their donations were or would be  
3 commingled, would be used to make contributions or expenditures in California. On  
4 October 15, 2012, ARL transferred \$11 million to SBAC-PAC, disclosing itself as the  
5 source of the funding. SBAC-PAC should have been informed by CPPR and ARL that  
6 CPPR had just made a contribution to ARL which shared its social views. CPPR should  
7 have disclosed itself to SBAC as the source of this contribution. The failure to disclose  
8 was inadvertent, or at worst negligent, and due to CPPR's lack of experience with  
9 California campaign disclosure law and its lack of knowledge that the Commission staff  
10 was available to respond to questions concerning reporting requirements on request by  
11 donors and recipients of contributions. During this time period ARL and CPPR  
12 communicated with counsel, and acted in good faith.

15 On October 25, 2012, the FPPC received a complaint that the source of the \$11  
16 million contribution to SBAC-PAC was not properly disclosed. The FPPC opened a  
17 discretionary audit to verify that the contribution had been properly reported, but ARL  
18 asserted the audit was illegal and violative of the First Amendment and the Due Process  
19 Clause, among other things, and accordingly declined to produce the requested  
20 records. The FPPC and the California Attorney General's office filed suit in Sacramento  
21 Superior Court to compel production of the records. The issue was litigated, but prior to  
22 final judgment, the FPPC and the Attorney General reached a settlement with ARL on  
23 Monday, November 5, 2012. Pursuant to this settlement agreement, with no admission  
24 of liability to do so, ARL disclosed additional information regarding the SBAC-PAC  
25  
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28

1 donation and CPPR disclosed AJS as its donor. ARL and CPPR made this information  
2 public prior to Election Day—Tuesday November 6, 2012.

3 In general, failure to disclose the true source of contributors deprives the public  
4 of important knowledge about who is funding campaigns and how it impacts the  
5 campaign messages they receive.  
6

7 **FIRST CAUSE OF ACTION**

8 (ONE VIOLATION—MAKING OF CONTRIBUTION WITHOUT DISCLOSING NAME OF  
9 CONTRIBUTOR)

10 Section 81002, subdivision (a) of the Act provides that “receipts and expenditures  
11 in election campaigns shall be fully and truthfully disclosed in order that the voters may  
12 be fully informed and improper practices may be inhibited.” Timely and truthful  
13 disclosure of the source of campaign contributions is an essential part of the Act’s  
14 mandate.  
15

16 Government Code section 84301 provides that no contribution shall be made by  
17 any person in a name other than the name by which such person is identified for legal  
18 purposes.  
19

20 Government Code section 84302 provides that no person shall make a  
21 contribution on behalf of another, or while acting as the intermediary or agent of  
22 another, without disclosing both the name of the intermediary and the contributor.

23 2 California Code of Regulations section 18432.5 states that a person is an intermediary  
24 for a contribution if the recipient of the contribution “would consider the person to be the  
25 contributor without the disclosure of the identity of the true source of the contribution.”  
26  
27  
28

1 Government Code section 84302 provides that the recipient of the contribution  
2 shall include in his campaign statement the full name and street address, occupation,  
3 and the name of the employer, if any, of both the intermediary and the contributor.

4 A campaign committee is required to disclose the date and amount of any  
5 contribution as well as the identity of any person or entity making a contribution to the  
6 committee. (Government Code section 84211). A “contribution” is defined by the Act  
7 as “any payment made for political purposes for which full and adequate consideration  
8 is not made to the donor.” (2 California Code of Regulations section 18215).  
9

10 The FPPC has enacted by regulation special rules for “contributions” made by  
11 non-profit organizations. (2 California Code of Regulations sections 18215(b)(1) and  
12 18412). Regulation 18412 was promulgated by the Commission in May of 2012, and  
13 provides for certain presumptions regarding the source of non-profit “contributions” as  
14 follows:  
15

16 (a) Application. This regulation establishes rules governing  
17 organizations that are formed and operate as tax exempt  
18 organizations under Internal Revenue Code Sections  
19 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6), as well as  
20 federal or out-of-state political organizations, which make  
21 contributions or independent expenditures totaling \$1,000 or  
22 more from their general treasuries to support or oppose a  
23 candidate or ballot measure in California, and report the  
24 sources of the funds used to make those contributions or  
25 independent expenditures as required by Regulation  
26 18215(b)(1).

