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7 Enforcement Division of the Fair Political Practices Commission

8  
9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

10 STATE OF CALIFORNIA

11  
12 In the Matter of:

13 BOB BRUNTON FOR STATE  
ASSEMBLY 2014, ROBERT L.  
14 BRUNTON JR., AND JEFFREY D.  
WALD,

15 Respondents.

FPPC Case No. 16/468

16 STIPULATION, DECISION AND ORDER

17 **INTRODUCTION**

18 Respondent Robert Brunton Jr. (“Brunton”) was a candidate for Assembly District 25 during the  
19 June 3, 2014 Statewide Primary Election and the November 4, 2014 Statewide General Election.  
20 Respondent Bob Brunton for State Assembly 2014 (“Brunton for Assembly”) was Brunton’s controlled  
21 committee. Jeffrey D. Wald (“Wald”) served as Brunton for Assembly’s treasurer. The Political Reform  
22 Act (the “Act”)<sup>1</sup> requires the candidate and treasurer to maintain detailed accounts, records, bills, and  
23 receipts necessary to prepare campaign statements. The Act also requires candidates, committees, and  
24 their treasurers to accurately report campaign activity on the appropriate campaign statements. Brunton  
25 for Assembly, Brunton, and Wald violated the Act by failing to maintain complete campaign records and  
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28 <sup>1</sup>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 Practice 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.

1 by failing to accurately report campaign activity on the appropriate statement.

## 2 SUMMARY OF THE LAW

3 All legal references and discussions of law are intended to be citations to statutes and regulations  
4 as they existed at the time of the violations.

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

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

9 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in  
10 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper  
11 practices are inhibited.<sup>4</sup> Along these lines, the Act includes a comprehensive campaign reporting system—  
12 and the true sources of campaign contributions may not be concealed.<sup>5</sup> Another purpose of the Act is to  
13 provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”<sup>6</sup>

### 14 Recordkeeping

15 The Act imposes a duty on candidates and treasurers to maintain detailed accounts, records, bills,  
16 and receipts necessary to prepare campaign statements, and to establish that campaign statements were  
17 properly filed.<sup>7</sup> For contributions of \$100 or more<sup>8</sup>, committees are required to maintain the following:

- 18 (A) The accounts and records shall contain a continuous computation of campaign account  
19 balances, and include a listing reflecting the dates and daily totals of the contributions, other  
20 receipts, or expenditures on the dates of the contributions, other receipts, or expenditures  
21 on the dates of the contributions, other receipts, or expenditures. (B) The original source  
22 documentation shall consist of all bank statements, check registers, check stubs, bank or  
23 passbooks, and any other records reflecting a continuous computation of campaign account  
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25 <sup>2</sup> Section 81001, subdivision (h).

26 <sup>3</sup> Section 81003.

27 <sup>4</sup> Section 81002, subdivision (a).

28 <sup>5</sup> Sections 84200, *et seq.* and 84301.

<sup>6</sup> Section 81002, subdivision (f).

<sup>7</sup> Section 84104.

<sup>8</sup> Former Regulation 18401, subdivision (a)(3)(A).

1 balances in any savings or check account, money market account, certificate of deposit,  
2 credit card account, or any other campaign account, in any bank or other financial  
3 institution...<sup>9</sup> The original source documentation shall also include "...copies of contributor  
4 checks, cashier's checks, money orders, wire transfers, deposit or duplicate slips, and any  
5 other documents, reflecting all items deposited, all deposits made, to any campaign account,  
6 and shall include the occupation and employer (or, if self-employed, the name of the  
7 principal place of business) of the contributor...<sup>10</sup>

8 If the committee receives a loan, "the accounts and records shall contain the detailed information  
9 set forth in subdivisions (a)(1)(A), (a)(2)(A), (a)(3)(A), and include the interest rate and due date, if any,  
10 of the loan, and the full name and street address of any guarantor, or any person liable directly or indirectly,  
11 or contingently for the loan" and "the original source documentation shall consist of all promissory notes,  
12 extensions of credit, security agreements, loan guarantees, and any other documents reflecting  
13 indebtedness."<sup>11</sup>

