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3 **FAIR POLITICAL PRACTICES COMMISSION**
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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
10
11

12 In the Matter of) FPPC No. 14/105
13)
14 LAURETTE HEALEY, HEALEY FOR)
ASSEMBLY 2012, and MARCIA DAVALOS,) STIPULATION, DECISION and
15) ORDER
16 Respondents.)
17)

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Laurette Healey, Healey for Assembly 2012, and Marcia Davalos agree that this
20 Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next
21 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 the Respondent, pursuant to Section 83116 of the Government Code.

25 Laurette Healey, Healey for Assembly 2012, and Marcia Davalos understand, and hereby
26 knowingly and voluntarily waive, any and all procedural rights set forth in Sections 83115.5, 11503 and
27 11523 of the Government Code, and in Sections 18361.1 through 18361.9 of Title 2 of the California
28 Code of Regulations. This includes, but is not limited to, the right to personally appear at any

1 administrative hearing held in this matter, to be represented by an attorney at Laurette Healey's, Healey
2 for Assembly 2012's, and Marcia Davalos' own expense, to confront and cross-examine all witnesses
3 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
4 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
5 reviewed.

6 It is further stipulated and agreed that Laurette Healey, Healey for Assembly 2012, and Marcia
7 Davalos violated the Political Reform Act by (1) overstating the balance of cash on a semi-annual
8 campaign statement, in violation of Section 84211 subdivision (e) of the Government Code (1 count);
9 and (2) failing to maintain supporting records for expenditures made and loans received, in violation of
10 Section 84104 of the Government Code (1 count). Laurette Healey and Healey for Assembly 2012
11 violated the Political Reform Act by (3) making expenditures of \$100 or more made in cash, in
12 violation of Section 84300, subdivision (b) of the Government Code (1 count); and (4) failing to
13 deposit contributions made by Healey, into a single, designated campaign bank account prior to
14 expenditure, in violation of Section 85201, subdivisions (c) and (e) of the Government Code (1 count).
15 These counts are described in Exhibit 1, which is attached hereto and incorporated by reference as
16 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

17 Laurette Healey, Healey for Assembly 2012, and Marcia Davalos agree to the issuance of the
18 Decision and Order, which is attached hereto. Laurette Healey, Healey for Assembly 2012 and Marcia
19 Davalos also agree to the Commission imposing upon them an administrative penalty in the amount of
20 \$8,000. A cashier's check from Laurette Healey, Healey for Assembly 2012, and Marcia Davalos in
21 said amount, made payable to the "General Fund of the State of California," is submitted with this
22 Stipulation as full payment of the administrative penalty, to be held by the State of California until the
23 Commission issues its decision and order regarding this matter. The parties agree that in the event the
24 Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen (15)
25 business days after the Commission meeting at which the Stipulation is rejected, all payments tendered
26 by Laurette Healey, Healey for Assembly 2012, and Marcia Davalos in connection with this Stipulation
27 shall be reimbursed to Laurette Healey, Healey for Assembly 2012, and Marcia Davalos. Laurette
28 Healey, Healey for Assembly 2012, and Marcia Davalos further stipulate and agree that in the event the

1 Commission rejects the Stipulation, and a full evidentiary hearing before the Commission becomes
2 necessary, neither any member of the Commission, nor the Executive Director, shall be disqualified
3 because of prior consideration of this Stipulation.

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7 Dated: _____
8 Galena West, Acting Chief of Enforcement
9 Fair Political Practices Commission

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11 Dated: _____
12 Laurette Healey, Respondent, individually, and
13 on behalf of, Healey for Assembly 2012,
14 Respondent

15
16 Dated: _____
17 Marcia Davalos, Respondent, individually, and
18 on behalf of Healey for Assembly 2012,
19 Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Laurette Healey, Healey for Assembly
3 2012 , and Marcia Davalos,” FPPC No. 14/105, including all attached exhibits, is hereby accepted as the
4 final decision and order of the Fair Political Practices Commission, effective upon execution below by
5 the Chair.

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7 IT IS SO ORDERED.

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9 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Laurette Healey was an unsuccessful candidate for Assembly District 46 in the June 5, 2012 Primary Election. Respondent Healey for Assembly 2012 was her candidate controlled committee. Respondent Marcia Davalos was the Treasurer.

The Franchise Tax Board (“FTB”) audited Healey for Assembly 2012 for the period from January 1, 2011 through June 30, 2012. During that period, Healey for Assembly 2012 reported contributions received totaling \$230,059 and expenditures made totaling \$263,717.

The Political Reform Act (the “Act”)¹ requires that a committee disclose particular information on campaign statements, maintain records, use a single bank account for all expenditures, and prohibits cash expenditures of \$100 or more. Healey, Healey for Assembly 2012, and Davalos violated the Act by failing to properly report the cash balance on a campaign statement, failing to maintain records, failing to deposit funds into the campaign bank account prior to expenditure, and making expenditures in cash.

