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

10  
11 In the Matter of:

FPPC No. 14/603

12 STUDENTS FOR SENSIBLE DRUG POLICY,  
13 DAVID BRONNER, ADAM EIDINGER, AND  
14 ALAN AMSTERDAM COMMITTEE TO  
REGULATE CANNABIS-YES ON 19 and  
15 AARON HOUSTON,

STIPULATION, DECISION AND ORDER

16 Respondents.

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18 **STIPULATION**

19 Complainant the Enforcement Division of the Fair Political Practices Commission and  
20 Respondents Students for Sensible Drug Policy, David Bronner, Adam Eidinge, and Alan Amsterdam  
21 Committee to Regulate Cannabis-Yes on 19 (“Committee”) and Aaron Houston hereby agree that this  
22 Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next  
23 regularly scheduled meeting.

24 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this  
25 matter and to reach a final disposition without the necessity of holding an additional administrative  
26 hearing to determine the liability of the Committee and Houston, pursuant to section 83116 of the  
27 Government Code.

28 The Committee and Houston understand, and hereby knowingly and voluntarily waive, any and

1 all procedural rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California  
2 Code of Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the  
3 right to appear personally at any administrative hearing held in this matter, to be represented by an  
4 attorney at their own expense, to confront and cross-examine all witnesses testifying at the hearing, to  
5 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over  
6 the hearing as a hearing officer, and to have the matter judicially reviewed.

7 As described in Exhibit 1, it is further stipulated and agreed that the Committee and Houston  
8 failed to: 1) to properly disclose expenditures, made during the semi-annual campaign reporting period  
9 from October 17, 2010, through December 31, 2010, in violation of section 84211, subdivisions (b), (i),  
10 (j) and (k) (1 Count); and 2) maintain detailed accounts, record, bill and receipts necessary to prepare  
11 campaign statements and to establish campaign statements were properly filed for the post-election Semi-  
12 Annual campaign statement covering October 17, 2010, through December 31, 2010, in violation of  
13 section 84104 (1 Count). Exhibit 1, which is attached hereto and incorporated by reference as though  
14 fully set forth herein, is a true and accurate summary of the facts in this matter.

15 The Committee and Houston agree to the issuance of the Decision and Order, which is attached  
16 hereto, and agree to the Commission imposing upon them an administrative penalty in the amount of  
17 \$4,500. A cashier's check or money order from the Committee and Houston totaling said amount, made  
18 payable to the "General Fund of the State of California," is submitted with this Stipulation as full  
19 payment of the administrative penalty and shall be held by the State of California until the Commission  
20 issues its Decision and Order regarding this matter. The parties agree that in the event the Commission  
21 refuses to accept this Stipulation, it will become null and void, and within fifteen (15) business days after  
22 the Commission meeting at which the Stipulation is rejected, all payments tendered by the Committee  
23 and Houston in connection with this Stipulation must be reimbursed to them. The Committee and  
24 Houston further stipulate and agree that in the event the Commission rejects the Stipulation and a full  
25 evidentiary hearing before the Commission becomes necessary, neither any member of the Commission,  
26 nor the Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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

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

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

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Aaron Houston, individually and on behalf of  
Students for Sensible Drug Policy, David Bronner,  
Adam Eiding, and Alan Amsterdam Committee  
to Regulate Cannabis-Yes on 19, Respondents

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**DECISION AND ORDER**

The foregoing Stipulation of the parties “In the Matter of Students for Sensible Drug Policy, David Bronner, Adam Eidinger, and Alan Amsterdam Committee to Regulate Cannabis-Yes on 19 and Aaron Houston,” FPPC No. 14/603, 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 Students for Sensible Drug Policy, David Bronner, Adam Eiding, and Alan Amsterdam Committee to Regulate Cannabis-Yes on 19 (“Committee”) was a state primarily formed ballot measure committee to support Proposition 19, sponsored by Students for Sensible Drug Policy, Inc., in connection with the November 2, 2010 election. Respondent Aaron Houston was the Committee treasurer. A Probable Cause Report was served on Aaron Houston and the Committee on October 13, 2015, effectively tolling the statute of limitations.