27 (b) If a donor to such an organization requests or knows that  
28 the payment will be used by the organization to make a  
contribution or an independent expenditure to support or  
oppose a candidate or ballot measure in California, the full  
amount of the donor’s payment shall be disclosed by the  
organization as a contribution. For purposes of this  
regulation, a donor “knows” that a payment will be used to  
make a contribution or an independent expenditure if a

1 donor makes a payment in response to a message or a  
2 solicitation indicating the organization's intent to make a  
3 contribution or independent expenditure. An organization  
4 that solicits and receives contributions totaling \$1,000 or  
5 more becomes a committee pursuant to Section 82013(a).

6 On or about October 15, 2012, Defendant CPPR made a contribution to SBAC-  
7 PAC, a California campaign recipient committee through its contribution to Defendant  
8 ARL, without either Defendant disclosing to SBAC-PAC that CPPR was the initial  
9 source of the contribution, thereby depriving SBAC-PAC of the opportunity to make a  
10 more complete disclosure and the public of the knowledge of the initial source of the  
11 contribution in violation of Government Code sections 84301 and 84302. CPPR and  
12 ARL's decisions relating to disclosure were either inadvertent, or at worst, negligent.  
13 After diligent inquiry, the FPPC has concluded that these actions were neither knowingly  
14 nor willfully made under Government Code sections 84301, 84302 or 91000(a).

15 **SECOND CAUSE OF ACTION**

16  
17 (ONE VIOLATION—MAKING OF CONTRIBUTION WITHOUT DISCLOSING NAME OF  
18 CONTRIBUTOR)

19 Section 81002, subdivision (a) of the Act provides that "receipts and expenditures  
20 in election campaigns shall be fully and truthfully disclosed in order that the voters may  
21 be fully informed and improper practices may be inhibited." Timely and truthful  
22 disclosure of the source of campaign contributions is an essential part of the Act's  
23 mandate.

24  
25 Government Code section 84301 provides that no contribution shall be made by  
26 any person in a name other than the name by which such person is identified for legal  
27 purposes.



1 Government Code section 84302 provides that no person shall make a  
2 contribution on behalf of another, or while acting as the intermediary or agent of  
3 another, without disclosing both the name of the intermediary and the contributor.

4 2 California Code of Regulations section 18432.5 states that a person is an intermediary  
5 for a contribution if the recipient of the contribution “would consider the person to be the  
6 contributor without the disclosure of the identity of the true source of the contribution.”  
7

8 Government Code section 84302 provides that the recipient of the contribution  
9 shall include in his campaign statement the full name and street address, occupation,  
10 and the name of the employer, if any, of both the intermediary and the contributor.  
11

12 A campaign committee is required to disclose the date and amount of any  
13 contribution as well as the identity of any person or entity making a contribution to the  
14 committee. (Government Code section 84211). A “contribution” is defined by the Act  
15 as “any payment made for political purposes for which full and adequate consideration  
16 is not made to the donor.” (2 California Code of Regulations section 18215).  
17

18 The FPPC has enacted by regulation special rules for “contributions” made by  
19 non-profit organizations. (2 California Code of Regulations sections 18215(b)(1) and  
20 18412). Regulation 18412 was promulgated by the Commission in May of 2012, and  
21 provides for certain presumptions regarding the source of non-profit “contributions” as  
22 follows:  
23

24 (a) Application. This regulation establishes rules governing  
25 organizations that are formed and operate as tax exempt  
26 organizations under Internal Revenue Code Sections  
27 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6), as well as  
28 federal or out-of-state political organizations, which make  
contributions or independent expenditures totaling \$1,000 or  
more from their general treasuries to support or oppose a  
candidate or ballot measure in California, and report the

1 sources of the funds used to make those contributions or  
2 independent expenditures as required by Regulation  
18215(b)(1).

3 (b) If a donor to such an organization requests or knows that  
4 the payment will be used by the organization to make a  
5 contribution or an independent expenditure to support or  
6 oppose a candidate or ballot measure in California, the full  
7 amount of the donor's payment shall be disclosed by the  
8 organization as a contribution. For purposes of this  
9 regulation, a donor "knows" that a payment will be used to  
10 make a contribution or an independent expenditure if a  
11 donor makes a payment in response to a message or a  
12 solicitation indicating the organization's intent to make a  
13 contribution or independent expenditure. An organization  
14 that solicits and receives contributions totaling \$1,000 or  
15 more becomes a committee pursuant to Section 82013(a).