14 For expenditures of twenty-five dollars or more, the accounts and records

15 ...shall contain the date the expenditures was made (or, for an accrued expense, the date  
16 the goods or services were received), the amount of the expenditure, the full name and  
17 street address of the payee, and a description of the goods or services for which each  
18 expenditure was made...."<sup>12</sup> The original source documentation for expenditures "...shall  
19 consist of cancelled checks, wire transfers, credit card charge slips, bills, receipts, invoices,  
20 statements, vouchers, and any other documents reflecting obligations incurred by the  
21 candidate, elected officer, campaign treasurer or committee, and disbursements made from  
22 any checking or savings account, or any other campaign accounts, in any bank or financial  
23 institution...<sup>13</sup>

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26 <sup>9</sup> Former Regulation 18401, subdivision (a)(1)(A) and (a)(2)(B)

27 <sup>10</sup> Former Regulation 18401, subdivision (a)(1)(A) and (a)(2)(B)

28 <sup>11</sup> Former Regulation 18401, subdivisions (a)(1)(A), (a)(2)(A), (a)(3)(A), and (a)(7) (A).

<sup>12</sup> Former Regulation 18401, subdivision 4(A).

<sup>13</sup> Former Regulation 18401, subdivision (4)(B).

1 The Act requires that “A filer shall maintain the accounts, records, bills and receipts, and original  
2 source documentation for a period of four years following the date the campaign statement to which they  
3 relate is filed.<sup>14</sup>

4 Reporting of Contributions

5 The Act requires committees, candidates, and treasurers to timely report the name, address,  
6 occupation, employer, the date and amount received of each contribution totaling \$100 or more. In the case  
7 of a loan, the Act requires the original date of the loan, the due date of the loan, and the interest rate of the  
8 loan to be reported on the campaign statement.<sup>15</sup>

9 Candidate and Treasurer Liability

10 Under the Act, it is the duty of the candidate and the treasurer of a controlled committee to ensure  
11 that the committee complies with all the requirements of the Act concerning the receipt, expenditure, and  
12 reporting of funds.<sup>16</sup> The candidate and treasurer may be held jointly and severally liable, along with the  
13 committee, for violations committed by the committee.<sup>17</sup>

14 **SUMMARY OF THE FACTS**

15 Brunton for Assembly, Brunton, Wald were subject to an audit by the Franchise Tax Board (the  
16 “FTB”). Brunton was a candidate on the ballot in Assembly District 25 during the June 3, 2014 Statewide  
17 Primary Election and the November 4, 2014 Statewide General Election. Brunton was successful in the  
18 June 3, 2014 Statewide Primary Election, but was defeated the November 4, 2014 Statewide General  
19 Election.

20 The FTB Audit period covered January 1, 2014 – December 31, 2014. During the audit period,  
21 Brunton for Assembly, Brunton, and Wald reported receiving contributions totaling approximately  
22 \$13,485<sup>18</sup> and making expenditures totaling approximately \$13,898 during the audit period. The FTB  
23 determined and the Enforcement Division confirmed that Brunton for Assembly, Brunton, and Wald  
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26 <sup>14</sup> Former Regulation 18401, subdivision (b)(2).

<sup>15</sup> Section 84211, subdivisions (a), (c), (f), and (g).

27 <sup>16</sup> Sections 81004, 84100, 84104, and 84213, and Regulation 18427.

<sup>17</sup> Sections 83116.5 and 91006.

28 <sup>18</sup> This is the net amount of contributions received after loan re-payments are deducted from the gross amount of contributions received. The Enforcement Division calculated the gross amount of contributions received to be approximately \$21,085.

1 failed to maintain committee records for some loans received and expenditures made and failed to timely  
2 report a loan received by the committee.

