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Chief of Enforcement
2 **FAIR POLITICAL PRACTICES COMMISSION**
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6 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

7 **STATE OF CALIFORNIA**

9 In the Matter of) FPPC No. 15/0075
10)
11)
11 DAKSHIN INDIAN RESTAURANT,) STIPULATION, DECISION AND ORDER
12 LLC, DBA ANJAPPAR CHITTINAD)
INDIAN RESTAURANT,)
13 Respondent.)
14)

15 **STIPULATION**

16 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
17 Respondent, Dakshin Indian Restaurant, LLC, dba Anjappar Chittinad Indian Restaurant (“Dakshin
18 Indian Restaurant”), agree that this Stipulation will be submitted for consideration by the Fair Political
19 Practices Commission (“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 administrative hearing to
22 determine the liability of Dakshin Indian Restaurant.

23 Dakshin Indian Restaurant understands, and hereby knowingly and voluntarily waives, any and
24 all procedural rights set forth in Government Code sections 83115.5, 11503 and 11523, and in
25 California Code of Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not
26 limited to, the right to personally appear at any administrative hearing held in this matter, to be
27 represented by an attorney at its own expense, to confront and cross-examine all witnesses testifying at

1 the hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law
2 judge preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

3 It is further stipulated and agreed that Dakshin Indian Restaurant violated the Political Reform
4 Act by making contributions in the names of others, in violation of Government Code Section 84301 (6
5 counts). Each count is described in Exhibit 1, which is attached hereto and incorporated by reference as
6 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

7 Dakshin Indian Restaurant agrees to the issuance of the Decision and Order, which is attached
8 hereto. Dakshin Indian Restaurant also agrees to the Commission imposing upon it an administrative
9 penalty in the amount of \$30,000. A cashier's check in said amount, made payable to the "General
10 Fund of the State of California," is submitted with this Stipulation as full payment of the administrative
11 penalty, to be held by the State of California until the Commission issues its decision and order
12 regarding this matter. The parties agree that in the event the Commission refuses to accept this
13 Stipulation, it shall become null and void, and within fifteen business days after the Commission
14 meeting at which the Stipulation is rejected, all payments tendered by Dakshin Indian Restaurant in
15 connection with this Stipulation shall be reimbursed to them. Dakshin Indian Restaurant further
16 stipulates and agrees that in the event the Commission rejects the Stipulation, and a full evidentiary
17 hearing before the Commission becomes necessary, neither any member of the Commission, nor the
18 Executive Director, shall be disqualified because of prior consideration of this Stipulation.

19 Dated: _____

Galena West, Chief of Enforcement, on behalf of
Enforcement Division of the Fair Political Practices Commission

22 Dated: _____

Asker Junaid, on behalf of
Dakshin Indian Restaurant, LLC, dba Anjappar Chittinad Indian
Restaurant, Respondent

1
2 **DECISION AND ORDER**

3 The foregoing Stipulation of the parties “In the Matter of Dakshin Indian Restaurant, LLC, dba
4 Anjappar Chittinad Indian Restaurant” FPPC No. 15/0075, including all attached exhibits, is hereby
5 accepted as the final decision and order of the Fair Political Practices Commission, effective upon
6 execution below by the Chair.

7 **IT IS SO ORDERED.**

8
9 Dated: _____

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

INTRODUCTION

In 2012, Dakshin Indian Restaurant, LLC, dba Anjappar Chittinad Indian Restaurant (“Dakshin Indian Restaurant”) violated the Political Reform Act (the “Act”)¹ by making contributions totaling \$3,000 in the names of others to candidates for Milpitas City Council and Milpitas Mayor in the November 6, 2012 election.

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act’s provisions as they existed in 2012.

The Act provides that “receipts and expenditures in election campaigns shall be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.”² Timely and truthful disclosure of the source of campaign contributions is an essential part of the Act’s mandate.

In order to obtain disclosure of the true source of campaign contributions, the Act provides that “no contribution shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.”³ It is unlawful to make a contribution in the name of another. This prohibition keeps the public informed as to the sources of campaign contributions, and it ensures that contributors abide by any applicable contribution limits.

SUMMARY OF THE FACTS

Asker Junaid is, and was at all relevant times, a part-owner and the operator of Dakshin Indian Restaurant and Wang’s Kitchen USA LLC (“Wang’s Kitchen”), which are both located in the City of Milpitas. Junaid also owns, and owned at all relevant times, Amtex Enterprises, Inc. (“Amtex”), a corporation located in the Santa Clara, CA.

Jose Esteves has been Milpitas Mayor since 2002. He was reelected on November 6, 2012, and Esteves for Mayor 2012 was his controlled committee. Debbie Indihar Giordano has been a member of the Milpitas City Council since 2005. She was reelected on November 6, 2012, and Deb Giordano City Council 2012 was her controlled committee.

In July, August and September 2012, Junaid asked several of his workers at Dakshin Indian Restaurant, Wang’s Kitchen, and Amtex Enterprises to make the maximum contribution

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Section 81002, subdivision (a).