SUMMARY OF THE LAW

An express purpose of the Act 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.² The Act, therefore, establishes a campaign reporting system designed to accomplish this purpose of disclosure.

Duty to Report the Balance of Cash

The campaign statement must contain “[t]he balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.”³ The cash balance at the beginning and ending of the reporting period is reported as the “Beginning Cash Balance” and the “Ending Cash Balance” on the “Summary Page,” which provides an overview of a committee’s finances. For the purposes of computing the Beginning and the Ending Cash Balance, a committee must accurately report cash receipts (i.e., monetary contributions) and cash payments on the Summary Page.

Duty to Maintain Campaign Records

To ensure accurate campaign reporting, the Act imposes a mandatory duty on each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills and receipts necessary to prepare campaign statements, to establish that campaign statements were properly

¹The Political Reform Act is contained in Government Code Sections 81000 through 91014. The Regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations.

² Section 81002, subdivision (a).

³ Section 84211, subdivision (e).

filed, and to comply with the campaign provisions.⁴ This requirement includes a duty to maintain detailed information and original source documentation for all contributions and expenditures.⁵

For all campaign expenditures of \$25 or more, the Act and Regulations require the maintenance of records containing the date the expenditure was made, the amount of the expenditure, the full name and street address of the payee, and a description of the goods or services for which each expenditure was made.⁶ Original source documentation consists of cancelled checks, wire transfers, credit card charge slips, bills, receipts, invoices, statements, vouchers, and any other documents reflecting obligations incurred and disbursements made from the campaign bank account.

For all loans received, accounts and records required include: the date of each contribution, the amount, the full name and address of the contributor, the cumulative amount from the contributor, and include the interest rate and due date, if any, of the loan, and the full name and street address of any guarantor, or any person liable directly, indirectly, or contingently for the loan.⁷ Original source documents must also be retained, which includes all promissory notes, extensions of credit, security agreements, loan guarantees, and any other documents reflecting the indebtedness. The above-listed records must be maintained for a period of four years following the date the campaign statement to which they relate is filed.⁸

Duty to Deposit Campaign Funds into a Single, Designated Campaign Bank Account Prior to Expenditure

To ensure full disclosure of campaign activity and to guard against improper use of campaign funds, the Act requires campaign funds to be segregated from nonpolitical, personal accounts and kept in a single, designated campaign bank account.⁹ To achieve this end, the Act requires candidates to establish a single campaign bank account into which all contributions made to a candidate must be deposited.¹⁰ All campaign expenditures must be made from the campaign bank account.¹¹

Prohibition on Cash Expenditures of \$100 or More

The Act defines “expenditure” as a payment, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes.¹² The Act prohibits making an expenditure of one hundred dollars or more in cash.¹³

⁴ Section 84104.

⁵ Regulation 18401, subdivisions (a)(1) through (a)(7).

⁶ Regulation 18401, subdivision (a)(4).

⁷ Regulation 18401, subdivision (a)(7).

⁸ Regulation 18401, subdivision (b).

⁹ Section 85201.

¹⁰ Section 85201, subdivision (c).

¹¹ Section 85201, subdivision (e).

¹² Section 82025.

¹³ Section 84300, subdivision (b).

Liability of Committee Treasurers

Every committee must have a treasurer.¹⁴ It is the duty of a 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.¹⁵ A committee's treasurer may be held jointly and severally liable with the committee for any reporting violations.¹⁶

SUMMARY OF THE FACTS

FTB's audit found, and the Enforcement Division of the Fair Political Practices Commission confirmed, that Healey, Healey for Assembly 2012, and Davalos did not comply with the Act's campaign recordkeeping and reporting requirements. Healey, Healey for Assembly 2012, and Davalos incorrectly reported the receipt of 16 monetary contributions totaling \$62,400, on the semi-annual campaign statement filed for the period January 1, 2011 through December 31, 2011. The 16 contributions were received by the Committee but never deposited into the campaign bank account even though they were reported as contributions received.

Records were not maintained for expenditures totaling \$59,997. These consisted of a \$24,339 payment to the U.S.P.S., reported on the second pre-election campaign statement covering March 18 through May 19, 2012; as well as a payment to Costco of \$2,000, and accrued expenses totaling \$33,658, reported on the Semi-annual Statement covering May 20 through June 30, 2012. These accrued expenses consisted of \$29,369 to Woodland Hills Printing and \$4,289 to Cops Voter Guide.

Also, supporting records were not maintained for six loans totaling \$31,500 reported as received from Healey on the semi-annual campaign statement filed for the period January 1, 2011 through December 31, 2011. In addition, these loans were not deposited into the campaign bank account, and expenditures of all these funds were made in cash. These cash expenditures constituted approximately 12% of the total reported expenditures.

