



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: August 10, 2020

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 Hillary Ronen for Supervisor 2016, Hillary Ronen, and Stacy Owens (SFEC Complaint No. 1617-086).***

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.*

This item appears on the Consent Calendar. The Commission may approve the stipulation by majority vote, or it may sever this item from the Consent Calendar and discuss and act on it separately, or it may provide guidance to Commission Staff regarding the Proposed Stipulation. Enf. Reg. § 12(F); Commission Bylaws Art. VIII, § 2.

Members of the public may comment on the Proposed Stipulation.

LeeAnn Pelham
Executive Director
Jeffrey Zumwalt
Senior Investigative Analyst

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BEFORE THE SAN FRANCISCO
ETHICS COMMISSION

In the Matter of)	SFEC Complaint No. 1617-086
)	
HILLARY RONEN FOR SUPERVISOR 2016, HILLARY)	
RONEN, and STACY OWENS)	
)	
)	STIPULATION, DECISION
Respondents.)	AND ORDER
)	
)	
)	

THE PARTIES STIPULATE AS FOLLOWS:

1. This Stipulation, Decision, and Order ("Stipulation") is made and entered into by and between Hillary Ronen for Supervisor 2016, Hillary Ronen, and Stacy Owens (collectively, "Respondents") and the San Francisco Ethics Commission ("the Commission").

2. Respondents 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 hearing. Upon approval of this Stipulation and full performance of the terms outlined in this Stipulation, the Commission will take no future action against Respondents, and this Stipulation shall constitute the complete resolution of all claims by the Commission against Respondents related to the violations of law described in Exhibit A.

1 Respondents understand and knowingly and voluntarily waives all rights to judicial review of this
2 Stipulation and any action taken by the Commission or its staff on this matter.

3 3. Respondents acknowledge responsibility for and agree to pay an administrative penalty
4 in the amount of \$500 for one count in violation of San Francisco Campaign and Governmental Conduct
5 Code ("SF C&GCC") section 1.114(a) and five counts in violation of SF C&GCC section 1.161(a)(3), as set
6 forth in Exhibit A. Respondents agree that \$500 is a reasonable administrative penalty.

7 4. Within ten business days of the Commission's approval of this Stipulation, Respondents
8 shall either pay the penalty through the City's online payment portal or otherwise deliver to the
9 following address the sum of \$500 in the form of a check or money order made payable to the "City and
10 County of San Francisco":
11

12 San Francisco Ethics Commission
13 Attn: Enforcement & Legal Affairs Division
14 25 Van Ness Avenue, Suite 220
15 San Francisco, CA 94102

16 5. If Respondents fail to comply with the terms of this Stipulation, then the Commission
17 may reopen this matter and prosecute Respondents under Section C3.699-13 of the San Francisco
18 Charter for any available relief.

19 6. Respondents understand, and hereby knowingly and voluntarily waive, any and all
20 procedural rights under Section C3.699-13 of the San Francisco Charter and the Commission's
21 Enforcement Regulations with respect to this matter. These include, but are not limited to, the right to
22 appear personally at any administrative hearing held in this matter, to be represented by an attorney at
23 Respondents' expense, to confront and cross-examine all witnesses testifying at the hearing and to
24 subpoena witnesses to testify at the hearing.

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

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

6 9. In the event the Commission rejects this Stipulation, and further administrative
7 proceedings before the Commission are necessary, Respondents agree that the Stipulation and all
8 references to it are inadmissible. Respondents moreover agree not to challenge, dispute, or object to
9 the participation of any member of the Commission or its staff in any necessary administrative
10 proceeding for reasons stemming from his or her prior consideration of this Stipulation.

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

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

19 12. The parties hereto may sign different copies of this Stipulation, which will be deemed to
20 have the same effect as though all parties had signed the same document.
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1 Dated: 07-28-2020 | 11:02:55 PDT

DocuSigned by:

LeeAnn Pelham

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LeeAnn Pelham, Executive Director
San Francisco Ethics Commission

2
3 Dated: 07-21-2020 | 16:43:13 PDT

DocuSigned by:

HILLARY RONEN

E946A17BB2CC4DC

Hillary Ronen for Supervisor 2016

6 HILLARY RONEN

7 Printed Name of Signatory

8
9 Dated: 07-21-2020 | 16:43:13 PDT

DocuSigned by:

HILLARY RONEN

E946A17BB2CC4DC

10 Hillary Ronen

11
12 Dated: 07-28-2020 | 10:45:45 PDT

DocuSigned by:

