



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: December 13, 2019

To: Members of the Ethics Commission

From: Jeff Pierce, Director of Enforcement & Legal Affairs

Subject: **AGENDA ITEM 4: Proposed Stipulation, Decision and Order**
• ***In the Matter of the Coalition for San Francisco Neighborhoods***
(SFEC Complaint No. 1617-056)

Summary This memorandum provides information regarding the Proposed Stipulation appearing in this agenda item and what the Commission may do next regarding this Proposed Stipulation.

Action Requested The Commission may approve the Proposed Stipulation by majority vote, or it may provide guidance to Commission Staff regarding the Proposed Stipulation.

Pursuant to the Enforcement Regulations the Commission adopted on January 19, 2018, and which became effective on March 20, 2018, the Executive Director may enter negotiations with a respondent at any time to resolve the factual and legal allegations in a complaint by way of a stipulated order (i.e. a negotiated settlement). Enf. Reg. § 12(A). The Regulations require that the stipulated order set forth the pertinent facts and may include an agreement as to anything that could be ordered by the Commission under its authority pursuant to Charter section C3.699-13. *Id.*

Immediately after the Executive Director enters a stipulated order with a respondent, the Executive Director must inform the Commission of the proposed stipulation. Enf. Reg. § 12(E). Thereafter, any member of the Commission may request that the stipulated order be reviewed in public session by the full panel of the Commission during its next meeting. *Id.*

As of today, no Commissioner had requested review of the attached stipulated order in public session by the full panel of the Commission. It therefore appears on the Consent Calendar. The Commission may approve the stipulation by majority vote, or it may provide guidance to Commission Staff regarding the Proposed Stipulation. Enf. Reg. § 12(F).

Members of the public may comment on the Proposed Stipulation.

1 LeeAnn Pelham
2 Executive Director
3 Eric Willett
4 Senior Investigative Analyst

5 San Francisco Ethics Commission
6 25 Van Ness Avenue, Suite 220
7 San Francisco, CA 94102
8 (415) 252-3100 Telephone
9 (415) 252-3112 Facsimile

10
11 BEFORE THE SAN FRANCISCO
12 ETHICS COMMISSION
13

14 In the Matter of) SFEC Complaint No. 1617-056
15)
16 THE COALITION FOR SAN FRANCISCO)
17 NEIGHBORHOODS,)
18)
19 Respondent.) **STIPULATION, DECISION**
20) **AND ORDER**
21)
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THE PARTIES STIPULATE AS FOLLOWS:

1. This Stipulation, Decision, and Order (Stipulation) is made and entered into
by and between the Coalition for San Francisco Neighborhoods (Respondent) and the
San Francisco Ethics Commission (the Commission).

2. Respondent and the Commission agree to settle and resolve all factual and
legal issues in this matter and to reach a final disposition without an administrative

1 hearing. Upon approval of this Stipulation and full performance of the terms outlined in
2 this Stipulation, the Commission will take no future action against Respondent, and this
3 Stipulation shall constitute the complete resolution of all claims by the Commission
4 against Respondent related to the violations of law described in Exhibit A. Respondent
5 understands and knowingly and voluntarily waives all rights to judicial review of this
6 Stipulation and any action taken by the Commission or its staff on this matter.
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9 3. Respondent acknowledges responsibility for and agrees to pay an
10 administrative penalty in the amount of Two Thousand Dollars for two violations of San
11 Francisco Campaign and Governmental Conduct Code (SF C&GCC) section 1.106, as set
12 forth in Exhibit A. Respondent agrees that \$2,000 is a reasonable administrative penalty.
13

14 4. Within ten business days of the Commission's approval of this Stipulation,
15 Respondent shall either pay the penalty through the City's online payment portal or
16 otherwise deliver to the following address the sum of \$2,000 in the form of a check or
17 money order made payable to the "City and County of San Francisco":
18

19 San Francisco Ethics Commission
20 Attn: Enforcement & Legal Affairs Division
21 25 Van Ness Avenue, Suite 220
22 San Francisco, CA 94102

23 5. If Respondent fails to comply with the terms of this Stipulation, then the
24 Commission may reopen this matter and prosecute Respondent under Section C3.699-
25 13 of the San Francisco Charter for any available relief.
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6. Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural rights under Section C3.699-13 of the San Francisco Charter and the Commission's Enforcement Regulations with respect to this matter. These include, but are not limited to, the right to appear personally at any administrative hearing held in this matter, to be represented by an attorney at Respondent's expense, to confront and cross-examine all witnesses testifying at the hearing and to subpoena witnesses to testify at the hearing.

7. Respondent understands and acknowledges that this Stipulation is not binding on any other government agency with the authority to enforce the San Francisco Campaign & Governmental Conduct Code section 1.100 *et seq.*, and does not preclude the Commission or its staff from cooperating with or assisting any other government agency in its prosecution of Respondent for any allegations set forth in Exhibit A, or any other matters related to those violations of law set forth in Exhibit A.

