Commissioners

Frank O. Sieh, Chair
James L. McBride, Vice Chair
John F. Johnston

County of Ventura
Campaign Finance Ethics Commission

DATE: **APRIL 19, 2013**

NOTICE OF DISMISSAL

In accordance with Section 1295(e) and Section 1297(j) of Ordinance 4429 adopted by the Board of Supervisors on May 3, 2011, the Ventura County Campaign Finance Ethics Commission hereby makes the following declaration:

In the matter of:

Complaint Number P2012-10
Steve Bennett v. Mark Lunn, County Clerk/Recorder

The Commission dismissed Alleged Violations #1, #2 and #3, and Alleged Violation #4 was dismissed without prejudice on January 18, 2013.

The Commission dismissed Alleged Violation #5 on April 19, 2013.

By: _____
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February 28, 2013

By U.S. Mail & E-Mail to LindaCatherine.Le@ventura.org

Chairman Frank O. Sieh and Commissioners James L. McBride
and John F. Johnston
County of Ventura Campaign Finance Ethics Commission
800 South Victoria Avenue, L1940
Ventura CA 93009

Re: Complaint No. P2012-10
Bennett v. Mark Lunn, County Clerk

Dear Chair Sieh and Commissioners McBride and Johnston:

Due to a conflict in the County Counsel's office, our firm has been asked to respond to the Commission's request for legal briefing regarding the following two questions that have arisen in connection with the above-entitled complaint against Ventura County Clerk Mark Lunn:

1. Does the Ventura Campaign Finance Ethics Commission (the "Commission") have jurisdiction over complaints filed against either the Ventura County Clerk's office or the County Clerk individually for alleged violations of the Ventura County Campaign Finance Reform Ordinance (the "Ordinance")?

2. If the Commission has jurisdiction over such complaints, what is the scope of the Commission's jurisdiction, specifically with respect to what penalties or remedies the Commission may formulate if a violation is found to have been committed?

Conclusion

Although we will be the first to admit that there are few legal precedents on point and that reasonable minds may differ as to our conclusion, it is our opinion that the Commission does have jurisdiction to entertain complaints filed against ***the office of the County Clerk***, but not against the County Clerk ***individually***, for alleged violations of the Ordinance. We further conclude that if the Commission determines that the Clerk has violated the Ordinance, the remedies available to the Commission include issuing a "cease and desist" order or directing the Clerk to provide any reports or information required by the Ordinance pursuant to section 1297, subdivisions (i)(1) and (2), but that the Commission was not intended to have the authority to order the Clerk to pay a monetary penalty or fine under either subdivision (i)(3) or (i)(4) of that section.

Legal Analysis

We wish first to emphasize that we are expressing no opinion herein with respect to whether the Complaint in this matter sets forth viable allegations under the Ordinance against either the County Clerk's office or County Clerk Lunn, individually, much less whether the specific allegations in this Complaint have factual or legal merit. Rather, our analysis is limited to addressing the two questions set forth above, *as a general matter*, and not necessarily with respect to the particular factual circumstances or allegations contained in the present Complaint.

In answering the Commission's two questions, the starting point must be to examine and interpret the language of the Ordinance itself. As with any legislative enactment, the process of interpreting the Ordinance may involve up to three steps: "[W]e first look to the plain meaning of the statutory language, then to its legislative history and finally to the reasonableness of a proposed construction." (*MacIsaac v. Waste Management Collection and Recycling, Inc.* (2005) 134 Cal.App.4th 1076, 1082.) In the present case, we believe all three inquiries lead to the same conclusion.

With respect to the first question, section 1297 of the Ordinance sets forth the scope of the Commission's enforcement "jurisdiction." Subdivision (b) of that section simply states: "The Commission shall consider formal complaints of *violations of the Ventura County Campaign Finance Reform Ordinance* following review by the initial Complaint Review Attorney and investigation by the Investigating Attorney. . . . The Commission may consider potential *violations* of this ordinance without receiving a complaint." (Emphasis added.)[1] Although the term "violation" is not defined in the Ordinance, it is commonly understood to mean a "breach of right, duty, or law." (Black's Law Dictionary (Free Online 2d ed. 2013); accord, Webster's New World Law Dictionary (2010) ["violation" means "[t]he act of breaching the law; contravening a duty or right"].)

