

1 GALENA WEST
Chief of Enforcement
2 MILAD DALJU
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5660
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant

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

10
11 In the Matter of) FPPC No. 14/1255
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16)
INTERNATIONAL ASSOCIATION OF) STIPULATION, DECISION AND ORDER
FIREFIGHTER LOCAL 55 POLITICAL)
ACTION, SPONSORED BY: INT'L)
ASSOC. OF FIREFIGHTER LOCAL 55,)
Respondent.)

17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 respondent, International Association of Firefighter Local 55 Political Action, Sponsored by: Int'l
20 Assoc. of Firefighter Local 55, agree that this Stipulation will be submitted for consideration by the
21 Fair Political Practices Commission (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 International Association of Firefighter Local 55 Political Action, Sponsored
25 by: Int'l Assoc. of Firefighter Local 55.

26 International Association of Firefighter Local 55 Political Action, Sponsored by: Int'l Assoc. of
27 Firefighter Local 55, understands, and hereby knowingly and voluntarily waives, any and all procedural
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1 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of
2 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to, the right to
3 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
4 its own expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena
5 witnesses to testify at the hearing, to have an impartial administrative law judge preside over the
6 hearing as a hearing officer, and to have the matter judicially reviewed.

7 It is further stipulated and agreed that International Association of Firefighter Local 55 Political
8 Action, Sponsored by: Int'l Assoc. of Firefighter Local 55, violated the Political Reform Act by
9 authorizing and paying for 10,879 telephone calls that were similar in nature, made by an individual, or
10 individuals, or by electronic means, that advocated support of a candidate, and did not, during the
11 course of each call, disclose the name of the organization that authorized or paid for the call, in
12 violation of Government Code section 84310, subdivision (a) (1 count). Each count is described in
13 Exhibit 1, which is attached hereto and incorporated by reference as though fully set forth herein.
14 Exhibit 1 is a true and accurate summary of the facts in this matter.

15 International Association of Firefighter Local 55 Political Action, Sponsored by: Int'l Assoc. of
16 Firefighter Local 55, agrees to the issuance of the Decision and Order, which is attached hereto.
17 International Association of Firefighter Local 55 Political Action, Sponsored by: Int'l Assoc. of
18 Firefighter Local 55, also agrees to the Commission imposing upon it an administrative penalty in the
19 amount of \$2,000. A cashier's check from International Association of Firefighter Local 55 Political
20 Action, Sponsored by: Int'l Assoc. of Firefighter Local 55, in said amount, made payable to the
21 "General Fund of the State of California," is submitted with this Stipulation as full payment of the
22 administrative penalty, to be held by the State of California until the Commission issues its decision
23 and order regarding this matter. The parties agree that in the event the Commission refuses to accept
24 this Stipulation, it shall become null and void, and within fifteen business days after the Commission
25 meeting at which the Stipulation is rejected, all payments tendered by International Association of
26 Firefighter Local 55 Political Action, Sponsored by: Int'l Assoc. of Firefighter Local 55, in connection
27 with this Stipulation shall be reimbursed to it. International Association of Firefighter Local 55 Political
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1 Action, Sponsored by: Int'l Assoc. of Firefighter Local 55, further stipulates and agrees that in the
2 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
3 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
4 disqualified because of prior consideration of this Stipulation.

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6 Dated: _____ Galena West, Chief of Enforcement, on behalf of
7 The Enforcement Division of the Fair Political Practices Commission
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9 Dated: _____ Jim Whitty, Treasurer, on behalf of
10 International Association of Firefighter Local 55 Political Action,
11 Sponsored by: Int'l Assoc. of Firefighter Local 55, Respondent
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1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of International Association of
3 Firefighter Local 55 Political Action, Sponsored by: Int’l Assoc. of Firefighter Local 55” FPPC No.
4 14/1255, 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.