16 On or about September 11, 2012, Defendant CPPR made a contribution to CFF  
17 by first making a contribution to AFF, which then contributed to CFF without disclosing  
18 that CPPR had just made the contribution to AFF, thereby depriving the public of the  
19 knowledge of the initial source of the contribution in violation of Government Code  
20 Sections 84301 and 84302. CPPR and AFF's decisions relating to disclosure were  
21 either inadvertent, or at worst negligent. After diligent inquiry, the FPPC has concluded  
22 that these actions were neither knowingly nor willfully made under Government Code  
23 sections 84301, 84302 or 91000(a).

### 24 **ENTRY OF JUDGMENT AND RELEASE**

25 For the stated violations of the Political Reform Act, Plaintiff FPPC and all  
26 Defendants stipulate that a final judgment be issued and entered in the form of the order  
27 attached hereto and made a part hereof as Exhibit "A," in favor of Plaintiff FPPC, and  
28 against all Defendants, as follows: In the amount of \$500,000 against Defendants  
CPPR and ARL, for the first cause of action, as set forth in the Complaint; in the amount

1 of \$500,000 against Defendant CPPR and for the second cause of action, as set forth in  
2 the Complaint, for a total civil penalty of \$1,000,000. Payment of this amount shall be  
3 made by cashier's check, payable to the "General Fund of the State of California," upon  
4 the execution and filing of this stipulation.

5 The parties shall each bear their own attorney's fees and costs.

6 It is further stipulated by and between the parties as follows:

7  
8 (A) Defendant CPPR will file a major donor statement (Form 461) showing a  
9 contribution to CFF and to SBAC-PAC as set forth herein. The FPPC agrees, that as  
10 part of the consideration for this stipulation, CPPR: (i) is not and will not be required to  
11 file as a committee under Government Code section 84200 (a)–(b); (ii) is not and will  
12 not be required to file a Form 450; and (iii) is not and will not be required to disclose any  
13 of its donors as part of these disclosures;  
14

15 (B) The FPPC agrees, as part of the consideration for this Stipulation, and as an  
16 integral part of this dispute resolution process, that the above disclosures, when filed,  
17 represents full compliance with all applicable statutes and regulations and that it will not  
18 dispute the validity of the disclosure or cause CPPR the further expense of an audit.  
19

20 (C) The FPPC agrees, as part of the consideration for this Stipulation, and as an  
21 integral part of this dispute resolution process, that the Letter sent by ARL to SBAC-  
22 PAC on November 5, 2012, disclosing that ARL acted as an intermediary for the SBAC-  
23 PAC contribution, represents full compliance with all applicable statutes and regulations  
24 and that it will not dispute the validity of the disclosure or cause ARL the further  
25 expense of an audit.  
26  
27  
28

1 (D) Upon execution of this Stipulation, and in return for the valuable  
2 consideration herein, the FPPC releases, waives, and abandons any and all  
3 administrative claims, civil claims, and any other claims it may have within its jurisdiction  
4 against the Defendants, including, but not limited to, those stated in the instant action  
5 filed by Plaintiff in the Superior Court of the State of California and any alleged  
6 violations arising from any other transactions that occurred during the 2012 election  
7 season, any and all events which in any way arise out of the implementation and/or  
8 execution of the Stipulation, and any and all other claims it may have within its  
9 jurisdiction, including those against Defendants' current and former Directors, Officers,  
10 employees, and agents including, but not limited to, those which arise out the operative  
11 facts of the instant action filed by Plaintiff in the Superior Court of the State of California,  
12 any alleged violations arising from any other transactions that occurred during the 2012  
13 election season, and any and all events which in any way arise out of the  
14 implementation and/or execution of the Stipulation. And the FPPC unconditionally  
15 releases and forever discharges both as to Defendants, and Defendants' current and  
16 former Directors, Officers, employees, and agents, any and all known and unknown  
17 claims, demands, actions, causes of action, and any injuries or damages that now exist  
18 or that may arise in the future based upon or arising out of, in whole or in part,  
19 omissions, acts, or events occurring prior to the Parties' execution of this Settlement  
20 Agreement including, without limitation: (1) any and all claims pertaining to any alleged  
21 violation of the Act, including, but not limited to, those stated in the instant action filed by  
22 Plaintiff in the Superior Court of the State of California, any alleged violations arising  
23 from any other transactions that occurred during the 2012 election season, any and all  
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1 events which in any way arise out of the implementation and/or execution of the  
2 Stipulation; (2) for damages of any nature, whether past, present, or future, including  
3 compensatory, general, special, or punitive; and (3) for costs, fees, or other expenses,  
4 including attorneys' fees, incurred regarding those matters released herein.