Notably, the Ordinance contains no provision or language limiting or otherwise qualifying *which* "violations of the Ordinance" are proper subjects of such complaints, or *who* may be found

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[1]Likewise, in describing the roles of the Initial Complaint Review Attorney and the Investigating Attorney, the Ordinance merely states that "[c]omplaints alleging *violation of this ordinance* may be filed within three years of the date of the alleged violation" (Ordinance, § 1295, subd. (a)); that the Initial Complaint Review Attorney shall issue a written opinion "as to whether the complaint alleges facts that, if true, would constitute *a violation of the ordinance* and whether the Complainant has submitted any credible evidence supporting the allegations in the complaint" (*id.*, § 1295, subd. (d)); and that the Investigating Attorney shall determine "whether sufficient evidence exists to establish that *a violation of the ordinance* has occurred" (*id.*, § 1296, subd. (b)).

to have committed a violation of the Ordinance.[2] Under the plain language of the Ordinance, then, it would appear that *any* person or entity that breaches a duty set forth in the Ordinance may commit a *violation of the Ordinance* and would be subject to the Commission's jurisdiction upon the filing of a complaint alleging such violation, or even in the absence of receiving such a complaint. A fundamental rule of statutory interpretation is that "[a] court cannot insert or omit words to cause the meaning of a statute to conform to a presumed intent that is not expressed." (*Citizens to Save California v. California Fair Political Practices Comm.* (2006) 145 Cal.App.4th 736, 747; accord, *Bernard v. Foley* (2006) 39 Cal.4th 794, 811 [court will not imply an exception to the statute because if the Legislature had wished to provide an exception, "it could have done so"].)

Given the broad and unqualified scope of the Commission's jurisdiction to consider complaints regarding *any* "violations" of the Ordinance, the next question is whether the Ordinance imposes any duty upon the County Clerk's office or upon the County Clerk individually, such that a breach of such duty would constitute a "violation" that would constitute a proper subject for a complaint. The answer is plainly "yes," for the Ordinance imposes a number of duties on the Clerk. Section 1298 explicitly sets forth several "duties of the County Clerk," including the duty to "[s]upply the necessary forms and manuals prescribed by the Commission," to "[d]etermine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this ordinance," and to "[n]otify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this ordinance." (*Id.*, § 1298, subds. (a), (b) & (c).) In addition, other sections of the Ordinance appear to impose obligations upon "the Clerk" to take certain actions in response to specified events or circumstances. In particular, as relates to Alleged Violation #5 of the instant Complaint, section 1278, subdivision (b), declares: "The Clerk shall cause to be placed on the County's web site a copy of each campaign statement required by subdivision (a) to be filed in a format approved for electronic filing within one working day of the statement's filing with the Clerk."[3]

While we conclude that under the plain language of the Ordinance, "the Clerk" may therefore commit a "violation" of the Ordinance that is within the scope of the Commission's jurisdiction, we

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[2]The Ordinance refers to the offending parties only as "the subject of the complaint," "the party alleged to have committed the violation," or simply "the violator." (See *id.*, § 1295, subds. (b), (e) & (f); § 1296, subd. (d); § 1297, subd. (i).)

[3]Similarly, section 1275, subdivision (d), provides: "Upon receiving a report that an independent expenditure has been made or obligated to be made, the Clerk shall inform within twenty-four (24) hours all other candidates in the race." And subdivision (f) of that same section states: "Upon receipt of one or more reports that establish that more than 25% of the voluntary expenditure limit in a race has been spent in support of or opposition to any candidate, the Clerk shall inform any non-benefitting participating candidate(s) of that fact within twenty-four (24) hours."

also believe that the duties imposed by the Ordinance are obligations of the County Clerk in his *official* capacity and therefore of the County Clerk's *office*, not obligations of the County Clerk *individually*. We reach this conclusion based upon a number of considerations. First, the Ordinance itself defines "Clerk" to mean "the County Clerk *or his or her designee*." (*Id.*, § 1264, subd. (g) [emphasis added].) This explicit recognition that the obligations imposed by the Ordinance do not have to be performed personally by the County Clerk, but may instead be delegated by the Clerk to other persons, is inconsistent with an interpretation of the Ordinance that would make the Clerk *individually liable* for a breach of those obligations.