8. This Stipulation is subject to the Commission's approval. In the event the Commission declines to approve this Stipulation, the Stipulation shall become null and void, except Paragraph 9, which shall survive.

9. In the event the Commission rejects this Stipulation, and further administrative proceedings before the Commission are necessary, Respondent agrees that the Stipulation and all references to it are inadmissible. Respondent moreover agrees not to challenge, dispute, or object to the participation of any member of the

Commission or its staff in any necessary administrative proceeding for reasons
stemming from his or her prior consideration of this Stipulation.

10. This Stipulation, along with the attached Exhibit, reflects the entire
agreement between the parties hereto and supersedes any and all prior negotiations,
understandings, and agreements with respect to the transactions contemplated herein.
This Stipulation may not be amended orally. Any amendment or modification to this
Stipulation must be in writing duly executed by all parties and approved by the
Commission at a regular or special meeting.

11. This Stipulation shall be construed under, and interpreted in accordance
with, the laws of the State of California. If any provision of the Stipulation is found to be
unenforceable, the remaining provisions shall remain valid and enforceable.

12. The parties hereto may sign different copies of this Stipulation, which will
be deemed to have the same effect as though all parties had signed the same
document.

Dated: 11/14/2019



LeeAnn Pelham, Executive Director
San Francisco Ethics Commission

Dated: November 13, 2019



The Coalition for San Francisco Neighborhoods

L. GREGORY SCOTT Treasurer

Printed Name of Signatory

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of “The Coalition for San Francisco Neighborhoods; SFEC Complaint No. 1617-056,” including the attached Exhibit A, is hereby accepted as the final Decision and Order of the San Francisco Ethics Commission, effective upon execution below by the Chairperson.

IT IS SO ORDERED.

Dated: _____

Daina Chiu, Chairperson
San Francisco Ethics Commission

Exhibit A

I. Introduction

The Coalition for San Francisco Neighborhoods (Respondent) was incorporated in 1991 as a 501(c)(4) non-profit civic organization with a Board of Directors made up of representatives of member organizations. Respondent's bylaws stated one of Respondent's purposes is "to endorse or oppose, and lobby for or against, proposed issues and measures which directly impact San Francisco's neighborhoods." According to Respondent's treasurer, Respondent accepts annual dues of \$45 from 35 member organizations, holds an annual fundraising dinner, receives donations throughout each year, and spends at least \$1,000 annually in support or opposition to San Francisco ballot measures affecting neighborhoods in San Francisco. In 2015, Respondent's activity qualified Respondent as a political committee, but Respondent failed to register as a committee and subsequently failed to file campaign statements disclosing Respondent's fundraising and political spending.

II. Applicable Law

San Francisco Campaign and Governmental Conduct Code (SF C&GCC) section 1.106 incorporates the California Government Code (Cal. Gov't Code) commencing at Section 81000.

Government Code section 84222(a) defines multipurpose organization as "an organization described in Sections 501(c)(3) to 501(c)(10), inclusive, of the Internal Revenue Code and that is exempt from taxation under Section 501(a) of the Internal Revenue Code, a federal or out-of-state political organization, a trade association, a professional association, a civic organization, a religious organization, a fraternal society, an educational institution, or any other association or group of persons acting in concert, that is operating for purposes other than making contributions or expenditures."

In 2014, the Government Code defined a committee as any person or combination of persons who directly or indirectly does any of the following:

- a) Receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year;
- b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year; or
- c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees.

Cal. Gov't Code § 82013.

Effective August 29, 2014, Government Code section 84222(b) provided that "A multipurpose organization that makes expenditures or contributions and does not qualify as a committee pursuant to subdivision (c) [of this section 84222] may qualify as an independent expenditure committee or major donor committee if the multipurpose organization satisfies subdivision (b) or (c) of Section 82013."

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Government Code section 84222(c) provides in turn that a multipurpose organization is a recipient committee within the meaning of subdivision (a) of Section 82013 only under one or more of the following circumstances: "The multipurpose organization accepts payments from donors in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013 subject to a condition, agreement, or understanding with the donor that all or a portion of the payments may be used for making contributions or expenditures."

Government Code section 82025(b)(1) states that a "payment is made for political purposes if it is any of the following (1) For purposes of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure."

Government Code section 84101(a) outlines a committee's initial filing requirements and states, "A committee that is a committee by virtue of subdivision (a) of Section 82013 shall file a statement of organization . . . within 10 days after the committee has qualified as a committee." However, Government Code section 84101(b) requires a committee to file its statement of organization within 24 hours if it qualified as a committee "before the date of an election in connection with which the committee is required to file pre-election statements, but after the closing date of the last campaign statement required to be filed before the election."

Government Code section 84200(a) requires a committee to file semi-annual campaign statements "each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31." In addition to the campaign disclosure requirements of the Government Code, SF C&GCC section 1.135(a) requires a county general purpose committee to file pre-election campaign statements "if it makes contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the pre-election statements." SF C&GCC section 1.135(b) defines the timing of the pre-election statements as follows:

- 1) For the period ending 45 days before the election, the statement shall be filed no later than 40 days before the election.
- 2) For the period ending 17 days before the election, the statement shall be filed no later than 12 days before the election.