5 The FPPC expressly acknowledges, agrees, and covenants, that this release  
6 shall extend to all claims, whether or not known or suspected by the FPPC prior to the  
7 execution of this release, and the FPPC agrees that this release shall constitute a  
8 waiver of each and every one of the provisions of Civil Code, Section 1542, and any  
9 similar law of any state or territory of the United States. **Section 1542** provides that:  
10  
11 **“A general release does not extend to claims which the creditor does not know or**  
12 **suspect to exist in his favor at the time of executing the release, which if known**  
13 **by him must have materially affected his settlement with the debtor.”**

14  
15 The final judgment may be signed by any judge of the Superior Court of the State  
16 of California, in and for the County of Sacramento, and entered by any clerk upon  
17 application of any party without notice.  
18

19 **CONCLUSION**

20 As the result of the aforementioned actions, the parties agree that Judgment  
21 shall be entered against Defendants, and in favor of Plaintiff Fair Political Practices  
22 Commission, as provided by this Stipulation.  
23

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1 IT IS SO STIPULATED:

2

3 Dated: \_\_\_\_\_

4

\_\_\_\_\_  
Malcolm Segal, on behalf of Center to Protect  
Patient Rights, Defendant

5

6 Dated: \_\_\_\_\_

7

\_\_\_\_\_  
Thad Davis, on behalf of Americans for  
Responsible Leadership, Defendant

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

By: \_\_\_\_\_  
Gary Winuk, FPPC Chief of Enforcement  
Attorney for Plaintiff FPPC

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

\_\_\_\_\_  
Douglas Woods, Senior Assistant Attorney  
General  
Attorney for Plaintiff FPPC

Intentionally left blank



1 GARY S. WINUK, SBN 190313  
Chief of Enforcement  
2 **Fair Political Practices Commission**  
428 J Street, Suite 620  
Sacramento, CA 95814  
3 Telephone: (916) 322-5660  
4 Facsimile: (916) 322-1932

5 Attorney for Plaintiff  
**FAIR POLITICAL PRACTICES COMMISSION**

6 Steven Churchwell  
7 Churchwell White LLP  
1201 K Street, Suite 710, Sacramento, CA 95814  
8 Telephone: (916) 468-0950  
9 Facsimile: (916) 468-0951

10 Attorney for Defendant  
**SMALL BUSINESS ACTION COMMITTEE PAC**

11  
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 IN AND FOR THE COUNTY OF SACRAMENTO

14 FAIR POLITICAL PRACTICES COMMISSION, )  
15 a state agency, )

16 Plaintiff,

17 v.

18 SMALL BUSINESS ACTION COMMITTEE  
19 PAC,

20 Defendant.

Case No.

21 STIPULATION FOR ENTRY OF  
22 JUDGMENT

(IN FAVOR OF PLAINTIFF  
AGAINST DEFENDANT)

UNLIMITED CIVIL ACTION

23 Plaintiff Fair Political Practices Commission (hereinafter "FPPC" or "Plaintiff"), a  
24 state agency, by its attorney, and Defendant Small Business Action Committee PAC  
25 FPPC ID# 1270683 (hereinafter "SBAC" or "Defendant"), by its attorney, enter into this  
26 Stipulation to resolve all factual and legal issues pertaining to the Complaint for a  
27 monetary judgment filed herewith.  
28

1 It is stipulated by and between the parties as follows:

2 Solely for the purposes of this action, that the Complaint on file in this action was  
3 properly filed and jurisdiction of the subject matter and of the parties to this action, and  
4 venue, are proper in the Sacramento Superior Court. Any defects in the Complaint are  
5 expressly waived solely for the purposes of this action.  
6

7 Defendant understands, and hereby knowingly and voluntarily waives, any and  
8 all procedural rights that it could have exercised in this action if this Stipulation had not  
9 been entered into, including, but not limited to, its right to civil discovery, to appear  
10 personally at any civil trial held in this matter, to confront and cross-examine witnesses,  
11 and to have the trial presided over by an impartial judge and heard and decided by a  
12 jury.  
13

14 **STIPULATED STATEMENT OF LAW AND FACTS**

15 **THE PARTIES AND BACKGROUND INFORMATION**

16 **Fair Political Practices Commission**

17 The FPPC is a state agency created by the Political Reform Act of 1974 (the  
18 "Act"). (Government Code sections 81000–91014).  
19

20 The FPPC has primary responsibility for the impartial and effective administration  
21 and implementation of the Act. (Government Code section 83111). Pursuant to  
22 Government Code section 91001, subdivision (b), Plaintiff FPPC is the civil prosecutor  
23 for matters involving state candidates, state committees, and state election campaigns,  
24 and is authorized to maintain this action.  
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1                Defendant Small Business Action Committee PAC

2                The SBAC was at all times relevant to this matter a state committee organized  
3 under the laws of the State of California.