Second, the very nature of the duties imposed upon "the Clerk" by the Ordinance supports the conclusion that those obligations are to be performed by the staff of the Clerk's *office*, not by the Clerk himself or herself. It is extremely unlikely that the Board of Supervisors, when it enacted the Ordinance, would have thought that the County Clerk would *personally* supply the necessary forms to candidates or would *personally* review every campaign statement filed with the office in order to determine whether it was complete on its face and complied with the requirements of the law. Rather, these are tasks that are naturally, if not necessarily, performed by employees within the clerk's office who have the required time and expertise to complete them properly — i.e., the County Clerk's "designees."

Third, and relatedly, in contrast to the duties that the Ordinance imposes on candidates and political committees — which relate to actions that they are required to take in their personal, non-governmental capacities (even if they also happen to be elected officials at the time) — the duties imposed upon the Clerk by the Ordinance all involve the Clerk's exercise of *official*, governmental authority. Under the California Tort Claims Act, the *public entity itself* is generally liable for the defense and payment of any judgment arising out of the actions or omissions of any of its officers or employees acting within the scope of their official duties.[4] (See, e.g., Gov. Code, §§ 825, 995.) This obligation to defend and indemnify the officer or employee applies to administrative proceedings, as well, as long as the proceeding results from an act or omission in the scope of employment and the employee or official acted, or failed to act, in good faith, without actual malice and in the apparent interests of the public entity. (*Id.*, § 995.6.) Only an interpretation of the Ordinance that imposes its obligations on *the Clerk's office* — that is, on the County Clerk in his *official*, as opposed to *individual*, capacity — is consistent with the manner in which other administrative proceedings alleging violations of official duties by public officials and employees are handled.[5]

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[4]The sole exceptions are for punitive or exemplary damages claims, and criminal or civil enforcement actions brought in the name of the People of the State of California.

[5]Under the Tort Claims Act, even if a complaint were to be filed under the Ordinance against the County Clerk or an employee of the Clerk's office in his or her *personal capacity*, the County would be obligated either to provide a defense or to pay for the respondent's representation — and

In sum, we believe that a fair reading of the plain language of the Ordinance leads to the conclusion that the Commission has jurisdiction over complaints alleging violations of the Ordinance by the County Clerk, but only by the Clerk in his official capacity, not as an individual. We also believe that this interpretation is supported by the second factor that courts consider in construing a statute — the Ordinance's legislative history.

With County Counsel's assistance, we have reviewed what exists of the "legislative history" of the Ordinance, tracing its evolution from the Board of Supervisors' initial enactment of campaign contribution limitations in 1991 with the adoption of Ordinance No. 3978, through the passage in 2003 of Ordinance No. 4280, the predecessor to today's version of the Ordinance, to Ordinance No. 4395's addition in 2009 of the provisions relating to the Commission's processing of citizen complaints, and finally to the adoption of Ordinance No. 4429 — the present iteration of the Ordinance — in May 2011. All in all, there have been ten different versions of a local campaign finance reform ordinance adopted by the Board of Supervisors. In none of the staff reports, board letters, or public comments submitted in connection with any of these enactments is there any indication that the Commission's jurisdiction does not extend to include an alleged violation of the Ordinance — i.e., a breach of a duty imposed by the Ordinance — committed by the County Clerk's office.

