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

10
11 In the Matter of:

FPPC No. 14/1350

12 STIPULATION, DECISION, AND ORDER

13 CALIFORNIA-HAWAII STATE
14 CONFERENCE OF THE NAACP

15
16 Respondent.
17

18 **STIPULATION**

19 Complainant, the Enforcement Division of the Fair Political Practices Commission
20 (“Commission”), and respondent California-Hawaii State Conference of the NAACP, hereby agree that
21 this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next
22 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 Respondent.

26 Respondent understands, and hereby knowingly and voluntarily waives, 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 Respondent's 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 Respondent violated the Political Reform Act by failing to
6 timely file Reports of Lobbyist Employer (Form 635), in violation of Government Code Sections 86115,
7 86116, and 86117, as described in Exhibit 1 (3 Counts). Exhibit 1 is attached hereto and incorporated by
8 reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this
9 matter.

10 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
11 Respondent also agrees to the Commission imposing an administrative penalty in the amount of \$3,000.
12 A cashier's check from Respondent in said amount, made payable to the "General Fund of the State of
13 California," is submitted as full payment of the administrative penalty, and shall be held by the State of
14 California until the Commission issues its Decision and Order regarding this matter. The parties agree
15 that in the event the Commission refuses to accept this Stipulation, the check shall become null and
16 void, and within fifteen (15) business days after the Commission meeting at which the Stipulation is
17 rejected, all payments tendered by Respondent in connection with this Stipulation shall be reimbursed to
18 Respondent. Respondent further stipulates and agrees that in the event the Commission rejects the
19 Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any
20 member of the Commission, nor the Executive Director, shall be disqualified because of prior
21 consideration of this Stipulation.

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23 Dated: _____
24 Galena West, on behalf of the Enforcement Division
25 Fair Political Practices Commission

26 Dated: _____
27 Alice A. Huffman on behalf of the California-Hawaii
28 State Conference of the NAACP

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DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of California-Hawaii State Conference of the NAACP,” FPPC No. 14/1350, 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 Chairperson.

IT IS SO ORDERED.

Dated: _____
Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent California-Hawaii State Conference of the NAACP (“NAACP”) is a lobbyist employer located in Sacramento.

Under the Political Reform Act (the “Act”),¹ a lobbyist employer is required to timely file quarterly reports disclosing its lobbying activity. NAACP violated the Act by failing to timely file three (3) lobbyist employer reports.

SUMMARY OF THE LAW

Any person who qualifies as a “lobbyist employer” is required to file periodic reports containing information about the lobbying activities being conducted on behalf of the lobbyist employer.² A person, other than a lobbying firm, qualifies as a “lobbyist employer” if the person either: (a) employs one or more lobbyists, for economic consideration, for the purpose of influencing legislative or administrative action; or (b) contracts for the services of a lobbying firm, for economic consideration, for the purpose of influencing legislative or administrative action.³

A Lobbyist employer must file reports on the first day of the calendar quarter in which the filer registered. Reports must be filed during the month following each calendar quarter.⁴

SUMMARY OF THE FACTS

NAACP has been a lobbyist employer since 2001. Respondent failed to timely file the following lobbyist employer reports:

Count	Reporting Period	Report Required To Be Filed	Date Due	Date Filed	Days Late	Amount in Activity
1	10/1/13-12/31/13	Lobbyist Employer Report	2/2/14	3/5/15	398	\$21,250
2	4/1/14-6/30/14	Lobbyist Employer Report	7/31/14	10/30/14	92	\$21,000
3	10/1/14-12/31/14	Lobbyist Employer Report	2/2/15	2/19/15	17	\$25,000
Total						\$67,250

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 Government Code Section 86115, 86116

³ Government Code Section 82039.5

⁴ Government Code Section 86117

Counts 1 through 3 - Failure to Timely File Report of Lobbyist Employer

NAACP failed to timely file Lobbyist Employer reports (Form 635) for quarters 4, 6, and 8 of the 2013-2014 legislative session in violation of sections 86115, 86116, and 86117.

CONCLUSION

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

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division 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 Enforcement Division considers the facts and circumstances of the violation in 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 deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the NAACP demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether, upon learning of the violation, the violator voluntarily filed amendments to provide full disclosure.

NAACP's violation deprived the public of important and timely information regarding the amounts and nature of its lobbying activity.

The administrative penalty for failing to timely file a lobbying report has typically been \$1,000 per violation. Other similar cases involving failure to timely file lobbyist employer reports recently approved by the Commission include:

- *In the Matter of Pasadena Metro Blue Line Construction Authority and Habib F. Balian, Responsible Officer*, FPPC No. 14/1079. Respondent, Pasadena Metro Blue Line Construction Authority, a lobbyist employer, failed to timely file three Reports of Lobbyist Employer (Form 635) between October 1, 2013, and June 30, 2014, disclosing payments paid for lobbying services in the amount of \$26,400 per reporting period for a total of \$79,200. On January 15, 2015, the Commission imposed a penalty of \$1,000 per count for 3 counts of failing to timely file Reports of Lobbyist Employers.

- *In the Matter of Brencourt Advisors, LLC*, FPPC No. 13/0122. Respondent Brencourt Advisors, LLC, a California lobbyist employer failed to timely file two Lobbyist Employer Reports between July 1, 2011, and December 31, 2011, disclosing \$125,000 in payments for lobbying services. On August 22, 2013, the Commission imposed a penalty of \$1,000 per count for 2 counts of failing to timely file Reports of Lobbyist Employers.

In this case, NAACP is charged with failing to timely file three quarterly reports, which if filed timely would have disclosed \$67,250 over the three quarters in payments for lobbying services, depriving the public of important information regarding the NAACP's amount and nature of lobbying activity. NAACP was also late in filing a report for January 1, 2014, through March 31, 2014 for which it was not charged.

However, NAACP has been a lobbyist employer for a number of yours and does not have a history of violating the Act. Further, it asserts it has taken steps to prevent late filings in the future.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, and the penalties imposed in prior cases, we propose a penalty of one thousand dollars (\$1,000) per count for a total of \$3,000.