4                SUMMARY OF THE LAW

5                Government Code section 85701 provides that any candidate or committee that  
6 receives a contribution in violation of Government Code section 84301 is required to  
7 pay the entire amount of the contribution to the General Fund of the State of California.

8                SUMMARY OF FACTS

9                On or about October 15, 2012, the Center to Protect Patient Rights (hereinafter  
10 “CPPR”) made a contribution of \$11,000,000 to Defendant by first making the  
11 contribution to Americans for Responsible Leadership (hereinafter “ARL”), a non-profit  
12 corporation located in Phoenix, Arizona, which then passed the contribution to  
13 Defendant without disclosing that CPPR was the actual source of the contribution, in  
14 violation of Government Code section 84301.

15                CAUSE OF ACTION

16                Because the aforementioned contribution was made to Defendant in violation of  
17 Government Code section 84301, Defendant is required, pursuant to Government Code  
18 section 85701, to disgorge the entire contribution to the General Fund of the State of  
19 California.

20                To date, Defendant has not disgorged any of the aforementioned contribution to  
21 the General Fund of the State of California.

1 **ENTRY OF JUDGMENT AND RELEASE**

2 For the stated violations of the Act, the FPPC and the SBAC stipulate to the  
3 following:

4 That a final judgment be issued and entered in the form of the order attached  
5 hereto and made a part hereof as Exhibit "A," in favor of the FPPC, and against SBAC,  
6 as follows: A monetary judgment in the amount of \$11,000,000, payable to the General  
7 Fund of the State of California.  
8

9 The parties shall each bear their own attorney's fees and costs.

10 The final judgment may be signed by any judge of the Superior Court of the State  
11 of California, in and for the County of Sacramento, and entered by any clerk upon  
12 application of any party without notice.  
13

14 **CONCLUSION**

15 As the result of the aforementioned actions, the parties agree that Judgment  
16 shall be entered against SBAC, and in favor of the FPPC, as provided by this  
17 Stipulation.  
18

19 IT IS SO STIPULATED:

20 CHURCHWELL WHITE LLP  
21 Dated: Jan. 23, 2014   
22 By: Steven G. Churchwell, Attorneys for Small  
23 Business Action Committee PAC, Defendant

24 FAIR POLITICAL PRACTICES COMMISSION  
25 Dated: 1/23/14   
26 By: Gary Winuk, FPPC Chief of Enforcement  
27 Attorney for the Fair Political Practices  
28 Commission, Plaintiff

1 GARY S. WINUK, SBN 190313  
Chief of Enforcement  
Fair Political Practices Commission  
2 428 J Street, Suite 620  
Sacramento, CA 95814  
3 Telephone: (916) 322-5660  
Facsimile: (916) 322-1932  
4

5 Attorney for Plaintiff  
**FAIR POLITICAL PRACTICES COMMISSION**

6  
7 LAUREN A. BATTEY, SBN 287978  
Holtzman Vogel Josefiak, PLLC  
45 North Hill Drive, Suite 100  
8 Warrenton, VA 20186  
Telephone: (540) 341-8808  
9 Facsimile: (540) 541-8809

10 Attorney for Defendant  
11 **CALIFORNIA FUTURE FUND FOR FREE**  
12 **MARKETS YES ON PROPOSITION 32 WITH**  
13 **MAJOR FUNDING BY AMERICAN FUTURE FUND**

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 IN AND FOR THE COUNTY OF SACRAMENTO

16 FAIR POLITICAL PRACTICES COMMISSION, )  
a state agency, )  
17 Plaintiff, )  
18 v. )  
19 CALIFORNIA FUTURE FUND FOR FREE )  
20 MARKETS YES ON PROPOSITION 32 WITH )  
21 MAJOR FUNDING BY AMERICAN FUTURE )  
FUND, )  
22 Defendant. )

Case No.  
  
