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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA  
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11  
12 In the Matter of ) FPPC No. 14/1204  
13 )  
14 YES ON PROP. 47, CALIFORNIANS FOR ) STIPULATION, DECISION and  
SAFE NEIGHBORHOODS AND SCHOOLS, ) ORDER  
15 SPONSORED BY VOTE SAFE, A PROJECT )  
OF THE ADVOCACY FUND, )  
16 Respondent. )

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18 Complainant, the Fair Political Practices Commission, and respondent Yes on Prop. 47.,  
19 Californians for Safe Neighborhoods and Schools, sponsored by Vote Safe, a project of The Advocacy  
20 Fund (“Respondent Committee”), agree that this Stipulation will be submitted for consideration by the  
21 Fair Political Practices Commission at its next regularly scheduled meeting.

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

25 Respondent Committee understands, and hereby knowingly and voluntarily waives, any and all  
26 procedural rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in  
27 Sections 18361.1 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is  
28 not limited to, the right to personally appear at any administrative hearing held in this matter, to be

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

5 It is further stipulated and agreed that Respondent Committee failed to disclose its name and its  
6 two highest donors of \$50,000 or more in two video advertisements, in violation of Government Code  
7 sections 84503 and 84504, subdivision (c) (Count 1).

8 All counts are described in Exhibit 1, which is attached hereto and incorporated by reference as  
9 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

10 Respondent Committee agrees to the issuance of the Decision and Order, which is attached  
11 hereto. Respondent Committee also agrees to the Commission imposing upon it an administrative  
12 penalty in the amount of \$2,500. A cashier's check from Respondent Committee in said amount, made  
13 payable to the "General Fund of the State of California," is submitted with this Stipulation as full  
14 payment of the administrative penalty, to be held by the State of California until the Commission issues  
15 its decision and order regarding this matter. The parties agree that in the event the Commission refuses  
16 to accept this Stipulation, it shall become null and void, and within fifteen business days after the  
17 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondent  
18 Committee in connection with this Stipulation shall be reimbursed to Respondent Committee.  
19 Respondent Committee further stipulates and agrees that in the event the Commission rejects the  
20 Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any  
21 member of the Commission, nor the Executive Director, shall be disqualified because of prior  
22 consideration of this Stipulation.

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

\_\_\_\_\_  
Gary Winuk, Enforcement Chief,  
On behalf of the Complainant Fair Political Practices Commission

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

\_\_\_\_\_  
C. Lenore Anderson, on behalf of  
Respondent Yes on Prop. 47., Californians for Safe Neighborhoods  
and Schools, sponsored by Vote Safe, a project of The Advocacy  
Fund

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Yes on Prop. 47., Californians for Safe  
3 Neighborhoods and Schools, sponsored by Vote Safe, a project of The Advocacy Fund” FPPC No.  
4 14/1204, including all attached exhibits, is hereby accepted as the final decision and order of the Fair  
5 Political Practices Commission, effective upon execution below by the Chair.

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7 IT IS SO ORDERED.

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

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

### **INTRODUCTION**

Yes on Prop. 47, Californians for Safe Neighborhoods and Schools, sponsored by Vote Safe, a project of The Advocacy Fund (“Respondent Committee”), is a sponsored ballot measure committee in support of Proposition 47, a state measure on the November 4, 2014, ballot.

Respondent Committee is responsible for publishing two videos on YouTube that did not include a disclosure statement, in violation of the Advertisement Disclosure Provisions of the Political Reform Act (the “Act”).<sup>1</sup>

For purposes of this stipulation, Respondent Committee’s violation of the Act is stated as follows:

**Count 1:** Respondent Yes on Prop. 47, California for Safe Neighborhoods and Schools, sponsored by Vote Safe, a project of The Advocacy Fund, failed to disclose its name and its two highest donors of \$50,000 or more in two video advertisements, in violation of Government Code sections 84503 and 84504, subdivision (c).

### **SUMMARY OF THE LAW**

All statutory references and discussions of law pertain to the Act’s provisions as they existed at the time of the violations.

#### **Liberal Construction and Vigorous Enforcement of the Political Reform Act**

When the Act was enacted, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities. (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

An express purpose of the Act, as set forth in Section 84503, is to ensure that the supporters of campaign advertisements are fully and truthfully disclosed, so that voters maybe fully informed, and improper practices may be inhibited. The Act therefore establishes campaign disclosure requirements related to advertisements to accomplish this purpose.

