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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
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12 In the Matter of) FPPC No. 12/806
13)
14 SONNY DHALIWAL, SONNY DHALIWAL)
FOR CITY COUNCIL 2010, and SARBJIT)
DHALIWAL,) DEFAULT DECISION and ORDER
15)
(Gov. Code, §§ 11506 and 11520)
16 Respondents.)
17)

18 Complainant, the Fair Political Practices Commission, hereby submits this Default Decision and
19 Order for consideration at its next regularly scheduled meeting.

20 Respondents Sonny Dhaliwal, Sonny Dhaliwal for City Council 2010, and Sarbjit Dhaliwal,
21 have been provided advice by an attorney of their choosing as to their rights to a probable cause hearing
22 and an administrative hearing under the Political Reform Act, Administrative Procedure Act, and all
23 other relevant laws, and they have chosen to waive all such rights to a probable cause hearing and
24 administrative hearing and to allow this matter to proceed to a default decision.

25 In this case, Respondents Sonny Dhaliwal, Sonny Dhaliwal for City Council 2010, and Sarbjit
26 Dhaliwal violated the Political Reform Act as described in Exhibit 1, which is attached hereto and
27 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
28 the law and evidence in this matter.

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This Default Decision and Order is submitted to the Commission to obtain a final disposition of this case.

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

EXHIBIT 1

INTRODUCTION

Respondent “Sonny Dhaliwal for City Council 2010” (“Committee”) qualified as a candidate controlled recipient committee under the Political Reform Act (the “Act”)¹ in 2010. The Committee is controlled by Respondent Sonny Dhaliwal, first elected to Lathrop City Council in 2006, and re-elected in November 2010. He is currently serving as Mayor of Lathrop. Respondent Sarbjit Dhaliwal is Sonny Dhaliwal’s wife and the treasurer for the Committee. Respondents Sonny Dhaliwal for City Council 2010, Sonny and Sarbjit Dhaliwal violated the Act by failing to comply with campaign reporting and bank account provisions and Respondent Sonny Dhaliwal violated the Act by failing to disclose sources of income on statements of economic interests.

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

RESPONDENTS SONNY DHALIWAL, SONNY DHALIWAL FOR CITY COUNCIL 2010, AND SARBJIT DHALIWAL

- COUNT 1: Respondents Sonny Dhaliwal, Sonny Dhaliwal for City Council 2010, and Sarbjit Dhaliwal, failed to deposit campaign contributions totaling \$4,600 into the single, designated campaign bank account, in violation of Government Code Section 85201, subdivision (c).
- COUNT 2: Respondents Sonny Dhaliwal, Sonny Dhaliwal for City Council 2010, and Sarbjit Dhaliwal failed to report the receipt of contributions totaling approximately \$3,100, on a semi-annual campaign statement, in violation of Section 84211, subdivisions (a), (c), and (f) of the Government Code.
- COUNT 3: Respondents Sonny Dhaliwal, Sonny Dhaliwal for City Council 2010, and Sarbjit Dhaliwal failed to report the receipt of contributions totaling approximately \$700, on a first pre-election campaign statement, in violation of Section 84211, subdivisions (a), (c), and (f) of the Government Code.
- COUNT 4: Respondents Sonny Dhaliwal, Sonny Dhaliwal for City Council 2010, and Sarbjit Dhaliwal failed to report the receipt of contributions totaling approximately \$300, on a second pre-election campaign statement, in violation of Section 84211, subdivisions (a), (c), and (f) of the Government Code.
- COUNT 5: Respondents Sonny Dhaliwal, Sonny Dhaliwal for City Council 2010, and Sarbjit Dhaliwal failed to report the receipt of contributions totaling approximately \$500,

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.

on a semi-annual campaign statement, in violation of Section 84211, subdivisions (a), (c), and (f) of the Government Code.

RESPONDENT SONNY DHALIWAL

COUNT 6: On or about April 1, 2011 and April 2, 2012, Respondent Sonny Dhaliwal failed to disclose the receipt of personal loans totaling \$17,500, in violation of Sections 87203 and 87207 of the Government Code.

PROCEDURAL HISTORY

Respondents have been informed of the charges set forth herein. Also, they have consulted with an attorney of their choosing about their rights to a probable cause hearing and an administrative hearing under the Political Reform Act, the Administrative Procedure Act, and all other relevant laws. However, Respondents have agreed to waive these rights, and are aware that by doing so, the Enforcement Division will proceed with this default recommendation to the Commission, which, if approved by the Commission, will result in Respondents being held liable for the penalty amount of \$21,000.

