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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
10 STATE OF CALIFORNIA

11  
12 In the Matter of ) FPPC No. 14/280  
13 )  
14 OPERATIVE PLASTERERS AND CEMENT ) STIPULATION, DECISION and  
MASON'S INTERNATIONAL ASSOCIATION ) ORDER  
15 LOCAL 200 PAC and TOM CASTLEMAN, )  
16 Respondents. )  
17 )

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19 Complainant, the Fair Political Practices Commission, and Respondents Operative Plasterers and  
20 Cement Masons International Association Local 200 PAC and Tom Castleman, hereby agree that this  
21 Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next  
22 regularly scheduled meeting.

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

26 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural  
27 rights set forth in sections 83115.5, 11503, and 11523 of the Government Code, and in section 18361.1  
28 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,

1 the right to personally appear at any administrative hearing held in this matter, to be represented by an  
2 attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the  
3 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge  
4 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

5 It is further stipulated and agreed that Respondents violated the Political Reform Act by (1)  
6 failing to file in paper format and electronically a semi-annual campaign statement by July 31, 2013 for  
7 the reporting period January 1, 2013 through June 30, 2013, in violation of Section 84200, subdivision  
8 (a), 84215, and 84605, subdivision (b) of the Government Code (1 count) and failing to file in paper  
9 format and electronically a semi-annual campaign statement by January 31, 2014 for the reporting  
10 period July 1, 2013 through December 31, 2013, in violation of Section 84200, subdivision (a), 84215,  
11 and 84605, subdivision (b) of the Government Code (1 count), as described in Exhibit 1, which is  
12 attached hereto and incorporated by reference, as though fully set forth herein. Exhibit 1 is a true and  
13 accurate summary of the facts in this matter.

14 Respondents agree to the issuance of the Decision and Order, which is attached hereto.  
15 Respondent also agrees to the Commission imposing upon them an administrative penalty in the amount  
16 of Two Thousand Dollars (\$2,000). A cashier's check from Respondents in said amount, made payable  
17 to the "General Fund of the State of California," is submitted with this Stipulation as full payment of the  
18 administrative penalty, and shall be held by the State of California until the Commission issues its  
19 decision and order regarding this matter. The parties agree that in the event the Commission refuses to  
20 accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the  
21 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in  
22 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and  
23 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the  
24 Commission becomes necessary, neither any member of the Commission, nor the Executive  
25 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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

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

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Respondent Tom Castleman, individually and on behalf of  
Respondent Operative Plasterers and Cement Masons  
International Association Local 200 PAC

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Operative Plasterers and Cement  
3 Masons International Association Local 200 PAC and Tom Castleman, FPPC No. 14/280,” including all  
4 attached exhibits, is hereby accepted as the final Decision and Order of the Fair Political Practices  
5 Commission, effective upon execution below by the Chairman.

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7 IT IS SO ORDERED.

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

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10 Joann Remke, Chair  
11 Fair Political Practices Commission  
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**EXHIBIT 1**

**INTRODUCTION**

Respondent Operative Plasterers and Cement Masons International Association Local 200 PAC (“Respondent Committee”) is a state general purpose committee sponsored by the Operative Plasterers and Cement Masons International Association Local 200. At all times relevant, Respondent Tom Castleman (“Respondent Castleman”) served as Respondent Committee’s treasurer.

The Political Reform Act (the “Act”)<sup>1</sup> requires a state general purpose committee to file periodic campaign statements and to make required disclosures.

For the purposes of this Stipulation, Respondents’ violation is stated as follows:

**COUNT 1:** Respondents Operative Plasterers and Cement Masons International Association Local 200 PAC and Tom Castleman failed to file in paper format and electronically a semi-annual campaign statement by July 31, 2013 for the reporting period January 1, 2013 through June 30, 2013, in violation of Section 84200, subdivision (a), 84215, and 84605, subdivision (b) of the Government Code.

**COUNT 2:** Respondents Operative Plasterers and Cement Masons International Association Local 200 PAC and Tom Castleman failed to file in paper format and electronically a semi-annual campaign by January 31, 2014 for the reporting period July 1, 2013 through December 31, 2013, in violation of Section 84200, subdivision (a), 84215, and 84605, subdivision (b) of the Government Code.

**SUMMARY OF THE LAW**

**State General Purpose Committee**

Under the Act's campaign reporting system, recipient committees, as defined in Section 82013, subdivision (a), are required to file certain specified campaign statements and reports.

Under the Act, there are different types of recipient committees, defined by the type of election activity in which they engage. A recipient committee that is formed or exists primarily to support or oppose candidates or measures voted on in a state election or in more than one county is defined, in Section 82027.5, subdivision (b), as a “state general purpose committee.”