STIPULATION FOR ENTRY OF  
JUDGMENT  
  
(IN FAVOR OF PLAINTIFF  
AGAINST DEFENDANT)  
  
UNLIMITED CIVIL ACTION

23  
24 Plaintiff Fair Political Practices Commission (hereinafter "FPPC" or "Plaintiff"), a  
25 state agency, by its attorney, and Defendant the California Future Fund for Free  
26 Markets Yes on Proposition 32 with Major Funding by American Future Fund, FPPC ID  
27 #1351572 (hereinafter "CFF" or "Defendant"), by its attorney, enter into this Stipulation  
28

1 to resolve all factual and legal issues pertaining to the Complaint for a monetary  
2 judgment filed herewith.

3 It is stipulated by and between the parties as follows:

4 Solely for the purposes of this action, that the Complaint on file in this action was  
5 properly filed and jurisdiction of the subject matter and of the parties to this action, and  
6 venue, are proper in the Sacramento Superior Court. Any defects in the Complaint are  
7 expressly waived solely for the purposes of this action.  
8

9 Defendant understands, and hereby knowingly and voluntarily waives, any and  
10 all procedural rights that it could have exercised in this action if this Stipulation had not  
11 been entered into, including, but not limited to, its right to civil discovery, to appear  
12 personally at any civil trial held in this matter, to confront and cross-examine witnesses,  
13 and to have the trial presided over by an impartial judge and heard and decided by a  
14 jury.  
15

16 **STIPULATED STATEMENT OF LAW AND FACTS**

17 **THE PARTIES AND BACKGROUND INFORMATION**

18 **Fair Political Practices Commission**

19 The FPPC is a state agency created by the Political Reform Act of 1974 (the  
20 "Act"). (Government Code sections 81000–91014).  
21

22 The FPPC has primary responsibility for the impartial and effective administration  
23 and implementation of the Act. (Government Code section 83111). Pursuant to  
24 Government Code section 91001, subdivision (b), Plaintiff FPPC is the civil prosecutor  
25 for matters involving state candidates, state committees, and state election campaigns,  
26 and is authorized to maintain this action.  
27  
28

1           Defendant California Future Fund for Free Markets Yes on Proposition 32 with

2           Major Funding by American Future Fund

3           The CFF was at all times relevant to this matter a state committee organized  
4 under the laws of the State of California.

5           SUMMARY OF THE LAW

6           Government Code section 85701 provides that any candidate or committee that  
7 receives a contribution in violation of Government Code section 84301 is required to  
8 pay the entire amount of the contribution to the General Fund of the State of California.  
9

10           SUMMARY OF FACTS

11           On or about September 11, 2012, the Center to Protect Patient Rights  
12 (hereinafter "CPPR") made a contribution of \$4,080,000 to Defendant without disclosing  
13 that CPPR was the actual source of the contribution, in violation of Government Code  
14 section 84301.  
15

16   CAUSE OF ACTION

17           Because the aforementioned contribution was made to Defendant in violation of  
18 Government Code section 84301, Defendant is required, pursuant to Government Code  
19 section 85701, to disgorge the entire contribution to the General Fund of the State of  
20 California.  
21

22           To date, Defendant has not disgorged any of the aforementioned contribution to  
23 the General Fund of the State of California.  
24

25   ENTRY OF JUDGMENT AND RELEASE

26           For the stated violations of the Act, the FPPC and the CFF stipulate to the  
27 following:  
28

1 That a final judgment be issued and entered in the form of the order attached  
2 hereto and made a part hereof as Exhibit "A," in favor of the FPPC, and against CFF, as  
3 follows: A monetary judgment in the amount of \$4,080,000, payable to the General  
4 Fund of the State of California.

5 The parties shall each bear their own attorney's fees and costs.

6  
7 The final judgment may be signed by any judge of the Superior Court of the State  
8 of California, in and for the County of Sacramento, and entered by any clerk upon  
9 application of any party without notice.

10 **CONCLUSION**

11  
12 As the result of the aforementioned actions, the parties agree that Judgment  
13 shall be entered against CFF, and in favor of the FPPC, as provided by this Stipulation.

14 IT IS SO STIPULATED:

15  
16 Dated: 1/23/14



Lauren Battey, on behalf of California Future Fund  
for Free Markets Yes on Proposition 32 with Major  
Funding by American Future Fund, Defendant

17  
18  
19 Dated: 1/23/14



By: Gary Winuk, FPPC Chief of Enforcement  
Attorney for Plaintiff FPPC