Stacy Owens

E2CA55C4644E4EA

13 Stacy Owens
14 Treasurer

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of “Hillary Ronen for Supervisor 2016, Hillary Ronen, and Stacy Owens; SFEC Complaint No. 1617-086,” 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: _____

Noreen Ambrose, Chairperson
San Francisco Ethics Commission

Exhibit A

I. Introduction

On November 18, 2015, Hillary Ronen (“Ronen”) formed the committee “Hillary Ronen for Supervisor 2016” (“Committee”) as her candidate-controlled committee seeking election as the District 9 member of the Board of Supervisors in the 2016 general election. Ronen agreed to participate in the City’s public financing program, for which she became eligible on July 18, 2016. Because Ronen was a publicly financed candidate, the Committee was audited for the period covering November 18, 2015 through December 31, 2016 to determine compliance with provisions of the Campaign Finance Reform Ordinance (“CFRO”) and the Political Reform Act (“PRA”). During the audit period the Committee received a total of \$262,104 in monetary contributions, \$6,445 in in-kind contributions, and \$155,000 in public financing – or a total of \$423,549 – and made \$417,837 in campaign expenditures. Stacy Owens (“Owens,” then with The Henry Levy Group, A CPA Firm) was the treasurer for the Committee during the audit period. Based on the material audit findings and further investigative review, Staff have identified violations of both the PRA and CFRO. Based on the material audit findings and further investigative review, Staff have identified violations by Ronen, the Committee, and Owens (“Respondents”) of applicable provisions of both the PRA and CFRO.

II. Applicable Law¹

San Francisco Charter section C3.699-11 authorizes the Ethics Commission (“Commission”) to audit campaign statements that are filed with the Commission along with other relevant documents to determine whether a committee materially complied with applicable requirements of State and local law. San Francisco Campaign & Governmental Conduct Code (“SF C&GCC”) section 1.150(a) requires audits of all candidates who receive public financing in connection with their campaigns to City elective office. The SF C&GCC incorporates into local law provisions of the PRA, California Government Code section 81000 *et seq.* and any subsequent amendments, as they apply to local elections. SF C&GCC § 1.106. Candidates and treasurers are responsible for complying with all campaign finance reporting requirements. *Id.* § 1.170(g). If two or more persons are found responsible for any violation of CFRO, they may be held jointly and severally liable, along with the committee, for violations committed by the committee. *Id.* § 1.170(h).

Candidate Committee Contribution Limits

No person other than a candidate may make, and no candidate for a candidate committee may solicit or accept, any contribution which will cause the total amount contributed by any person to the candidate committee in an election to exceed \$500. SF C&GCC § 1.114(a). At regulation, the California Fair Political Practices Commission (“FPPC”) provides that a contribution made from a checking account by a check bearing the printed name of more than one individual must be attributed to the individual whose name is printed on the check and who signs the check, unless an accompanying document directs otherwise. 2 C.C.R. § 18533(a). The document must indicate the amount to be attributed to each contributing individual and must be signed by each contributing individual whose name is on the check.

¹ The violations in this case occurred during the 2016 election cycle. Accordingly, all legal references and discussions of law pertain to the relevant provisions as they existed at the time of the conduct at issue herein.

Id. In the event a candidate controlled committee accepts a contribution of more than \$500 from a single contributor, the committee is required to forward the contribution amount in excess of \$500 to the Ethics Commission for deposit in the City's General Fund, provided that the Ethics Commission may waive or reduce the forfeiture. SF C&GCC § 1.114(e).

Campaign Advertisement Disclaimer Requirements

CFRO incorporates all advertisement disclaimer requirements set forth in the PRA for all committees making expenditures which support or oppose any candidate for City elective office, and further establishes additional requirements. SF C&GCC § 1.161(a). All disclaimers required by the PRA and CFRO on a mass mailing, door hanger, flyer, poster, oversized campaign button or bumper sticker, or print advertisement must be printed in at least 12-point font. *Id.* § 1.161(a)(3).

III. Summary of Material Facts

\$1,000 Check

On June 28, 2016, the Committee received a \$1,000 check from a joint checking account that was deposited into the Committee's campaign account on July 7, 2016. The Committee reported \$500 contributions from each of the holders of the joint checking account. Only one holder signed the check. The other account holder's name appeared in the memo line next to the word "Contribution." The Committee did not produce a letter signed by both accountholders noting that a portion of the check should be attributed to each of them. The Committee did not forward any portion of this contribution to the Ethics Commission for deposit in the City's General Fund.