To be sure, the principal focus of the Ordinance is on the conduct of candidates, their committees, and their contributors, and — more recently — on the conduct of those who make independent expenditures in support of or in opposition to candidates for elective county office. But consistent with the provisions of the Ordinance itself, there is also a recognition in the legislative history that there are certain actions that the County Clerk's office must take in order for the Ordinance to be fair and effective — including the prompt posting of electronically filed campaign statements on the County's website and the notification of candidates who have agreed to abide by the voluntary expenditure limits that a non-participating candidate's or an independent expenditure committee's expenditures have exceeded the threshold that would free the participating candidate from those voluntary limits. Indeed, accompanying the enactment of Ordinance No. 4280 in March 2003 was a letter to the full Board from the ordinance's sponsors (Supervisors Bennett and Long) examining the fiscal impacts resulting from the imposition of these new duties on the County Clerk's office. (A copy of that letter is attached hereto as Exhibit A.) Thus, although we could find no documents or references in the legislative history that specifically addressed the issue of the Commission's jurisdiction over "violations" of the Ordinance committed by the Clerk, we likewise found nothing suggesting that such violations were not intended to be within the scope of the Ordinance's stated purpose to "provide[] full and fair enforcement of *all* its provisions." (Ordinance, § 1262 [emphasis added].)

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the County would likewise be liable for any ensuing monetary judgment or penalty — because any acts or omissions that could form the basis of any complaint under the Ordinance would necessarily be acts or omissions within the scope of the respondent's employment.

Another aspect of the legislative history even more firmly supports the conclusion that the Commission was intended to have jurisdiction over complaints alleging violations of the Clerk's duties under the Ordinance. There are a number of references in the legislative history, dating back to the initial adoption of campaign contribution limits for county elections, to the fact that the County's campaign finance reform ordinance was modeled upon the state Political Reform Act of 1974, codified at Government Code section 81000 et seq. Section 1263 of the current Ordinance, for example, explicitly addresses the relationship of the County's Ordinance to the Political Reform Act, stating that it "is intended to supplement the Political Reform Act" and that unless otherwise indicated by the text or the context, "words and terms [in the Ordinance] shall have the same meaning as when they are used in [the Political Reform Act and the Fair Political Practices Commission's implementing regulations]."

Indeed, section 1298 of the Ordinance, setting forth the "duties of the County Clerk," is almost a *verbatim duplicate* of Government Code section 81010, setting forth the "duties of the filing officer" under the Political Reform Act.[6] We therefore believe it significant, given the similar purpose and structure of the two statutes and the identical formulation of the Clerk's duties as the County's "filing officer," that the Fair Political Practices Commission ("FPPC") has, on at least two occasions, brought administrative enforcement actions ***against local filing officers*** for violation of their obligations under Government Code section 81010.

The FPPC's enforcement powers are similar to those of this Commission. Pursuant to Government Code section 83115, "[u]pon the sworn complaint of any person or on its own initiative, the commission shall investigate possible violations of this title relating to any agency, official, election, lobbyist or legislative or administrative action." Under Government Code section 83116, "[w]hen the commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred." And if "the commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following: (a) Cease and desist violation of this title; (b) File any

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[6]Government Code section 81010 provides:

"With respect to reports and statements filed with him pursuant to this title, the filing officer shall:

"(a) Supply the necessary forms and manuals prescribed by the Commission;

"(b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title;

"(c) Notify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this title;

"(d) Report apparent violations of this title to the appropriate agencies; and

"(e) Compile and maintain a current list of all reports and statements filed with this office."

reports, statements, or other documents or information required by this title; [or] (c) Pay a monetary penalty of up to five thousand dollars ($5,000) per violation to the General Fund of the state."

The FPPC has published and posted on its website a 244-page Summary of Enforcement Decisions that includes a description of each of the FPPC's enforcement actions since 1975. (See <http://www.fppc.ca.gov/Act/2009AppendixIV.pdf> (last visited 2/27/13).)[7] We reviewed the Summary and identified two enforcement actions that were brought against "filing officers" for violation of their duties under Government Code section 81010: *In the Matter of California Department of Water Resources* (FPPC No. 01/335 (2002)) and *In the Matter of Compton Community College District and Ulis C. Williams* (FPPC No. 01/729 (2004)). We were then able to obtain copies of the Stipulation, Decision, and Order in each case from the agenda packets for the FPPC meetings in which the settlements were approved. (Copies of the Stipulations are attached hereto as Exhibits B and C, respectively.)[8]