This case is the result of an Franchise Tax Board (“FTB”) audit covering the period January 1, 2010, through December 31, 2010. The Committee filed a Statement of Organization on October 19, 2010, supporting Proposition 19 in connection with the November 2, 2010 election.

As a state primarily formed ballot measure committee under the Political Reform Act (the “Act”),<sup>1</sup> the Committee and Houston had a duty to timely disclose required information regarding financial activity and properly maintain campaign records. In this matter, the Committee and Houston failed: 1) to properly disclose \$31,021 in expenditures, made during the semi-annual campaign reporting period from October 17, 2010, through December 31, 2010 and 2) to properly maintain records.

### **SUMMARY OF THE LAW**

#### **Duty to File Semi-Annual Campaign Statements**

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.<sup>2</sup> The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

The Act defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year.<sup>3</sup> This type of committee is commonly referred to as a “recipient” committee. A “primarily formed committee” includes “a committee pursuant to subdivision (a) of section 82013 which is formed or exists primarily to support or oppose...a single measure...”<sup>4</sup>

A state primarily formed ballot measure committee is required to file specified campaign statements and reports disclosing contributions received and expenditures made by certain

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<sup>1</sup> The 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.

<sup>2</sup> Section 81002, subd. (a).

<sup>3</sup> Section 82013, subd. (a).

<sup>4</sup> Section 82047.5.

deadlines. The second semi-annual campaign statement covers the reporting period ending December 31 and must be filed by January 31 of the following year.<sup>5</sup>

### **Required Reporting of Expenditures**

Recipient committees are required to disclose on each campaign statement: (1) the total amount of expenditures made during the period covered by the campaign statement; and (2) the total amount of expenditures made during the period covered by the campaign statement to persons who have received \$100 or more.<sup>6</sup>

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. “An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.”<sup>7</sup>

For each person to whom an expenditure of \$100 or more has been made during the period covered by the campaign statement, the following information must be disclosed on the campaign statement: (1) the recipient’s full name; (2) the recipient’s street address; (3) the amount of each expenditure; and (4) the description of the consideration for which each expenditure was made.<sup>8</sup>

Each campaign statement must also include the total amount of expenditures made by the committee to persons who have received less than \$100 during the period covered by the campaign statement.<sup>9</sup>

### **Duty to Maintain Committee Records**

The Act places a duty on a candidate to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements and to establish that campaign statements were properly filed.<sup>10</sup> Generally, for any contributions received or expenditures made, the candidate must retain source documents sufficient to show continuous computation of campaign account balances for a period of four years following the date the campaign statement to which they relate is filed. Examples of such documents include copies of checks, check registers, deposit slips, invoices, receipts, etc.<sup>11</sup>

### **Treasurer Liability**

Every committee must have a treasurer.<sup>12</sup> A committee’s treasurer has the duty to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds, and

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<sup>5</sup> Section 84200, subd. (a).

<sup>6</sup> Section 84211, subd. (b) and (i).

<sup>7</sup> Section 82025.

<sup>8</sup> Section 84211, subd. (k).

<sup>9</sup> Section 84211, subd. (j).

<sup>10</sup> Section 84104.

<sup>11</sup> Regulation 18401.

<sup>12</sup> Section 84100.

the reporting of such funds.<sup>13</sup> The treasurer of a committee may be held jointly and severally liable, along with the committee, for the committee's violations.<sup>14</sup>

### **SUMMARY OF THE FACTS**

This case is the result of an FTB audit for the period January 1, 2010, through December 31, 2010. The Committee was sponsored by Students for Sensible Drug Policy, Inc., an organization based out of Washington D.C.. Houston was the Executive Director of Students for Sensible Drug Policy, Inc. during the relevant time period, as well as the treasurer for the Committee.

On October 5, 2010, the Committee received a total of two contributions, in the amounts of \$75,000 and \$25,000 totaling \$100,000. The Committee and Houston disclosed expenditures of approximately \$55,826 during the 2010 audit period, but failed to disclose \$31,021 in expenditures, made during the semi-annual campaign reporting period from October 17, 2010, through December 31, 2010. Further, the Committee and Houston failed to properly maintain records.