6 IT IS SO ORDERED.

7
8 Dated: _____

9 Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent International Association of Firefighter Local 55 Political Action, Sponsored by: Int'l Assoc. of Firefighter Local 55 (Oakland Firefighter PAC) is, and was at all relevant times, a sponsored city general purpose committee. Oakland Firefighter PAC authorized and paid for 10,879 robocalls that advocated support of a candidate in the November 4, 2014, election, and did not disclose to each recipient that the call was paid for and authorized by Oakland Firefighter PAC, in violation of the Political Reform Act (Act).¹

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 violation.

Identification Requirements for Telephone Calls that are Similar in Nature and Aggregate 500 or More in Number

A candidate or committee may not expend campaign funds, directly or indirectly, to pay for telephone calls that are similar in nature and aggregate 500 or more in number, made by an individual, or individuals, or by electronic means and that advocate support of, or opposition to, a candidate, ballot measure, or both, unless during the course of each call the name of the organization that authorized or paid for the call is disclosed to the recipient of the call.² Each call must state that the call "is paid for" or "authorized" by the candidate or committee that paid for or authorized the call.³ A candidate or committee pays for a call whether it pays directly for the call or pays another person to make the call on its behalf.⁴ Telephone calls that are similar in nature and are made electronically are often referred to as robocalls.

SUMMARY OF THE FACTS

On or about November 2, 2014, Oakland Firefighter PAC retained the services of a professional campaign consultant to prepare phone calls to residents of Oakland. The consultant prepared, and the Oakland Firefighter PAC authorized, 10,879 electronic calls to be made on November 3, 2014, with the following automated message:

Hi. This is Dan Robertson, President of the Oakland Firefighters and also a resident of District 4. I apologize for leaving this recorded message, but it was the only way we could communicate to you quickly. The Oakland Firefighters are supporting Annie Campbell Washington for City Council because of her

¹ The 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 Gov. Code § 84310, subd. (a).

³ Cal. Code Reg., tit. 2 § 18440, subd. (b).

⁴ Cal. Code Reg., tit. 2 § 18440, subd. (c)(1).

experience in city government. Anne Campbell Washington is supported by the Oakland Police Officers, the Democratic Party, in addition to your Oakland Firefighters. Please don't forget to vote on November 4th. Thank you and have a good day.

Annie Campbell Washington was a successful candidate for Oakland City Council in the November 4, 2014, election. On or about December 31, 2014, Oakland Firefighter PAC paid \$455.16 for the calls.

Count 1: Failure to Include Identification in Robocalls

By authorizing and paying for 10,879 telephone calls that were similar in nature, made by an individual, or individuals, or by electronic means, that advocated support of a candidate, and did not, during the course of each call, disclose the name of the organization that authorized or paid for the call, Oakland Firefighter PAC violated Government Code section 84310, subdivision (a).

CONCLUSION

This matter consists of one 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 Fair Political Practices Commission (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.

On September 22, 2011, the Commission imposed a \$1,500 penalty on a committee for paying for and authorizing 1,000 robocalls that did not disclose the name of the committee to the recipient of each telephone call. (*In the Matter of Neighbors Opposing Tebbs, Eason, & Hailey For Fire Board 2010, and Thomas J. Francl, Treasurer, FPPC No. 10/1090.*)

In this matter, the violation is aggravated by the following facts: 10,879 robocalls, a high number of calls for a local election, were made without proper disclosure; the calls were made the day before the election; and the calls did not disclose that they were not authorized by a candidate or a committee controlled by a candidate. However, the violation is mitigated by the following facts: the calls identified the caller as the President of the Oakland Firefighters, and therefore the failure to disclose the source of the calls was not likely for the purpose of deceiving the public; the Oakland Firefighter PAC relied on a professional consultant who neglected to include the required disclaimer; and the Oakland Firefighter PAC does not have any prior history

of violating the Act.

PROPOSED PENALTY

After considering the factors listed in Regulation §18361.5, prior similar cases, and other relevant factors, a \$2,000 penalty is recommended.

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