3 Recordkeeping

4 The FTB identified, loans received by Brunton for Assembly and several expenditures made by  
5 Brunton for Assembly for which insufficient documentation in support of the transactions was provided,  
6 including incomplete records to establish the source of a loan. The loans in question were reported  
7 received by Brunton for Assembly as being received from Brunton and his company Fintel Inc. (Also,  
8 known as Telesis Sales Group). On or around August 17, 2015<sup>19</sup>, the FTB sent Brunton for Assembly,  
9 Brunton, and Wald for Assembly a letter requesting that they provide additional documentation to support  
10 the loans (original source documentation) and the expenditures listed. On or around September 7, 2015,  
11 Wald sent FTB a letter and provided them with some of the documents being requested by the FTB, and  
12 explained that he was attempting to get copies of the other documents. Wald either provided none of the  
13 requested documentation or incomplete documentation in response to the letter as noted in the charts  
14 below.

15 **Brunton Loans**

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Contributor Reported	Date	Amount	Statement Due	Statement Filed	Documents requested by FTB	Documents provided by Wald
17 Robert Brunton/Fintel Inc.	Feb. 13, 2014	\$4,000	Mar. 24, 2014	Mar. 24, 2014	Original source bank statements and contributor check	Check <sup>20</sup>
18 Robert Brunton/Fintel Inc.	Mar. 8, 2014 <sup>21</sup>	\$4,000	Mar. 24, 2014	Mar. 24, 2014	Original source bank statements and contributor	None

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26 <sup>19</sup> The request made by FTB for committee records was made within the four years of the date on which the  
27 campaign statements were filed by Brunton for Assembly.

<sup>20</sup> Brunton for Assembly did not provide the requested bank statement.

28 <sup>21</sup> Brunton for Assembly's campaign bank statement shows this was deposited Mar. 7, 2014, Mar. 8 was the date reported.

Contributor Reported	Date	Amount	Statement Due	Statement Filed	Documents requested by FTB	Documents provided by Wald
					check	
Robert Brunton/Fintel Inc.	Mar. 14, 2014	\$500	Mar. 24, 2014	Mar. 24, 2014	Original source bank statements and contributor check	Check <sup>22</sup>
Robert Brunton/Fintel Inc.	Jul. 21, 2014	\$4,000	Oct. 6, 2014	Oct. 9, 2015 <sup>23</sup>	Original source bank statements and contributor check	None
Brunton/Fintel Inc.	Sep. 19, 2014	\$1,000	Oct. 6, 2014	Oct. 9, 2014	Original source bank statements and contributor check	None
Brunton/Fintel Inc.	Sep. 30, 2014	\$600	Oct. 6, 2014	Oct. 9, 2014	Original source bank statements and contributor check	None
Brunton/Fintel Inc.	October 6, 2014	\$320	Oct. 23, 2014	Oct. 24, 2014	Original source bank statements and contributor check	None

<sup>22</sup> Brunton for Assembly did not provide the requested bank statement.

<sup>23</sup> The original statement was filed on October 9, 2014, but the \$4,000 loan was not reported on the original statement. The loan was reported on an amendment filed on March 13, 2015, after the election, which is addressed below in a separate count.

## Expenditures

Payee	Date	Amount	Statements due	Statements Filed	Documents requested by FTB	Documents provided by Wald <sup>24</sup>
Robert Brunton	Mar. 3, 2014	\$267 <sup>25</sup>	Mar. 24, 2014	Mar. 24, 2014	Invoices and receipts	None
Chase Card	Mar. 14, 2014	\$130.11	Mar. 24, 2014	Mar. 24, 2014	Invoices and receipts	None
Telesis Sales Group	May 20, 2014	\$1,000	July 31, 2014	July 28, 2014	Invoices and receipts	None
Registrar of Voters Santa Clara	Aug. 1, 2014	\$3,800 (cash)	Oct. 6, 2014	Oct. 9, 2014	Invoices and receipts	None
Bay Tech Nerds	Aug. 15, 2014	\$500	Oct. 6, 2014	Oct. 9, 2014	Invoices and receipts	None
Rodgers Camping Trailers	Aug. 18, 2014	\$200	Oct. 6, 2014	Oct. 9, 2014	Invoices and receipts	None
Robert Brunton	Sept. 15, 2014	\$182	Oct. 6, 2014	Oct. 9, 2014	Invoices and receipts	None
Robert Brunton	Sept. 25, 2014	\$400 (cash)	Oct. 6, 2014	Oct. 9, 2014	Invoices and receipts	None