³ Section 84301.

of \$250 to the two local candidate committees, Esteves for Mayor 2012 and Deb Giordano City Council 2012. He promised to reimburse those individuals for any contributions they made to Esteves for Mayor 2012 or Deb Giordano City Council 2012 in response to his request.

On or about August 30, 2012, Manikandan Chandrasekaran, Mohamed Sahabudeen, who both work at Amtex, and Mohd. Abd Salam MM Hajamydin, who worked for Wang's Kitchen, each issued a check from his personal checking account in the amount of \$250 to Esteves for Mayor 2012.

On or about September 5, 2012, Selvam Sethuraman, Abhishek Chittaluri, Arjun Donerethi (aka Donthineni), Ponnuthura Ilavarasan, Praveen Reddy (aka Praveen Kota), and Santhosh Kumar Vanama each issued a check from his personal checking account in the amount of \$250 to Esteves for Mayor 2012. All either worked for or were associated with the Dakshin Indian Restaurant.

On or about October 27, 2012, Mohamed Sahabudeen, Selvam Sethuraman, and Panneer Selvan Dhanraj, who also worked for Dakshin Indian Restaurant and Amtex, each issued a check from his personal checking account in the amount of \$250 to Deb Giordano City Council 2012.

The aforementioned individuals were all reimbursed through Dakshin Indian Restaurant funds through various means in July, August and September 2012.

No evidence was found to indicate that Junaid or the individual contributors informed Esteves for Mayor 2012 or Deb Giordano City Council 2012 that the true source of each contribution was Dakshin Indian Restaurant. As a result, both committees reported the individuals, rather than Dakshin Indian Restaurant, as the true source of the contributions.

VIOLATIONS

Counts 1-6: Making a Contribution in the Name of Another

Dakshin Indian Restaurant made twelve contributions of \$250 to the campaign committees "Esteves for Mayor 2012" and "Deb Giordano City Council 2012" each in the name of a different individual rather than its own name, in violation of Section 84301.

CONCLUSION

This matter consists of six counts of violating the Act, which carries a maximum administrative penalty of \$30,000.

In determining the appropriate penalty for a particular violation of the Act, the Fair Political Practices 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 context of the factors set forth in Regulation 18361.5, subdivision (d): 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3) whether the violation was deliberate, negligent, or inadvertent; 4) whether the respondent demonstrated good faith in

consulting with Commission staff; 5) whether there was a pattern of violations; and 6) whether, upon learning of the violation, the violator voluntarily provided amendments to provide full disclosure.

Making a contribution in another person's name is one of the most serious types of violations of the Act, because it denies the public of information about where a candidate receives his or her financial support. In addition, Milpitas had, at the time of the violations, a City Ordinance that imposed a \$250 limit on individual campaign contributions to candidates for elected office. As such, Dakshin Indian Restaurant was prohibited from giving more than \$250 to Esteves for Mayor 2012 or Deb Giordano City Council 2012.

Recently approved fines for violations of Section 84301 include:

In the Matter of GO Lorrie's Airport Shuttle, FPPC No. 11/920. On March 15, 2012, the Commission imposed a penalty of \$4,500 per count on 11 counts. GO Lorrie's, a transportation company, made a total of 23 campaign contributions of \$500 each, which was the contribution limit, to the campaign of the interim mayor of San Francisco. Employees of the company wrote personal checks for the contributions and the company reimbursed them in cash.

In the Matter of George S. Briggeman, Jr., FPPC No. 13/936. On October 15, 2015, the Commission imposed a \$15,000 penalty, \$5,000 per count, against a businessman for making 3 contributions totaling \$13,200 to a local general purpose committee through his limited liability company without disclosing the true source of the contributions.

In the Matter of La Noria Entertainment, Inc., FPPC No. 13/222. On June 19, 2014, the Commission imposed a \$15,000 penalty, \$5,000 per count, against La Noria who directed five of its employees to make campaign contributions to a Pico Rivera City Councilmember from their personal bank accounts and then reimbursed them in cash.

This case involves a series of transactions which circumvented Milpitas' contribution limit. However, in mitigation, Junaid and the various businesses named have no history of violating the Act and cooperated fully in this matter by providing numerous financial and business documents in response to investigative requests and voluntarily disclosing information regarding reimbursements for contributions which had not been discovered. In addition, Junaid immediately admitted to making the reimbursements once contacted by the Enforcement Division. He asserts that another local businessperson had suggested he make the reimbursements to his employees and that he did not understand that the reimbursements were illegal until it was explained to him during the investigation. Because of Junaid's lack of understanding that his actions were illegal, there does not appear to be intent to deceive the public regarding the source of his contributions. Finally, none of the parties involved are politically sophisticated.

This case differs from the *Briggeman* case referred to above in that Briggeman knew the rules and created a limited liability company to hide his identity gaining him a maximum fine for all potential counts. Whereas this is more like the *La Noria Entertainment* case discussed above where a businessman made small, but multiple, contributions in violation of the local limits and

received a maximum penalty of \$5,000 per count for three of the five contributions made after cooperating with the investigation.

PROPOSED PENALTY

After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant factors, a penalty of \$5,000 per count, for a total penalty of \$30,000, is recommended.

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