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

10  
11 In the Matter of:

FPPC No. 14/024

12 SHANNON GROVE, SHANNON  
13 GROVE FOR ASSEMBLY 2012, and KAREN  
14 CAIN

STIPULATION, DECISION AND ORDER

15 Respondent.

16 **STIPULATION**

17 Complainant Fair Political Practices Commission and Respondents Shannon Grove, Shannon  
18 Grove for Assembly 2012, and Karen Cain hereby agree that this Stipulation will be submitted for  
19 consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

20 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this  
21 matter and to reach a final disposition without the necessity of holding an additional administrative  
22 hearing to determine the liability of Respondents, pursuant to section 83116 of the Government Code.

23 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural  
24 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of  
25 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to  
26 appear personally at any administrative hearing held in this matter, to be represented by an attorney at  
27 Respondent's own expense, to confront and cross-examine all witnesses testifying at the hearing, to  
28 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over

1 the hearing as a hearing officer, and to have the matter judicially reviewed.

2 As described in Exhibit 1, it is further stipulated and agreed that Respondents Shannon Grove,  
3 Shannon Grove for Assembly 2012, and Karen Cain violated the Political Reform Act by: 1) failing to  
4 file online reports disclosing contributions of \$5,000 or more received outside the election cycle, in  
5 violation of Government Code Section 85309, subdivision (c) (1 Count). Exhibit 1, which is attached  
6 hereto and incorporated by reference as though fully set forth herein, is a true and accurate summary of  
7 the facts in this matter.

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

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

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

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

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Respondent Shannon Grove, individually and on  
behalf of Respondent, Shannon Grove for Assembly 2012

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Respondent Karen Cain, individually and on  
behalf of Respondent, Shannon Grove for Assembly 2012

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**DECISION AND ORDER**

The foregoing Stipulation of the parties “In the Matter of Shannon Grove, Shannon Grove for Assembly 2012, and Karen Cain,” FPPC No. 14/024, including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

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

\_\_\_\_\_  
Joann Remke, Chair  
Fair Political Practices Commission

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Shannon Grove (“Respondent Grove”) represents the 34th Assembly District, having been re-elected on November 6, 2012. Respondent Shannon Grove for Assembly 2012 (“Respondent Committee”) was created on February 4, 2011, as a candidate controlled committee for Respondent Grove’s 2012 Assembly campaign. Respondent Karen Cain was the Treasurer for Respondent Committee at all times relevant.

This matter arose from an audit performed by the Franchise Tax Board (“FTB”) for the period of January 1, 2011 through December 31, 2012. During the period covered by the audit, Respondent Committee reported receiving contributions totaling \$513,295 and making expenditures totaling \$449,456. Respondent Committee exceeded the \$50,000 threshold for online filing requirements in June of 2011. The FTB audit report found, and the Enforcement Division confirmed, that Respondents Shannon Grove, Shannon Grove for Assembly 2012, and Karen Cain failed to file online campaign reports disclosing contributions received of \$5,000 or more outside the 90 day period before an election.

The Respondents violated the requirements of the Political Reform Act (the “Act”)<sup>1</sup> by failing to comply with campaign reporting provisions.

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

**COUNT 1:** Between August and October of 2011, outside the 90-day period before an election, Respondent Shannon Grove, Shannon Grove for Assembly 2012, and Karen Cain received 11 contributions of \$5,000 or more from various individuals, totaling \$77,400, and failed to disclose the contributions within 10 business days of receipt in an online campaign report, in violation of Government Code Section 85309, subdivision (c).

### **SUMMARY OF THE LAW**

#### **Duty to File Periodic Campaign Statements and Reports**

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 comprehensive 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

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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.

commonly referred to as a “recipient committee.” Under Section 82016, a recipient committee controlled by a candidate is a “controlled committee.”

### **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).)

### **Duty to Report Contributions Received Outside the Election Cycle of \$5,000 or More**

A candidate for elective state office who is required to file campaign reports online or electronically is also required to file a campaign report online or electronically within 10 business days of receipt of every contribution of \$5,000 or more that is received at any other time than during the election cycle. (§ 85309, subdivision (c).) This campaign report must disclose specified information regarding the contribution and is not required to be filed in paper format. (*Ibid.*)

### **Joint and Several Liability of Candidate and Treasurer**

Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, it is the duty of a candidate and the treasurer of his or her controlled committee 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 candidate and the treasurer of his or her controlled committee may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (See Sections 83116.5 and 91006.)