### Reporting on Pre-Election Campaign Statement

Brunton for Assembly reported receiving a \$4,000 loan from the candidate on July 21, 2014 that should have been reported on the pre-election statement ending on September 30, 2014. Brunton for Assembly, Brunton, and Wald amended the pre-election statement ending on September 30, 2015 on March 13, 2015, after the election, to include the unreported loan.

## VIOLATIONS

### Count 1: Failure to Maintain Campaign Records

Brunton for Assembly, Brunton, and Wald failed to maintain complete records for seven loans received from Brunton/Fintel Inc., totaling approximately \$14,420 ranging from on or around February 13, 2014 and through October 6, 2014.

<sup>24</sup> Bank statements, cancelled checks, and withdrawal slip were provided, but not with the Sept. 7 production and it did not satisfy the record keeping requirement for expenditures because it did not include invoices and receipts.

<sup>25</sup> This payment was not listed in the August 17 letter, but invoices/receipts were requested during the audit.

1 Brunton for Assembly, Brunton, and Wald failed to maintain complete records for eight  
2 expenditures totaling \$6,479 ranging from on or around March 3, 2014 through September 30, 2014.

3 In this way, Brunton for Assembly, Brunton, and Wald violated Government Code Section 84104.

4 Count 2: Failure to Timely Report a Loan on a Pre-Election Statement

5 Brunton for Assembly, Brunton, and Wald failed to timely report on the pre-election statement  
6 ending September 30, 2014, a \$4,000 loan made by Brunton to Brunton for Assembly, in violation of  
7 Government Code Section 84211.

8 **PROPOSED PENALTY**

9 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per count.  
10 Thus, the maximum penalty that may be imposed is \$10,000.<sup>26</sup>

11 In determining the appropriate penalty for a particular violation of the Act, the Commission  
12 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission  
13 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention  
14 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)  
15 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were  
16 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.<sup>27</sup> Additionally,  
17 the Commission considers penalties in prior cases with comparable violations.

18 The Enforcement Division determined that there was insufficient evidence to conclude Brunton  
19 intentionally failed to provide bank records to FTB. The evidence was insufficient to establish that  
20 Brunton's failure to provide complete records to FTB was intentional. On or around March 3, 2016, the  
21 Enforcement Division sent Brunton for Assembly, Brunton, and Wald a Warning Letter (FPPC No.  
22 15/175) for failing to timely file the following statements with the local county in which the candidate  
23 lives: January 1, 2014 through March 17 2014, March 18, 2014 through May 17, 2014, May 18, 2014  
24 through June 30, 2014, July 1, 2014 through September 30, 2014, October 1, 2014 through October 18,  
25 2014, and October 19, 2014 through December 31, 2014.

26 Recently the Commission approved a penalty addressing the failure to maintain adequate campaign  
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28 <sup>26</sup> See Section 83116, subdivision (c).

<sup>27</sup> Regulation 18361.5, subdivision (d).

1 records in the following matter:

2 *In the Matter of Fred Garcia, Fred Garcia for Sheriff 2014, and Jeff Davis*; FPPC Case No. 14/299  
3 (approved July 21, 2016), the Commission imposed a penalty of \$2,000 against the respondents in count 4  
4 for failing to keep pertinent records for all contributions and loans received and all expenditures made. The  
5 committee reported receiving contributions totaling approximately \$51,167 and making expenditures  
6 totaling approximately \$48,408.