VIOLATIONS

Healey, Healey for Assembly 2012, and Davalos

Count 1: Failure to Disclose Balance of Cash

Healey, Healey for Assembly 2012, and Davalos had a duty to disclose the balance of cash on hand at the beginning and end of the period covered by the campaign statement. They overstated the balance of cash by \$62,400 on the Semi-annual Campaign Statement filed for the reporting period January 1, 2011 through December 31, 2011. This occurred because of the incorrect reporting of 16 contributions from family members. By failing to accurately disclose

¹⁴ Section 84100.

¹⁵ Section 84100 and Regulation 18427, subdivision (a).

¹⁶ Sections 83116.5 and 91006.

the balance of cash on hand, Healey, Healey for Assembly 2012, and Davalos violated Section 84211, subdivision (e) of the Government Code.

Count 2: Recordkeeping

Healey, Healey for Assembly 2012, and Davalos failed to maintain supporting records for expenditures made and loans received, in violation of Section 84104 of the Government Code.

Healey and Healey for Assembly 2012

Count 3: Cash Expenditures

Healey and Healey for Assembly 2012 made expenditures of \$100 or more made in cash, totaling approximately \$31,500, in violation of Section 84300, subdivision (b) of the Government Code.

Count 4: Campaign Bank Account

Healey and Healey for Assembly 2012 failed to deposit contributions made by Healey, into a single, designated campaign bank account prior to expenditure, in violation of Section 85201, subdivisions (c) and (e) of the Government Code.

CONCLUSION

This matter consists of four counts of violating the Act, which carries a maximum administrative penalty of \$20,000.

In determining the appropriate penalty for a particular violation of the Act, the Commission 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 Commission considers the facts and circumstances of the violation in the 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 conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the respondents demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether respondent voluntarily amended.

The Commission also considers penalties in prior cases involving similar violations. A recent similar case involving the failure report the cash balance includes:

- *In the Matter of Davis Democratic Club and Elizabeth R. Weir, FPPC No. 08/390.* Respondents, a county general purpose committee and its treasurer, both understated and overstated the balance of cash on the semi-annual reporting periods for calendar years 2007, 2008 and 2009, and on the semi-annual campaign statement for the reporting period ending June 30, 2010, by up to approximately \$11,449 (understated)

and \$9,495 (overstated). On March 15, 2012 the Commission approved a penalty of \$2,500 for this count.

A recent similar case involving cash expenditures includes:

- *In the Matter of Familias por Maywood aka Familias por Maywood Supporting Aguirre Magaña Varela for Maywood City Council, and Felipe Aguirre*; FPPC No. 12/422 (Default Decision). Respondents made cash deposits totaling \$2,934 and made cash expenditures totaling \$2,020. On January 15, 2015, the Commission approved a penalty of \$1,500 for the count.

A recent similar case involving the failure to maintain records includes:

- *In the Matter of Steven A. Pappas, Steve Pappas for 3rd District Supervisor 2012, and Trent J. Benedetti*; FPPC No. 14/598. Respondents failed to maintain detailed accounts, records, bills, and receipts that were necessary to prepare campaign statements for the reporting periods January 1, 2009 through June 30, 2012. On April 16, 2015, the Commission approved a penalty of \$1,500 for the count.

A recent similar case involving the failure to deposit funds into the campaign bank account prior to expenditure includes:

- *In the Matter of Barbara Messina, Friends of Barbara Messina Committee, and Michael Messina*; FPPC No. 06/1110. Campaign expenses totaling \$20,000 were paid directly by the candidate from an account other than the single, designated campaign bank account. On October 14, 2010, the Commission approved a penalty of \$2,500 for the count.

In the present case, Healey, Healey for Assembly 2012, and Davalos failed to properly report the cash balance. As in the *Davis Democratic Club and Elizabeth R. Weir* case, this cash balance non-disclosure was a part of a larger pattern, involving multiple contributions, was misstated by over \$10,000, and deprived the public of information regarding the accurate cash on hand. The use of personal funds that were not first deposited into the campaign bank account involved an amount similar to that in the *Messina* case. Failure to maintain all required records and use the campaign bank account for all campaign expenditures and contributions makes it difficult to track and account for campaign funds, and ensure compliance with the Act.

In mitigation, Healey stated that the 16 monetary contributions totaling \$62,400 were pledges for contributions from family members, and that it was a mistake on the part of the treasurer to report them as contributions. The Treasurer stated that she reported the contributions because the Committee had received the checks. However, Healey contends that she intended to only hold the contribution checks until she prevailed in the Primary Election. When she lost the Primary Election, she then returned the contributions. Healey also stated that, with regard to the campaign bank account violation and cash expenditures, she did not have authorization to sign checks for the campaign bank account, and spent her own money when the treasurer was hospitalized with a serious illness, making these expenditures in cash. Documentation was also

provided to the Enforcement Division concerning the settlement of the accrued expenses owed to Woodland Hills Printing and Cops Voter Guide.

PROPOSED PENALTY

After considering the factors listed above, a penalty of \$8,000 is recommended, \$2,500 for Count 1, \$1,500 each for Counts 2 and 3, and \$2,500 for Count 4.