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

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11 In the Matter of:

12 SCOTT MANN, SCOTT MANN FOR  
MENIFEE MAYOR 2014, SCOTT  
13 MANN FOR MENIFEE MAYOR 2012,  
AND SCOTT A. MANN – CAMPAIGN  
14 FOR CITY COUNCIL,

15 Respondents.

FPPC Case No. 14/193

STIPULATION, DECISION AND ORDER

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17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
19 Respondents Scott Mann, Scott Mann for Meniffee Mayor 2014, Scott Mann for Meniffee Mayor 2012,  
20 and Scott A. Mann – Campaign for City Council hereby agree that this Stipulation will be submitted for  
21 consideration by the Fair Political Practices 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 Respondents pursuant to Government Code section 83116.

25 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural  
26 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of  
27 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to  
28 appear personally at any administrative hearing held in this matter, to be represented by an attorney at

1 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to  
2 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over  
3 the hearing as a hearing officer, and to have the matter judicially reviewed.

4 It is further stipulated and agreed that Respondents violated the Political Reform Act as set forth  
5 in Exhibit 1, which is a true and accurate summary of the facts in this matter—and which is incorporated  
6 by reference as though fully set forth herein.

7 Respondents agree to the issuance of the Decision and Order, which is attached hereto. Also,  
8 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
9 \$60,000. Of this amount, \$55,000 is for Counts 1 through 11, which are violations involving personal use  
10 of campaign funds. Respondent Scott Mann bears sole liability for payment of this amount, which may  
11 not be paid from campaign funds. All four named Respondents are jointly and severally liable for the  
12 remaining penalty amount of \$5,000 that is imposed for Count 12, which is a recordkeeping violation.  
13 One or more cashier's checks or money orders totaling \$60,000—to be paid to the General Fund of the  
14 State of California—is/are submitted with this Stipulation as full payment of the administrative penalty  
15 described above, and same shall be held by the State of California until the Commission issues its  
16 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to  
17 accept this Stipulation, it shall become null and void, and within fifteen business days after the  
18 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in  
19 connection with this Stipulation shall be reimbursed to Respondents.

20 Respondents further stipulate and agree that in the event the Commission rejects the Stipulation  
21 and a full evidentiary hearing before the Commission becomes necessary, neither any member of the

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1 Commission, nor the Executive Director, shall be disqualified because of prior consideration of this  
2 Stipulation.

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5 Dated: \_\_\_\_\_  
6 Galena West, Chief of Enforcement  
Fair Political Practices Commission

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9 Dated: \_\_\_\_\_  
10 Scott Mann, individually and on behalf of Scott Mann  
11 for Menifee Mayor 2014, Scott Mann for Menifee  
Mayor 2012, and Scott A. Mann – Campaign for City  
Council, Respondents

12 **DECISION AND ORDER**

13 The foregoing Stipulation of the parties “In the Matter of Scott Mann, Scott Mann for Menifee  
14 Mayor 2014, Scott Mann for Menifee Mayor 2012, and Scott A. Mann – Campaign for City Council,”  
15 FPPC Case No. 14/193, including all attached exhibits, is hereby accepted as the final decision and order  
16 of the Fair Political Practices Commission, effective upon execution below by the Chair.

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18 IT IS SO ORDERED.

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20 Dated: \_\_\_\_\_  
21 Joann Remke, Chair  
Fair Political Practices Commission

## **EXHIBIT 1**

### **INTRODUCTION**

Scott Mann is the Mayor of Menifee. This case arose from a formal complaint regarding a campaign reporting matter. During its investigation, the Enforcement Division discovered a pattern of personal use of campaign funds by Mann (totaling approximately \$44,894 from approximately December 2009 through June 2014) in violation of the Political Reform Act (the “Act”).<sup>1</sup> The funds came from accounts that were established for Mann’s 2010 city council committee (Scott A. Mann – Campaign for City Council) and his 2012/2014 mayoral committees (Scott Mann for Menifee Mayor 2012 and Scott Mann for Menifee Mayor 2014). This case also involves failure to comply with the Act’s recordkeeping requirements.