A certified copy of Respondents' written waiver in this regard is submitted herewith as Exhibit A and incorporated herein by reference as if in full.

NATURE OF DEFAULT PROCEEDINGS

In this situation, where Respondents have waived their rights to a probable cause conference and an administrative hearing, the Commission may take action based upon the Respondents' express admissions or upon other evidence, and affidavits may be used as evidence without any notice to the Respondents. (Section 11520, subdivision (a).)

SUMMARY OF THE LAW

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

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 committee controlled directly or indirectly by a candidate, or that acts jointly with a candidate, is known as a candidate-controlled committee. (Section 82016.) Under the Act's campaign reporting system, candidate-controlled committees are required to file campaign statements and reports that include specific information regarding contributions received.

Duty to Deposit Contributions into Designated Campaign Bank Account

The Act requires campaign funds to be segregated from nonpolitical, personal accounts

and kept in a single, designated campaign bank account. To achieve this end, Section 85201, subdivision (c) requires candidates to establish a single campaign bank account into which all contributions made to a candidate must be deposited.

Duty to Report Contributions Received

Each campaign statement must report “[t]he total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.” (Section 84211, subdivision (a).) Also, each campaign statement must report “[t]he total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more.” (Section 84211, subdivision (c).)

Section 84211, subdivision (f), further requires that certain identifying information be provided for each person from whom a cumulative amount of contributions of \$100 or more has been received during the period covered by the campaign statement, including the following: (1) the person’s full name; (2) his or her street address; (3) his or her occupation; (4) the name of his or her employer, or if self-employed, the name of the business; (5) the date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan; and (6) the cumulative amount of contributions.

Duty to Disclose Economic Interests

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, every person who holds an office specified in Section 87200, which includes mayors and members of city councils, shall, each year at a time specified by Commission regulations, file a Statement of Economic Interests (“SEI”), disclosing investments, interests in real property and income. (Section 87203.) Section 82030 defines “Income” as including but not limited to any loan.

SUMMARY OF THE FACTS

Respondent Committee “Sonny Dhaliwal for City Council 2010” (“Committee”) qualified as a candidate controlled recipient committee under the Act in 2010. In November 2006, Sukhminder “Sonny” Dhaliwal was elected to the Lathrop City Council and re-elected in November 2010. In November 2012, Dhaliwal successfully ran for Mayor and was elected with 67% of the vote. He is currently in office. Sarbjit Dhaliwal is Sonny Dhaliwal’s wife, and Treasurer. The committee reported contributions totaling approximately \$22,128 for the 2010 re-election campaign.

COUNT 1

Campaign Bank Account

In connection with an election held November of 2010, Respondents have a duty to deposit all contributions to the Committee into a single, designated campaign bank account. The investigation revealed that Respondents failed to deposit eight contributions totaling \$4,600, into a personal bank account, and were not timely reported on campaign statements. After Respondents' attorney was contacted in the course of the investigation concerning these violations, Respondents paid the \$4,600 to the campaign, and amended the campaign statements to reflect the contributions.

By depositing eight contributions totaling \$4,600 into an account other than the single, designated campaign bank account; Respondents Sonny Dhaliwal for City Council 2010, Sonny Dhaliwal, and Sarbjit Dhaliwal violated Section 85201, subdivision (c) of the Government Code.

COUNTS 2-5

Failure to Disclose Contributions Received

Three of the contributions should have been reported on the semi-annual campaign statement due on August 2, 2010, three on the first pre-election campaign statement, one on the second pre-election campaign statement, and one on the on the semi-annual campaign statement due on January 31, 2011. The contributions are as follows:

Contributor	Reporting Period	Received	Disclosed
M & J Transportation	01/01/10 thru 06/30/10	05/24/2010	05/20/2013
Dhoot Bros Partnership Inc	01/01/10 thru 06/30/10	05/23/2010	05/20/2013
Ranjit & Meena Chandowalia	07/01/10 thru 09/30/10	09/05/2010	05/20/2013
Balbir & Jogjinder Bhangal	07/01/10 thru 09/30/10	09/05/2010	05/20/2013
Sodhi & Jaswinder Sidhu	07/01/10 thru 09/30/10	09/05/2010	05/20/2013
K S Trucking	01/01/10 thru 06/30/10	06/18/2010	05/20/2013
Dhaba Indian Cuisine	10/01/10 thru 10/16/10	10/13/2010	05/20/2013
Balwant Sandhu	10/17/10 thru 12/31/10	10/20/2010	01/14/2013
Total			\$4,600

By failing to report the receipt of contributions totaling approximately \$4,600, Respondents Sonny Dhaliwal for City Council 2010, Sonny Dhaliwal, and Sarbjit Dhaliwal violated Section 84211, subdivisions (a), (c), and (f) of the Government Code.