7 Regarding Count 1, the same penalty imposed by the Commission in the comparable case is  
8 warranted in this matter. In this matter, Brunton for Assembly, Brunton, and Wald failed to keep records  
9 for approximately 68% of the contributions/loans received by the committee and failed to keep records for  
10 approximately 46% of the expenditures made. Whereas in the comparable case, the respondents failed to  
11 keep adequate campaign records for all contributions and expenditures made. Additionally, the respondents  
12 in the comparable case had received a warning letter for failing to maintain adequate campaign records  
13 prior to being penalized by the Commission. Brunton for Assembly, Brunton, and Wald have not received  
14 a warning letter for failing to keep adequate campaign records. However, Brunton's failure to provide  
15 complete records regarding the loans to Brunton for Assembly made it impossible to verify the true source  
16 of the loans. Therefore, a penalty of \$2,000 is recommended for Count 1.

17 Recently the Commission approved a penalty addressing the failure to timely report in the following  
18 matter:

19 *In the Matter of Al Bairos and Committee to Re-elect Al D. Bairos OID Direct District #4 2015*;  
20 Case No. 15/1876 (approved July 19, 2018), the Commission imposed a penalty of \$1,500 against the  
21 respondents for failing to timely disclose on a campaign statement a non-monetary contribution totaling  
22 \$990.20, and an expenditure of \$1,799.20.

23 Regarding Count 2, the same penalty approved by the Commission in the comparable case is  
24 warranted. In both cases, the total undisclosed amounts are similar. In aggravation, Brunton for Assembly,  
25 Brunton, and Wald also failed to timely file a 24-hour report disclosing a \$1,000 loan that Brunton made  
26 to the campaign on September on September 19, 2014. Therefore, a penalty of \$1,500 is recommended.

27 **CONCLUSION**

28 Complainant, the Enforcement Division of the Fair Political Practices Commission, Brunton for

1 Assembly, Brunton, and Wald agree as follows:

2 1. Respondents violated the Act as described in the foregoing pages, which are a true and  
3 accurate summary of the facts in this matter.

4 2. This stipulation will be submitted for consideration by the Fair Political Practices  
5 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

6 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose  
7 of reaching a final disposition without the necessity of holding an administrative hearing to

8 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all  
9 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.  
10 This includes, but is not limited to the right to appear personally at any administrative hearing held in this  
11 matter, to be represented by an attorney at Respondent’s own expense, to confront and cross-examine all  
12 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial  
13 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially  
14 reviewed.

15 5. Respondents agree to the issuance of the decision and order set forth below. Also,  
16 Respondents agree to the Commission imposing against it an administrative penalty in the amount of  
17 \$3,500. One or more payments totaling said amount—to be paid to the General Fund of the State of  
18 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
19 above, and same shall be held by the State of California until the Commission issues its decision and order  
20 regarding this matter.

21 6. If the Commission refuses to approve this stipulation—then this stipulation shall become  
22 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
23 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to  
24 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before  
25 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,  
26 shall be disqualified because of prior consideration of this Stipulation.

27 7. The parties to this agreement may execute their respective signature pages separately. A  
28 copy of any party’s executed signature page including a hardcopy of a signature page transmitted via fax

1 or as a PDF email attachment is as effective and binding as the original.

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3 Dated: \_\_\_\_\_

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

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7 Dated: \_\_\_\_\_

\_\_\_\_\_  
Robert L. Brunton Jr., individually and, o/b/o Bob  
Brunton for State Assembly 2014

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11 Dated: \_\_\_\_\_

\_\_\_\_\_  
Jeffrey Wald, individually and, o/b/o Bob Brunton for  
State Assembly 2014

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13  
14 **DECISION AND ORDER**

15 The foregoing stipulation of the parties “In the Matter of Bob Brunton for State Assembly 2014,  
16 Robert L. Brunton Jr., and Jeffrey Wald,” FPPC Case No. 16/468 is hereby accepted as the final decision  
17 and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

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19 **IT IS SO ORDERED.**

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21 Dated: \_\_\_\_\_

\_\_\_\_\_  
Richard C. Miadich, Chair  
Fair Political Practices Commission