Mann maintains that the violations described in this stipulation did not continue past June 2014; the Enforcement Division retains all prosecution rights in the event that information about more recent violations (occurring after June 2014) should be discovered.

### **SUMMARY OF THE LAW**

#### **Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act**

When enacting the Political Reform Act, the people of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup> For this reason, the Act is to be construed liberally to accomplish its purposes.<sup>3</sup>

One purpose of the Act is to help distinguish campaign contributions from gifts by ensuring that campaign contributions may not be used for personal purposes. In this regard, the Act provides that all contributions deposited into a campaign account are deemed to be held in trust for expenses associated with the election of the candidate or for holding office.<sup>4</sup> Another purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.<sup>5</sup> Along these lines, the Act includes a comprehensive campaign reporting system.<sup>6</sup> Also, the Act imposes mandatory recordkeeping requirements, which are

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<sup>1</sup> The 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.

<sup>2</sup> Section 81001, subdivision (h).

<sup>3</sup> Section 81003.

<sup>4</sup> Section 89510, subdivision (b).

<sup>5</sup> Section 81002, subdivision (a).

<sup>6</sup> Sections 84200, et seq.

designed to aid the audit and enforcement process.<sup>7</sup> An additional purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”<sup>8</sup>

### **Restrictions Against Personal Use of Campaign Funds**

With respect to the permissible use of campaign funds, an expenditure to seek office must be reasonably related to a political purpose. An expenditure associated with holding office must be reasonably related to a legislative or governmental purpose. Expenditures which confer a substantial personal benefit (of more than \$200) must be directly related to a political, legislative, or governmental purpose.<sup>9</sup>

### **Recordkeeping Requirements**

It is the duty of each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements properly were filed, and to otherwise comply with the Act’s campaign disclosure provisions.<sup>10</sup> This duty includes maintenance of detailed information and original source documentation for a period of four years following the date the campaign statement to which they relate is filed. Examples of original source documentation that must be maintained include copies of bills, receipts, and invoices for expenditures of \$25 or more.<sup>11</sup>

### **SUMMARY OF THE FACTS**

The City of Menifee was incorporated in 2008. That year, Scott Mann was elected as an inaugural member of the city council.

In 2010, he sought re-election, but he was unsuccessful. His candidate controlled committee for this election was Scott A. Mann – Campaign for City Council.

In 2011, he was elected to be a member of the Menifee Unified School District Board of Directors. However, in 2012, he resigned his school board position when he was elected to be the Mayor of Menifee. Scott Mann for Menifee Mayor 2012 was his candidate controlled committee.

He was re-elected as the Mayor of Menifee in November 2014. Scott Mann for Menifee Mayor 2014 was his candidate controlled committee.

Mann served as his own treasurer for the foregoing committees.

On approximately 147 occasions from December 2009 through June 2014, Mann used campaign funds totaling approximately \$44,894 for personal purposes—which were unrelated to

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<sup>7</sup> Section 84104.

<sup>8</sup> Section 81002, subdivision (f).

<sup>9</sup> See Sections 89511, subdivision (b)(3); and 89512.

<sup>10</sup> Section 84104.

<sup>11</sup> See Regulation 18401.

any political, legislative, or governmental purpose. These purposes included personal vacation/travel/dining expenses, personal tax relief expenses, personal vehicle repair/registration expenses, and personal expenses related to a family wedding in Malibu.

Roughly one-half of the funds came from a bank account that was established for Mann's 2010 city council committee. The other half came from an account that was established for Mann's 2012 and 2014 mayoral committees. Most of the funds were ATM cash withdrawals or bank transfers from committee accounts to personal/family accounts. Generally, Mann did not report these expenditures on his committee campaign statements, and he failed to keep required records of the expenditures.

In December 2014 and January 2015, Mann's 2014 mayoral committee filed an amended pre-election campaign statement for the period ending September 30, 2014 and a semi-annual campaign statement for the period ending December 31, 2014. On these filings, Mann reported miscellaneous increases to cash totaling approximately \$17,152—as partial reimbursement for his personal use of campaign funds. At the time, Mann was aware that he was under investigation. However, he maintains that he believed he was being investigated for campaign reporting issues—not personal use of campaign funds.