San Francisco Charter section C3.699-13(c)(i)(2) provides that when the Commission determines on the basis of substantial evidence that a violation has occurred, it may require the respondent to file any reports, statements or other documents or information required by law.

III. Summary of Material Facts

Respondent's financial records demonstrate that it received contributions in excess of \$2,000 annually in 2015 through 2018 and made expenditures in support of or opposition to San Francisco ballot measures in excess of \$1,000 annually in 2015 through 2018. In total, Respondent made \$7,988 in expenditures for ballot measures from 2015 through 2018. Respondent did not register as a political committee nor file recipient committee campaign statements.

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IV. Conclusions of Law

Count 1

Respondent failed to register as a committee.

As a 501(c)(4) non-profit civic organization, Respondent is a multi-purpose organization pursuant to Government Code section 84222(a). In 2015, Respondent received in excess of \$1,000 in contributions with the stated understanding in its bylaws that all or a portion of the payments may be used for making contributions or expenditures, “to endorse or oppose, and lobby for or against, proposed issues and measures which directly impact San Francisco’s neighborhoods.” Payments made to influence or attempt to influence the action of voters for or against the qualification or passage of any measure are considered expenditures made for political purposes pursuant to Government Code section 82025(b)(1). Because Respondent received contributions in excess of \$1,000 in 2015 with the understanding that all or a portion of the payments may have been used for making expenditures for political purposes, Respondent qualified as a recipient committee within the meaning of subdivision (a) of Government Code section 82013 as provided in Government Code section 84222(c). At that time, Respondent was required to file a statement of organization pursuant to Government Code section 84101(a) declaring it qualified as recipient committee and failed to do so.

Count 1. By exceeding \$1,000 in contributions in 2015 with the understanding that all or a portion of the payments may be used for making expenditures for political purposes, Respondent was required to register as a committee and failed to do so in violation of Government Code section 84101(a).

Count 2

Respondent failed to file recipient committee campaign statements.

After qualifying as a committee in 2015, Respondent was subject to disclosure provisions and required to file recipient committee campaign statements pursuant to Government Code section 84200(a), which it failed to do. Furthermore, if Respondent made contributions or independent expenditures totaling five hundred dollars (\$500) or more in connection with local elections during the period covered by the pre-election statements it would be subject to additional disclosure requirements pursuant to SF C&GCC 1.135(a). The timing of the pre-election statements is defined by SF C&GCC section 1.135(b).

Count 2. Respondent failed to file mandatory recipient committee campaign statements in violation of Government Code section 84200(a).

V. Penalty Assessment

This matter consists of two violations of SF C&GCC section 1.106. The San Francisco Charter authorizes the Commission to assess a monetary penalty to the general fund of the City of up to five thousand dollars (\$5,000) for each violation or three times the amount which the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. SF Charter § C3.699-13(c).

When determining penalties, the Ethics Commission considers all of the relevant circumstances surrounding the case, including but not limited to: (1) the severity of the violation; (2) the presence or absence of any intention to conceal, deceive, or mislead; (3) whether the violation was willful; (4) whether the violation was an isolated incident or part of a pattern; (5) whether the respondent has a prior record of violations of law; (6) the degree to which the respondent cooperated with the investigation and demonstrated a willingness to remedy any violations; and (7) the respondent's ability to pay will be considered a mitigating factor if the respondent provides documentation to the Director of Enforcement of such inability, which must include three years' worth of income tax returns and six months' worth of bank records or accounting statements, at a minimum. San Francisco Ethics Commission Enforcement Regulations § 9(D).

The purpose of the Campaign Finance Reform Ordinance's public reporting requirements is to assist voters in making informed electoral decisions. One way in which this goal is accomplished is through the required filing of campaign statements detailing the nature of contributions and how they were expended. Because Respondent did not comply with committee registration and subsequent reporting requirements, the public and other committees were precluded by a lack of disclosure from determining Respondent's political activities. However, Respondent's expenditures remained relatively low over the years in question and mainly pertained to efforts to qualify measures for the ballot and subsequent ballot measure arguments. Therefore, Respondent's violations appear to have been moderate.

In mitigation, Respondent cooperated with the investigation, enforcement staff found no indication of any intention to conceal, deceive, or mislead, the violation appears inadvertent, and Respondent has no history of prior enforcement with the Commission.

Therefore, after considering the penalty factors and prior analogous cases, Staff proposes penalties for the violations of City law as follows: Counts 1 and 2 - \$1,000 each. The total proposed penalty for Counts 1 and 2 is \$2,000, which represents twenty-five percent of Respondent's total unreported expenditures over a four-year period. The parties agree that the \$2,000 administrative penalty is warranted because the amount of penalty reflects the lack of disclosure by Respondent and it is high enough to promote a deterrent effect. In addition to the financial penalty, pursuant to San Francisco Charter section C3.699-13(c)(i)(2), Respondent agrees to file any outstanding reports, statements, or information as required by law.