COUNT 6

Failure to Disclose Economic Interests

As a member of the Lathrop City Council, Respondent Sonny Dhaliwal has a duty to

disclose specific sources of income on his annual Statements of economic Interest. The following personal loans were received by Respondent Sonny Dhaliwal:

Deposit Date	Check Date	Amount	Accountholder/Loan Source
04/07/2010	04/07/2010	\$5,000	Raymic Inc.
07/21/2010	07/21/2010	\$5,000	M & J Transportation
11/22/2010	11/22/2010	\$3,500	Balwant Singh Sandhu
05/20/2011	05/20/2011	\$2,000	Balwant Singh Sandhu
06/15/2011	06/14/2011	\$2,000	Balwant Singh Sandhu
			Total \$17,500

By failing to disclose the receipt of personal loans from the aforementioned individuals, as sources of income on his 2010 and 2011 annual Statement of Economic Interests, Respondent Sonny Dhaliwal violated Government Code Sections 87203 and 87207.

CONCLUSION

The maximum administrative penalty for the six counts set forth above is \$5,000 per count, for a total of \$30,000. However, imposition of less than the maximum penalty is recommended for the following reasons:

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.

Regarding Count 1, the typical stipulated administrative penalty for violating the one bank account rule has been in the middle level of the penalty range, depending on the circumstances.

A recent stipulation involving a violation of the one bank account rule settled a violation with similar underlying fact patterns for \$3,000.

In the Matter of George Barich, FPPC No. 09/774. In this matter, Respondent was a successful candidate for Cotati City Council; however, he failed to establish a single campaign bank account upon receipt of contributions of \$1,000 or more for his Cotati City Council

campaign. The Commission approved settlement of this case in January 28, 2011, and the agreed upon penalty for this violation was \$3,000.

Regarding Counts 2 through 5, the pattern of behavior; failing to disclose contributions totaling \$4,600, which were deposited into a personal bank account, rather than the campaign bank account, is more egregious than typical non-disclosure violations. The failure to disclose the contributions, combined with the fact that the contributions were deposited into a personal bank account and that neither reimbursement nor disclosure occurred until 2013, when the FPPC's investigation commenced, warrants higher fines.

Regarding Count 6, the typical stipulated administrative penalty for failing to disclose a source of income on a statement of economic interests, not settled through the streamline program, has been in the low to middle level of the penalty range, depending on the circumstances.

In the Matter of Martha M. Escutia, FPPC No. 04/407 involved a member of the State Senate who failed to disclose sources of income of \$20,000 or more to her spouse's solely-owned business entity on her initially-filed 2002 and 2003 annual statements of economic interests. The commission approved settlement of this case in August 14, 2008, and the agreed upon penalty for each of these violations was \$1,000 per count.

The public harm inherent in these types of violations, where pertinent information is not disclosed by the committee, is that the public is deprived of a means to discover the identity of contributors, the amounts contributed, and the nature of the committee's campaign expenses. Failure to disclose income on a statement of economic interests deprives the public of knowledge about the economic interests of public officials.

Respondent Dhaliwal contends that during his 2010 City Council campaign, he was under substantial personal stress due to a family illness. He did not have a professional treasurer at the time and relied in large measure on family members and friends to assist with the details of the campaign. He has stated that the deposits were made in error and he takes responsibility for the error. All other deposits to his campaign appear to have been deposited into the committee account and reported by his committee. In addition, he cooperated with the FPPC's investigation and provided all relevant records including his personal bank records. Respondent has fully refunded the campaign contributions to the Committee, and has hired a professional treasurer to make the required amendments to his campaign statements, and he made amendments to his financial disclosure statements as well. With respect to the loans he received, there was no evidence that he voted on any matters involving any of the individuals or businesses who made loans to him. Respondents have no prior Enforcement history.

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 Three Thousand Dollars (\$3,000) for Count One; Four Thousand Dollars (\$4,000) per count for

Counts Two through Five; and Two Thousand Dollars (\$2,000) for Count Six, for a total of Twenty One Thousand Dollars (\$21,000) is recommended.