## **VIOLATIONS**

### **Counts 1-11: Personal Use of Campaign Funds**

Mann's personal use of campaign funds involved approximately 147 separate ATM cash withdrawals, bank transfers, and other expenditures, including committee checks that he wrote to himself. These expenditures total approximately \$44,894. (After Mann's partial reimbursement to his mayoral account in the approximate amount of \$17,152, the amount that remains unreimbursed is approximately \$27,742.) For settlement purposes, 11 counts are being charged for this conduct.

In making personal use of campaign funds as described above, Mann committed 11 violations of Section 89512.

### **Count 12: Failure to Keep Required Committee Records**

During the period of time encompassed by Counts 1 through 11, Mann, Scott Mann for Menifee Mayor 2014, Scott Mann for Menifee Mayor 2012, and Scott A. Mann – Campaign for City Council failed to maintain (for a period of four years following the filing of each applicable campaign statement) detailed accounts, records, bills, and receipts necessary to prepare campaign statements, establish that campaign statements properly were filed, and to otherwise comply with Chapter 4 of the Act. For example, they failed to keep copies of bills, receipts, and invoices for 204 expenditures totaling approximately \$49,690, including the expenditures that are the subject of Counts 1 through 11. (Roughly one-half of the funds for these expenditures came from a bank account that was established for Mann's 2010 city council committee. The other half came from an account that was established for Mann's 2012 and 2014 mayoral committees.)

In this way, Mann, Scott Mann for Menifee Mayor 2014, Scott Mann for Menifee Mayor 2012, and Scott A. Mann – Campaign for City Council failed to comply with the Act’s recordkeeping requirements in violation of Section 84104 and Regulation 18401.

### PROPOSED PENALTY

This matter consists of 12 counts. The maximum penalty that may be imposed is \$5,000 per count—for a total of \$60,000.<sup>12</sup>

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of violations.<sup>13</sup> Additionally, the Commission considers penalties in prior cases with comparable violations.

Regarding Counts 1 through 11, the Act requires campaign contributions to be held in trust for expenses associated with seeking or holding office. This is an important restriction, which helps to distinguish campaign contributions from gifts. When a public official makes personal use of campaign funds, it is a serious violation of the Act that erodes public confidence in the political process by creating the appearance that lawful campaign contributions are personal gifts to the public official.

*In the Matter of George Shirakawa, George Shirakawa for School Board, and Shirakawa for Supervisor*; FPPC Case No. 12/662 (approved Apr. 25, 2013), the Commission considered a case where a county supervisor—who also was a school board member—made personal use of campaign funds totaling approximately \$131,670 over a five-year period. He took the funds from his school board and supervisor accounts, and he used the money for gambling. As is common in these types of cases, his wrongdoing was concealed by campaign reporting violations, which were noted as aggravating information in the stipulation—but not separately charged. The matter came before the Commission as a proposed stipulation in conjunction with criminal prosecution by the Santa Clara County District Attorney’s Office. The criminal action included felony perjury charges (for filing false campaign statements) and misdemeanor charges (for failure to timely file other campaign statements). Shirakawa was sentenced to a year in jail—plus three years of probation. Also, the Commission imposed a penalty in the amount of \$50,000—based upon a 10-count stipulation. Each count was for personal use of campaign funds.

The *Shirakawa* case illustrates that the maximum penalty of \$5,000 per count is warranted in egregious cases. Although the current case involves less money (\$44,894 in the current case versus \$131,670 in *Shirakawa*), the current case still qualifies as egregious. Both cases involve a repeated pattern of personal use of campaign funds that took place over many

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<sup>12</sup> See Section 83116, subdivision (c).

<sup>13</sup> Regulation 18361.5, subdivision (d).



years (more than four years in the current case—and five years in *Shirakawa*). Also, in each case, the campaign funds were taken from more than one committee (three different committee accounts in the current case—and two different accounts in *Shirakawa*). Additionally, both cases involved campaign reporting violations, which served to conceal the personal use of committee funds. For these reasons, the maximum penalty of \$5,000 per count is warranted in the current case—as it was warranted in *Shirakawa*.

