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

10
11 In the Matter of:

12 **SERVICE EMPLOYEES**
13 **INTERNATIONAL UNION LOCAL 721**
14 **CTW, CLC WORKERS STRENGTH**
COMMITTEE and TONY BRAVO

15 Respondents.

FPPC No. 14/261

16 **STIPULATION, DECISION, and ORDER**

17
18 **STIPULATION**

19 Complainant, the Fair Political Practices Commission, and Respondents Service Employees
20 International Union Local 721 CTW, CLC Workers Strength Committee and Tony Bravo hereby agree
21 that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its
22 next regularly scheduled meeting.

23 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this
24 matter and to reach a final disposition without the necessity of holding an additional administrative
25 hearing to determine the liability of Respondents.

26 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
27 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of
28 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to

1 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
2 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to
3 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
4 the hearing as a hearing officer, and to have the matter judicially reviewed.

5 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing
6 to timely disclose expenditures on a pre-election campaign statement in violation of Government Code
7 sections 84200.7, subdivision (b) and 84211, subdivision (k) as described in Exhibit 1. Exhibit 1 is
8 attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and
9 accurate summary of the facts in this matter.

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

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23 Dated: _____ Gary S. Winuk, on Behalf of the Enforcement Division
24 Fair Political Practices Commission

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26 Dated: _____, on behalf of SEIU
27 Local 721 CTW, CLC Workers Strength Committee

1 Dated: _____ Tony Bravo, individually
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3 **DECISION AND ORDER**

4 The foregoing Stipulation of the parties “In the Matter of Service Employees International Union
5 Local 721 CTW, CLC Workers Strength Committee and Tony Bravo,” FPPC No. 14/261, including all
6 attached exhibits, is hereby accepted as the final decision and order of the Fair Political Practices
7 Commission, effective upon execution below by the Chair.
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9 IT IS SO ORDERED.

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11 Dated: _____
12 Joann Remke, Chair
13 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent Service Employees International Union Local 721 CTW, CLC Workers Strength Committee (“Respondent Committee”) is a general purpose committee sponsored by the Service Employees International Union Local 721 CTW, CLC (“SEIU Local 721”). Respondent Tony Bravo (“Respondent Treasurer”) was Respondent Committee’s treasurer at all times relevant in this matter. Respondent Committee and Respondent Treasurer are referred to collectively herein as “Respondents.”

The Political Reform Act (the “Act”)¹ requires a committee to timely disclose on its campaign statements all non-monetary contributions of \$100 it makes to political candidates. Respondents violated the Act by failing to timely disclose non-monetary contributions it made to three city council candidates in 2010.

For purposes of this Stipulation, the proposed violation of the Act is as follows:

COUNT 1: Respondents failed to timely disclose on their pre-election campaign statement expenditures totaling \$33,863 made by Respondent Committee during the July 1, 2010 through October 16, 2010 statement period in violation of Sections 84200.7, subdivision (b) and 84211, subdivision (k).

SUMMARY OF THE LAW

Non-monetary Contributions

Under the Act, a “contribution” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment for which full and adequate consideration is not received by the giver. (Section 82015.) The definition of “contribution” includes any goods or services received by a candidate or committee at no charge or at a discount from fair market value. (Regulation 18215, subdivision (b)(3).) This type of contribution is commonly referred to as a “non-monetary” or “in kind” contribution.

Campaign Statement Disclosure Requirements

General purpose committees must file pre-election campaign statements before the primary and general elections. (Section 84200.5) Section 84211 details the information committees must include in pre-election campaign statements. When a committee makes a non-monetary contribution valued at \$100 or more to a candidate, the campaign statement must identify the name and address of the candidate, as well as the amount and date of the

¹ 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.

contribution, and the cumulative amount of contributions made to the candidate for that year. (Section 84211, subd. (k).)

General purpose committees must file pre-election campaign statements for any pre-election campaign period in which the committee makes contributions of \$500 or more. (Section 84200.5, subd. (e).) For a General Election, the first pre-election statement period runs from July 1st to September 30th and the statement is due no later than October 5th. The second pre-election statement period runs from October 1st to 17 days before the General Election. That statement is due 12 days before the General Election. (Section 84200.7, subd. (b).)

Treasurer Liability

Section 84100 provides that every committee shall have a treasurer. Under Section 84100 and Regulation §18427, subdivision (a), 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. Under Sections 83116.5 and 91006, a committee's treasurer may be held jointly and severally liable, along with the committee and the candidate, for any reporting violations by the committee.

SUMMARY OF THE FACTS

Respondent Committee is a general purpose committee sponsored by SEIU Local 721, a labor union that represents public employees in southern California. Respondent Committee uses dues from SEIU Local 721 members to make contributions to, and independent expenditures on behalf of, various political candidates.

The Fair Political Practices Commission ("Commission") randomly selected Respondent Committee for a campaign audit performed by the Franchise Tax Board ("FTB") for the period from January 1, 2009 through December 31, 2010. During that period, Respondent Committee received contributions totaling \$1,426,205 and made expenditures totaling \$1,296,678.