#### **Advertisement Disclosure Provisions**

Any committee that supports or opposes a ballot measure is required by Section 84504, subdivision (c), to print or broadcast its name as part of any advertisement or other paid public statement. Additionally, any advertisement for or against any ballot measure must include a disclosure statement identifying any person whose cumulative contributions are \$50,000 or

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 8100 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.

more. (Section 84503, subd. (a).) If there are more than two donors of \$50,000 or more, the committee is only required to disclose the highest and second highest in that order. (Section 84503, subd. (b).)

A video advertisement is required to provide disclosure pursuant to Sections 84503 and 84504 both in written and spoken either at the beginning or at the end of the communication. (Regulation 18450.4, subd. (b)(3)(A).) However, only a written disclosure statement is required if the written disclosure statement is five seconds or more of a broadcast that is thirty seconds or less or is ten seconds of a sixty second broadcast. (*Id.*) The written disclosure statement must appear with a reasonable degree of color contrast between the background and text of the statement, must be of sufficient size to be readily legible to an average viewer and air for not less than four seconds. (*Id.*)

### **SUMMARY OF THE FACTS**

On or about October 20, 2014, Respondent Committee published two videos on YouTube in support of Proposition 47. The first video was 60 seconds long, featured celebrity John Legend, and included no written or spoken disclosure statement. The second video was 60 seconds long, featured celebrity Jay-Z, and included no written or spoken disclosure statement.

On October 24, 2014, the Enforcement Division of the Fair Political Practices Commission (“Enforcement Division”) contacted Respondent Committee, who admitted that it had failed to include a disclosure statement in both videos. Soon thereafter, Respondent Committee added a disclosure statement to both videos. The disclosure statement in both videos includes Respondent Committee’s name and its two highest donors of \$50,000 or more.

Accordingly, Respondent Committee committed a violation of the Act, as follows:

#### Count 1

#### **Failure to Include Disclosure Statement in Video Advertisements**

As a ballot measure committee, Respondent Committee is required to include in all its video advertisements a disclosure statement that includes Respondent Committee’s name and the names of its two highest donors of \$50,000 or more. (Sections 84503 and 84504, subd. (c).) On or about October 24, 2014, Respondent Committee published two videos on YouTube that did not disclose Respondent Committee’s name or its two highest donors of \$50,000 or more, in violation of Sections 84503 and 84504, subd. (c).

### **CONCLUSION**

This matter involves a single count of violating the Act which carries a maximum administrative penalty of \$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. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the

factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): 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(s) demonstrated good faith in consulting with the Fair Political Practices Commission's (the "Commission") staff; whether there was a pattern of violations; and whether upon learning of the violation the respondent voluntarily filed amendments to provide full disclosure. The facts are required to be considered by the Commission under Regulation 18361.5.

The failure to include a disclosure statement in an advertisement is a serious violation of the Act, as it conceals the true source and interests behind an advertisement from the public.

On July 12, 2012, the Commission fined a ballot measure committee \$2,500 per count for failing to properly disclose its name and major donors in a television advertisement. The respondent included the proper disclosure statement, but did not display it in the proper manner and for the proper length of time. However, the respondent had no history of enforcement actions, cooperated with the investigation, and adjusted the advertisement to adhere to the Act soon after it was contacted by the Enforcement Division. (*In the Matter of Yes on Proposition A*, FPPC No. 12/301.)

On January 28, 2011, the Commission fined a ballot measure committee \$2,000 per count for running a television advertisement that did not include in its disclosure statement the economic interest of the top two major donors to the committee and only running the disclosure statement for approximately two seconds. However, the respondent had no history of enforcement actions, cooperated with the investigation, and adjusted the advertisements to adhere to the Act soon after it was contacted by the Enforcement Division. (*In the Matter of Proposition B*, FPPC No. 10/932.)

In this matter, Respondent Committee has no history of enforcement actions and has cooperated with the investigation. Additionally, Respondent Committee added a disclosure statement to both videos soon after being contacted by the Enforcement Division.

However, Count 1 includes two videos that, prior to the Enforcement Division contacting Respondent Committee regarding this matter, did not include a disclosure statement.

After consideration of the factors of Regulation 18361.5, and consideration of penalties in prior enforcement actions, the imposition of a \$2,500 penalty on Respondent Yes on Prop. 47, Californians for Safe Neighborhoods and Schools, sponsored by Vote Safe, a project of The Advocacy Fund, is recommended.

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