Briefly stated, the settlement in the *California Department of Water Resources* action charged the Department with 52 counts of violating Government Code section 81010 for failing to determine whether 52 consultants of the Department timely filed their "assuming office" statements of economic interests ("SEIs") and not promptly notifying the consultants of their obligation to do so. The DWR admitted to the violations and agreed to pay an administrative penalty of $62,500. (See Exhibit B.) In the *Compton Community College District* matter, the District admitted to violating Government Code section 81010 by failing to supply employees designated as SEI filers under its conflict of interest code with the necessary forms and manuals, failing to determine whether the required documents had been filed, failing promptly to notify all persons who did not file a statement in the form and at the time required by the Political Reform Act, and failing to report apparent violations of the Act to the appropriate agencies for 42 separate SEI filings over the course of five years. The District agreed to pay an administrative penalty of $100,000. (See Exhibit C.)

We believe the significance of these two enforcement actions on the question before this Commission is two-fold. First, under a similar enforcement scheme and virtually identical statutory language concerning the duties of "filing officers," the Fair Political Practices Commision has taken

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[7]The vast majority of the Commission's enforcement actions are resolved by settlement or stipulation of the parties, although some proceed to a contested administrative hearing and a handful of others are litigated as civil or even criminal actions.

[8]For some reason, the FPPC's website did not include the Stipulation, Decision, and Order for the *California Department of Water Resources* matter, only the Exhibit 1 in Support of Stipulation, Decision, and Order. It is this exhibit, however, that includes the description of the charges and the terms of the settlement of the enforcement action; the Stipulation merely contains the Respondent's waiver of procedural rights, acceptance of the proposed penalty, and the Commission's approval of the agreement.

the position — and the respondents in these two actions were willing to agree — that a breach of a filing officer's duties under the Political Reform Act constitutes a "violation" of the Act that is within the FPPC's enforcement jurisdiction. Second, the respondent in both of those enforcement actions was the government *agency* itself, not the public officer or employee in charge of the agency in his or her *individual* capacity.[9] Moreover, because the FPPC's enforcement actions in these cases were taken in 2002 and 2004, respectively, the Board of Supervisors is presumed to have been aware of the interpretation given to the Political Reform Act by the FPPC at the time the Board first enacted Ordinance No. 4280 containing similar language in March 2003 and when it re-enacted the same provisions on multiple occasions in 2005 through 2011. (See *People v. McGuire* (1993) 14 Cal.App.4th 687, 694 [Legislature "is deemed to be aware of statutes and judicial decisions already in existence, and to have enacted or amended a statute in light thereof."].)

Finally, we believe that our conclusion regarding the scope of the Commission's enforcement jurisdiction under the County Ordinance is also supported by the third step in interpreting a legislative enactment — considering the reasonableness of the construction. Because the County Clerk's office plays an important role in the campaign finance regulation scheme established by the Ordinance — supplying the required campaign disclosure forms, ensuring that the forms are properly and timely submitted by candidates and committees, expeditiously making the information submitted in the reports available to the public, promptly informing candidates when certain fundraising or expenditure thresholds have been reached, and reporting apparent violations of the Ordinance to the appropriate enforcement agencies — it is perfectly reasonable that the Commission, as an incident of its authority to oversee the "full and fair enforcement of all its provisions," would be empowered to hear and adjudicate any complaints that the Clerk's office is not complying with its duties under the Ordinance. By the same token, we do not believe that it would be reasonable to interpret the Ordinance as imposing *personal liability* on the County Clerk or on any of the office's employees for failing to perform all of their official duties under the Ordinance.