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<sup>1</sup> 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.

### Duty to File Semi-Annual Campaign Statements

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

General Purpose committees must file two semi-annual campaign statements each year. Section 84200, subdivision (a) requires a committee to file a semi-annual campaign statement 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. (Section 84200, subdivision (a).) All filing obligations continue until the campaign is terminated by filing a statement of termination (Form 410) with the Secretary of State and a copy with the local filing officer receiving the campaign's original campaign statements. (Section 84214; Regulation 18404.)

As stated above, an original and one paper copy of these semi-annual campaign statements must be filed with the Secretary of State, as well as by online or electronic means. (Section 84215, subdivision (a).)

### Duty to File Reports Online

In order to maximize the availability of information regarding campaign disclosure to the public, the Act requires any candidate, officeholder, committee, or other person who is required to file statements, reports, or other documents in connection with a state elective office to file them online or electronically when the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is \$50,000 or more. (§ 84605, subdivision (a).)

Once a person or entity is required to file online or electronically, the person or entity is required to file all subsequent reports online or electronically as well. (§ 84605, subdivision (g).) Persons filing online or electronically are also required to continue to file required disclosure statements and reports in paper format, which continue to be the official filing for audit and other legal purposes until the Secretary of State determines the system is operating securely and effectively. (§ 84605, subdivision (i).)

### Liability of Committee Treasurers

Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (a), it is the duty of the 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.)

## SUMMARY OF THE FACTS

Respondent Operative Plasterers and Cement Masons International Association Local 200 PAC (“Respondent Committee”) is a state general purpose committee sponsored by the Operative Plasterers and Cement Masons International Association Local 200. At all times relevant, Respondent Tom Castleman (“Respondent Castleman”) served as Respondent Committee’s treasurer at all times relevant.

Respondent Committee has been filing statements electronically, as specified at Section 84605, since 2001. Therefore, Respondent Committee had a continuing obligation to file campaign statements and reports online or electronically.

Respondent Operative Plasterers and Cement Masons International Association Local 200 PAC Qualified as a committee on January 22, 1991. Respondents Committee and Castleman Received a Warning Letter, dated June 15, 2012, for failure to file two semiannual campaign statements covering the 2011 calendar year, and a Streamline stipulation, approved by the commission on August 22, 2013, for failure to file failure to file two semiannual campaign statements covering the 2012 calendar year. As such, Respondents were aware of their filing requirements under the Act. Respondents have filed the delinquent semi-annual campaign statements as a condition of this settlement.

### COUNT 1

#### **Failure to File Semi-Annual Campaign Statements**

For the reporting period January, 1, 2013 through June 30, 2013, Respondents were required to file a semi-annual campaign statement, in both paper and electronic format, with the Secretary of State.

By failing to file, in both paper and electronic format electronic format, a semi-annual campaign statement by July 31, 2013, for the reporting period January 1, through June 30, 2013, Respondents violated Section 84200, subdivision (a) and 84605, subdivision (a) of the Government Code.

### COUNT 2

#### **Failure to File Semi-Annual Campaign Statements**

For the reporting July 1, 2013 through December 1, 2013, Respondents were required to file a semi-annual campaign statement, in both paper and electronic format, with the Secretary of State.

By failing to file, in both paper and electronic format electronic format, a semi-annual campaign statement by January 31, 2014, for the reporting period July 1, through December 31, 2013, Respondents violated Section 84200, subdivision (a) and 84605, subdivision (a) of the Government Code.

## CONCLUSION

This matter consists of two counts, which carries a maximum possible administrative penalty of Five Thousand Dollars (\$5,000) per count, for a total of Ten Thousand Dollars (\$10,000).

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. The Enforcement Division also considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6), which include: the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether upon learning of the violation the Respondent voluntarily filed amendment to provide full disclosure. Additionally, liability under the Act is governed in significant part by the provisions of Section 91001, subdivision (c), which requires the Commission to consider whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith, in applying remedies and sanctions.

A recent stipulation involving failure to file semi-annual campaign statements includes:

*In the Matter of Marco Robles, Committee to Elect Marco A. Robles, and Rosa Lira, Treasurer, FPPC No. 08/329* had a similar fact pattern; the failure to file semi-annual campaign statement count addressed a failure to file a statement that was due after the relevant election. The committee cooperated fully with filing obligations. The Commission approved settlement of this case, with a \$1,000 penalty for this violation, on February 11, 2010.

## PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the Respondent's pattern of behavior, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of One Thousand Dollars (\$1,000) each for Count One and Count Two, for a total of Four Thousand Dollars (\$2,000) is recommended.