FTB's audit found that Respondents, by in large, complied with the Act's campaign reporting requirements. However, Respondents failed to timely disclose significant non-monetary contributions made by Respondent Committee to the campaign committees of three city council candidates. The three candidates were Bernie Simon ("Simon") and Jim Pangrazzi ("Pangrazzi"), who were both running for City of San Jacinto City Council, and Jim Claverie ("Claverie"), who was running for City of Hemet City Council. The non-monetary contributions to Simon, Pangrazzi, and Claverie were in the form of mass mailers sent by Respondent Committee in support of the three candidates.

Respondents made the non-monetary contributions to Simon, Pangrazzi, and Claverie on October 15, 2010. The value of the contribution to Claverie was \$20,931. The value of the contributions to Simon and Pangrazzi were \$6,466 each. Respondents failed to disclose these contributions on their pre-election campaign statement filed on October 21, 2010 for the period from July 1, 2010 to October 16, 2010. Further, Respondents did not provide Simon, Pangrazzi, and Claverie with notice of these non-monetary contributions and the candidates did not disclose

receiving the non-monetary contributions from Respondents on their campaign statements. Respondents did timely disclose on the pre-election statement other non-monetary contributions Respondent Committee made to Simon, Pangrazzi, and Claverie but failed to disclose all of the non-monetary contributions, resulting in Respondents underreporting the total amount of non-monetary contributions it made to the three candidates by \$33,863.

Claverie and Pangrazzi told a Commission official that Respondents' representative had approached them after hearing them speak at a public forum and indicated that Respondents intended to support their campaign.² Both candidates said they had little contact with Respondents and that their input was limited to reviewing the mailers before they were sent.

On February 1, 2011, Respondents filed an amended pre-election statement for the July 1, 2010 to October 16, 2010 period on which they disclosed the total amount of all of the non-monetary contributions they made to Simon, Pangrazzi, and Claverie. The undisclosed contributions from Respondents made up a majority of the total amount of contributions received by the candidates. Simon's campaign committee reported receiving a single monetary contribution of \$150 and a \$5,440 non-monetary contribution from Respondents. The non-monetary contribution was for a different set of mailers also sent by Respondents on Simon's behalf. Pangrazzi's campaign committee reported receiving one monetary contribution of \$405 from Pangrazzi himself, and one non-monetary contribution from Respondents valued at \$4,201, which was for a different set of mailers sent by Respondents.³ Claverie's campaign committee reported receiving \$8,650 in total contributions for the election, \$4,150 of which were in loans from Claverie. It did not report receiving any non-monetary contributions.

Count 1
Failure to Timely Disclose Expenditures

Respondents failed to timely disclose on their pre-election campaign statement expenditures totaling \$33,863 made by Respondent Committee during the July 1, 2010 through October 16, 2010 statement period in violation of Sections 84200.7, subdivision (b) and 84211, subdivision (k).

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of five thousand dollars (\$5,000).

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,

² A Commission official attempted to contact Simon but was unable to reach him.

³ Unlike with the first set of mailers, Respondents provided Simon and Pangrazzi with written notice of the value of the second set of mailers Respondents sent supporting the candidates.

negligent, or inadvertent; whether the Respondents demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

Recent similar cases where the respondents failed to timely disclose expenditures of \$100 or more on their campaign statements include:

- *In the Matter of Stuart Waldman, Friends of Stuart Waldman, and Kinde Durkee*, FPPC No. 10/643: Respondents failed to timely disclose approximately \$65,000 in expenditures of \$100 or more. That amount represented approximately 13% of all campaign expenditures and the unreported expenditures occurred over multiple reporting periods. On September 22, 2011, the Commission approved a penalty of \$2,500 for the violation.
- *In the Matter of Michael Ramos, Committee to Reelect Mike Ramos San Bernardino County District Attorney – 2010, and Marvin Reiter*, FPPC No. 10/269: Respondents failed to timely disclose as expenditures nine credit card purchases of \$100 or more made during a single reporting period. The total amount of the expenditures was \$8,619, which constituted 7.9% of all expenditures made during the reporting period. On January 28, 2011, the Commission approved a penalty of \$2,500 for the violation.
- *In the Matter of Mike Stoker, Stoker for Assembly 2010, and Trent Benedetti*, FPPC No. 12/090: Respondents failed to timely disclose expenditures of \$100 or more totaling \$19,256.09 during the course of a year. This amount was about 4.6% of respondents' total expenditures for the year. On December 13, 2012, the Commission approved a penalty of \$2,500 for the violation.

In the present case, the expenditures that Respondents failed to disclose made up about 23% of the total expenditures by Respondent Committee during the statement period and about 3% of Respondent Committee's total expenditures for the year. To Respondents credit, they filed an amended statement disclosing the expenditures on their own volition, and the failure to timely disclose the expenditures appears to have been unintentional. But the filing occurred after the election so voters did not have access to this information before going to the polls. Further, Respondents failed to provide the candidates with written notice of the expenditures made on their behalf, resulting in the candidates failing to disclose receipt of the non-monetary contributions.

PROPOSED PENALTY

After considering the factors listed in Regulation §18361.5, as well as other relevant factors, a penalty of \$2,500 is recommended.