## **SUMMARY OF THE FACTS**

Respondent Shannon Grove (“Respondent Grove”) represents the 34th Assembly District, having been re-elected on November 6, 2012. Respondent Shannon Grove for Assembly 2012 (“Respondent Committee”) was created on February 4, 2011, as a candidate controlled committee for Respondent Grove’s 2012 Assembly campaign. Respondent Karen Cain was the Treasurer for Respondent Committee at all times relevant.

This matter arose from an audit performed by the Franchise Tax Board (“FTB”) for the period of January 1, 2011 through December 31, 2012. During the period covered by the audit, Respondent Committee reported receiving contributions totaling \$513,295 and making expenditures totaling \$449,456. Respondent Committee exceeded the \$50,000 threshold for online filing requirements in June of 2011.

The FTB audit report found, and the Enforcement Division confirmed, that Respondents Shannon Grove, Shannon Grove for Assembly 2012, and Karen Cain failed to file online campaign reports disclosing contributions received of \$5,000 or more outside the 90 day period before an election.

COUNT 1

**Failure to Report Contributions of \$5,000 or More Online**

Respondents were required to disclose each contribution of \$5,000 or more received at a time other than during an election cycle in an online campaign report filed within 10 business days of receipt.

In this matter, Respondents failed to disclose 11 contributions of \$5,000 or more during the reporting periods within 10 days of receipt in online campaign reports, totaling \$77,400. The unreported contributions are shown in the following table.

<b>Contribution Date</b>	<b>Contributor</b>	<b>Amount</b>
08/08/2011	Coastal Product Company, Inc.	\$7,800
08/08/2011	Donald C. & Diane S. Lake Marital Trust	\$7,800
08/08/2011	Joseph Campbell	\$7,800
08/08/2011	Rayburn S. Dezember	\$5,000
08/11/2011	Sturgeon Services International, Inc.	\$7,800
08/18/2011	E & B Natural Resources MGMT. Corp	\$7,800
09/22/2011	Kevin McCarthy for Congress	\$7,800
09/22/2011	NTS, Inc.	\$7,800
10/03/2011	Paramount Farming Company	\$5,000
10/20/2011	Patrick A. Wade	\$7,800
02/16/2012	World Oil Corp	\$5,000
<b>Total</b>		<b>\$77,400</b>

By failing to file online campaign reports disclosing contributions of \$5,000 or more received outside the election cycle, as set forth above, Respondents violated Section 85309, subdivision (c) of the Government Code.

**CONCLUSION**

This matter consists of one count, which carries a maximum possible administrative penalty of Five Thousand Dollars (\$5,000).

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.

The typical administrative penalty for to file online reports within 10 days disclosing contributions of \$5,000 or more received at a time other than during the election cycle have historically resulted in penalties in the mid to low range of the available penalties, depending on the facts of the case.

Other violations of Section 85309, subdivision (c) that have been recently approved by the Commission include:

*In the matter of Abel Maldonado, Abel Maldonado for Senate, Christopher J. Raymer, and Chris Steinbruner*, FPPC No. 10/070. Abel Maldonado was elected to the California Senate on November 2, 2004, representing the 15th District. Respondent Maldonado ran for re-election to the state Senate, won in the June 3, 2008, primary election and was re-elected to the state Senate in the November 4, 2008, general election. Respondents failed to file online campaign reports disclosing contributions received of \$5,000 or more outside the 90 day period before an election in connection with 9 contributions for a total of \$65,400 from various individuals. The commission approved settlement of this case, with a \$2,000 penalty for this violation, on April 11, 2011.

The making of a contribution to a candidate or elected official while registered to lobby that candidate or official's office is a serious violation of the Act. In this case, Respondents disclosed these contributions on the appropriate Report of Lobbying Firm (Form 625). Respondents' violation of the Act was deliberate at worst and negligent at best. 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 patter of behavior, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of Two Thousand Dollars (\$2,000) for Count One is recommended.