#### Count 1: Failure to Disclose Expenditures on a Semi-Annual Campaign Statement

The Committee and Houston were required to disclose expenditures on the post-election Semi-Annual campaign statement for the period October 17, 2010, through December 31, 2010. In this matter, the Committee and Houston made approximately \$31,021 in expenditures that were not properly disclosed on the post-election Semi-Annual campaign statement for the period October 17, 2010, through December 31, 2010. As a result, the Committee and Houston failed to disclose approximately 46% of the expenditures made during this reporting period.

By failing to disclose expenditures made, as set forth above, the Committee and Houston violated section 84211, subdivisions (b), (i), (j) and (k). (1 Count)

#### Count 2: Recordkeeping Violation

The Committee and Houston failed to maintain detailed accounts, records, bills and receipts necessary to prepare campaign statements and to establish campaign statements were properly filed for the reporting period October 17, 2010, through December 31, 2010.

By failing to maintain proper records for the reporting period October 17, 2010, through December 31, 2010, the Committee and Houston violated section 84104. (1 Count)

### **CONCLUSION**

This matter consists of two counts of violating the Act, which carries a maximum administrative penalty of \$5,000 for each violation, for a total of \$10,000.

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<sup>13</sup> Sections 81004, subd. (b), 84100 and Regulation 18427, subdivision (a).

<sup>14</sup> Sections 83116.5, 91006 and Regulation 18316.6.

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): (1) the seriousness of the violations; (2) the presence or lack of intent to conceal, deceive or mislead; (3) whether the violation was deliberate, negligent, or inadvertent; (4) whether the respondents 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 Respondent voluntarily filed an amendment to provide full disclosure.

The Commission also considers penalties in prior cases involving similar violations. A recent similar case where the respondents failed to timely disclose financial activity include:

*In the Matter of Patricia Washington and Pat Washington for Assembly 2012, FPPC No. 14/111.* Washington and the Committee failed to report any financial campaign activity in the first pre-election reporting period until May 25, 2012. Even though Washington and the Committee filed an amendment prior to the June 5, 2012 election, the contributions were understated by \$8,609 and expenditures were overstated by \$598, as a result of inadequate recordkeeping. On May 21, 2015, the Commission imposed a \$2,500 fine for failure to properly report financial activity on the statement.

In the case cited above, the violation was for failure to properly disclose financial activity on a pre-election campaign statement, before an election. In this matter, the Committee and Houston were required to disclose these expenditures on a post-election semi-annual campaign statement. However, the Committee and Houston failed to disclose almost half of the expenditures made during the relevant period.

The imposition of a \$2,500 administrative penalty is recommended for Count 1.

Recent similar cases where the respondents failed to maintain campaign records include:

*In the Matter of Patricia Washington and Pat Washington for Assembly 2012, FPPC No. 14/111.* As discussed above, Washington and the Committee's failure to maintain required records prevented the Enforcement Division from readily ascertaining whether the campaign statement was properly prepared. Although Washington cooperated with the investigation by attempting to recreate the Committee records, the records that were provided were incomplete and inadequate. On May 21, 2015, the Commission imposed a \$2,000 fine for the failure to maintain records.

*In the Matter of William Lee and Committee to Elect William Lee Marina Coast Water District November 2, 2012, FPPC No. 12/607.* The candidate used his personal bank account to deposit contributions and make expenditures, along with failing to maintain required records. In this matter, only campaign statements were maintained without supporting documentation. On August 22, 2013, the Commission imposed a \$2,000 fine for the failure to maintain records.



In this matter, the Committee and Houston's failure to maintain required records prevented the FTB to readily ascertain whether the campaign statement contained proper reporting. Houston attempted to provide and recreate the required records, although they were incomplete.

The imposition of a \$2,000 administrative penalty is recommended for Count 2.

For both counts, Houston stated that he was unfamiliar with the complexities of California law. Further, the Committee and Houston have no prior enforcement history and have cooperated with the Enforcement Division.

### **PROPOSED PENALTY**

After considering the factors of Regulation 18361.5, prior similar cases, and other relevant factors, a penalty of \$2,500 for Count 1 and a penalty of \$2,000 for Count 2 for the Committee and Houston is recommended, for a total penalty of \$4,500.