Campaign Advertisements

During the course of the campaign, the Committee distributed several advertisements, including at least six mass mailings. Of those six mass mailings, the following five, with a total cost of \$35,046, contained the disclaimer printed in a font size smaller than the required 12 point:

Committee's Title of Mass Mailing	Date Distribution	Font Size	Quantity	Cost
Affordability	September 28, 2016	10	15,000	\$7,452.65
Spanish Affordability	October 13, 2016	10	6,000	\$3,480.90
Contrast	October 20, 2016	8	15,000	\$7,502.65
Fact-Check	October 21, 2016	10	15,000	\$7,720.15
Fact-Check Hillary	October 27, 2016	8	15,000	\$8,889.87

Funds spent on these five advertisements represented nine percent of the Committee's overall expenditures. All of the Committee's expenditures for advertisements were made after it received public funds.

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IV. Conclusions of Law

Count 1:

Acceptance of a contribution in excess of the \$500 contribution limit in violation of SF C&GCC section 1.114(a).

Because the \$1,000 contribution the Committee submitted via joint checking account did not meet the requirements to establish that it should be treated as two \$500 contributions from separate individuals, Ronen, the Committee, and Owens (as the committee treasurer) accepted a \$1,000 contribution from an individual which was \$500 in excess of the candidate committee contribution limit in violation of SF C&GCC section 1.114(a) and 2 C.C.R. section 18533(a).

Count 2:

Failure to print disclaimer statements in at least 12-point font as required by SF C&GCC section 1.161.

Ronen and the Committee distributed five mass mailings that contained disclaimer statements printed in a font size smaller than 12-point font in violation of SF C&GCC section 1.161(a)(3).

V. Penalty Assessment

Referral of audit reports for enforcement review is authorized under San Francisco Charter section 3.699.11(4) and is a standard practice to determine what further steps may be warranted based on material audit findings. This matter consists of two counts in violation of the Campaign and Governmental Conduct Code. The San Francisco Charter authorizes the Commission to assess a maximum administrative penalty of \$5,000 per 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). Consequently, the maximum potential administrative penalty in this matter is \$10,000.

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. San Francisco Ethics Commission Enforcement Regulations § 9(D).

Compliance with requirements of the law by campaign committees provides voters with information to make informed electoral decisions and helps support the public's trust in electoral and governmental institutions. Failure to ensure that campaign communications contain disclaimer statements as required can blunt the ability of the public to make informed electoral decisions.

Here, Ronen, the Committee, and Owens' acceptance of an excess contribution resulted in the Committee receiving \$500 in campaign funds that were not permitted under City law. Also, although

Respondents' disclaimer did not use proper font size, it nevertheless communicated to the public all legally required information. In further mitigation, the Respondents cooperated with Commission auditors and investigators. Staff found no evidence by Respondents of any intent to conceal, deceive, or mislead and the Committee had no history of violations with the Commission.

In applying the penalty factors enumerated above and to ensure similar substantive treatment with comparable and prior analogous cases, Commission Staff conclude that imposition of an administrative penalty would be warranted. The penalty amount would factor the excess contribution addressed in Count 1 and the disclaimer violations addressed in Count 2. However, Staff also acknowledge the significant passage of time since the conclusion of Commission's audit work for the 2016 election cycle and must consider that delay as a significant mitigating factor for the Committee. In further significant mitigation, at the time the resolution of this matter was undergoing final enforcement review in early spring 2020, additional delay resulted as Commission Staff were required to prioritize emergency operations related to the emergence of the COVID-19 public health emergency. Here, although the Committee has argued that the annotation in the memo line expresses an intent that the check be considered a joint and equal contribution, the state regulation governing joint checking accounts establishes the exclusive methods by which contributions from a joint account must be interpreted. Strict enforcement of this requirement ensures that Staff will not have to make assumptions about the intent behind contributor conduct. At the same time, Staff acknowledges that the Committee believed it had received the contribution in good faith and further acknowledges that this single excess contribution represents a tiny fraction of the otherwise lawful fundraising the Committee undertook. Taking these factors overall into consideration, Staff proposes and the parties agree that this Stipulation, Decision, and Order imposing a fine totaling \$500 for Counts 1 and 2 is an appropriate resolution of this matter under these unique circumstances.