In the current case, Mann repaid approximately \$17,152 to one of his committees—as partial reimbursement for his personal use of campaign funds. However, this partial reimbursement does not distinguish the current case from the *Shirakawa* case because that case also involved partial reimbursement.<sup>14</sup>

In addition to illustrating that the maximum penalty of \$5,000 per count is warranted in the current case, *Shirakawa* also illustrates that the Commission has approved of some flexibility with respect to the number of counts charged—relative to the number and amount of expenditures made. For settlement purposes, the stipulation in that case charged 10 counts for 147 expenditures. These expenditures totaled approximately \$131,670. The Commission-approved penalty of \$50,000 was about 38% of the total misused funds. In the current case, a much higher percentage is warranted because there is no pending criminal action against Mann—and the *Shirakawa* penalty would have reflected a reduction to take into account the pending sentencing/incarceration (which turned out to be one year in jail and three years of probation). Also, even though both cases involve campaign reporting violations that were directly related to the misuse of campaign funds and which served to conceal the misuse of funds, the current case involves other violations as well. For settlement purposes, these are not being charged as additional counts, but they are being noted as aggravating information.<sup>15</sup> Generally, these other violations involved failure to properly and timely report numerous receipts and expenditures. Additionally, it was found that some of Mann’s campaign expenditures were not paid from committee bank accounts—in violation of the Act’s required use of a single, designated campaign bank account to pay committee expenditures.

Under these circumstances, it is recommended that Mann’s personal use of campaign funds should be charged as 11 counts carrying the maximum penalty of \$5,000 per count—for a total penalty of \$55,000 for Counts 1 through 11. This equates to more than 120% of the total amount of misused funds in this case.

Regarding Count 12, the failure to keep required committee records involves circumvention of important safeguards that are meant to create a paper trail to aid the audit and enforcement process. When these types of violations are committed, it becomes difficult or impossible to track and verify campaign financial activity, to ensure that campaign funds are used for campaign-related purposes, and to identify other potential violations.

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<sup>14</sup> The last page of the exhibit to the *Shirakawa* stipulation notes: “In mitigation, Respondent contends he has paid a substantial portion of the money back, both prior to the Enforcement action and through payment of this penalty.”

<sup>15</sup> Under current law, whereas the penalty for personal use of campaign funds cannot be paid with committee funds—the penalty for other types of violations can be paid with committee funds.



*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 Case No. 14/603 (approved Dec. 17, 2015), the Commission imposed a penalty in the amount of \$2,000 where a committee failed to keep required records over a period of time spanning only two-and-a-half months. The current case involves failure to keep required records over a much longer period of time (more than four years, as opposed to two-and-a-half months). Also, in the current case, the failure to keep required records served to conceal the violations that are encompassed by Counts 1 through 11. Under these circumstances, the maximum penalty of \$5,000 is recommended for Count 12.

The total penalty that is being recommended for Counts 1 through 12 is \$60,000. A higher penalty is not being sought in this case because Mann cooperated with the Enforcement Division by agreeing to an early settlement—and by entering into a tolling agreement with respect to the statute of limitations. Also, under current law, the penalty to be imposed for personal use of campaign funds (Counts 1 through 11) may not be paid from campaign funds. Additionally, prior to the November 2016 election—when Mann was up for re-election—he consented to a press release regarding this pending settlement and the nature of his violations.

As far as Mann’s history of prior violations is concerned, in January 2014, the Commission imposed a penalty in the amount of \$1,500 against Mann and his 2012 mayoral committee for failure to report receipt of nonmonetary contributions totaling approximately \$982—but this penalty was not imposed until after most of the violations described above already had occurred.

## **CONCLUSION**

For the foregoing reasons, an agreed upon penalty in the amount of \$5,000 per count is recommended for Counts 1 through 12—for a total penalty in the amount of \$60,000. Of this amount, \$55,000 is for Counts 1 through 11, which are violations involving personal use of campaign funds. Mann bears sole liability for payment of this amount, which may not be paid from campaign funds. The remaining penalty amount of \$5,000 is being imposed for Count 12, which is a recordkeeping violation. Mann and his three committees (Scott Mann for Menifee Mayor 2014, Scott Mann for Menifee Mayor 2012, and Scott A. Mann – Campaign for City Council) share joint and several liability for this amount.