In sum, in our opinion, all factors point to the conclusion that the Commission's enforcement jurisdiction includes the consideration of complaints alleging violations of the County Clerk's duties

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[9]In the *Compton Community College District* action, Ulis Williams — the Superintendent of the District and President of the Compton Community College — was also charged as a respondent. Notably, however, Williams was *not* charged with violating any duty as a "filing officer" under Government Code section 81010. Rather, he was charged under Government Code section 83116.5 with "negligently causing" the violations of section 81010 *by the District* by "failing to ensure that CCCD's duties as a filing officer were performed." (Exhibit C, p. 4.) Government Code section 83116.5 imposes liability upon any person "who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of this title." The County's Ordinance has no comparable provision that could impose "aider and abetter" liability upon someone like the County Clerk as an individual.

under the Ordinance.[10]

With respect to the second question posed by the Commission, we are of the opinion that the Ordinance authorizes the Commission, upon determining that a violation was committed by the County Clerk's office, to order the Clerk to "cease and desist" the violation, and/or to order the Clerk to "file any reports, statements, or other documents or information required by this ordinance." We do not believe, however, that it is reasonable to interpret the Ordinance as authorizing the Commission to impose a monetary penalty on the Clerk's office.

Again, we begin our analysis with the plain language of the statute. There are two pertinent provisions. Section 1294, entitled "Penalties," declares that "remedies for violations of this ordinance shall be limited to those made available by this section and by the terms of Sections 1295 through 1297, below." (Ordinance, § 1294, subd. (a).) Section 1294 goes on to state that "[a]ny person who intentionally or negligently violates any provision of this ordinance shall be liable in an administrative hearing brought by the Commission, or a civil action brought by a person residing in the jurisdiction, for an amount not more than three times the amount or value *not properly reported or improperly received, contributed, or expended.*" (*Id.*, § 1294, subd. (b) [emphasis added].)

We do not believe that the monetary penalty prescribed in section 1294 applies to any violation of the Ordinance that might be committed by the Clerk's office. Among the various duties imposed on the office by the Ordinance, the Clerk is obligated to "supply" necessary forms, to "determine" whether the required forms have been submitted, to "notify" persons and committees who have failed to file the necessary reports, to "inform" candidates when certain expenditure thresholds have been reached, and to "cause to be placed" on the County's website copies of electronically filed campaign statements. None of these duties, however, require the Clerk to "report" any amount or value, nor to "receive[], contribute[], or expend[]" any funds. By its terms,

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[10]We recognize that the County Clerk's failure to perform his duties could also be addressed by a petition for writ of mandate filed in the Superior Court, and that the ultimate remedy for the Clerk's alleged violation of his official duties might be a political one — recall from office or defeat in the next election. While these remedies always remain available to a complainant, there is no indication in the Ordinance — and no support in the case law — for the proposition that these judicial or electoral remedies should be the *exclusive* remedies for the Clerk's violations of the Ordinance. To the contrary, it has long been held that in the absence of some explicit provision to the contrary, an administrative remedy is deemed to be *cumulative* to any other remedies that might be available to the complaining party. Indeed, in many circumstances, a party is required *to exhaust* an administrative remedy prior to seeking judicial relief. (See, e.g., *McKee v. Bell-Carter Olive Co.* (1986) 186 Cal.App.3d 1230, 1234-1235.) In this instance, an administrative enforcement action provides a complainant with an inexpensive and expeditious mechanism for resolving allegations regarding the County Clerk's non-compliance with the duties assigned to the office by the Ordinance.

the language of section 1294 does not cover any potential violation that might be committed by the Clerk's office.[11]

The other pertinent provision, then, is section 1297, subdivision (i), which provides:

> "When the Commission determines on the basis of a hearing that a violation of this ordinance has occurred, it may require the violator to do all or any of the following:
>
> "(1) Cease and desist violation of this ordinance;
> "(2) File any reports, statements, or other documents or information required by this ordinance;
> "(3) Pay a monetary penalty of up to five thousand dollars ($5,000) per violation to the General Fund of the County;
> "(4) Pay a fine up to three times the amount or value not properly reported or improperly received or expended."[12]

As we have discussed in connection with similar language contained in section 1294, subdivision (b), we do not believe that the fine set forth in subdivision (i)(4) of section 1297 would be applicable to any violation of the Ordinance that could be committed by the Clerk. The remedies contained in subdivisions (i)(1) and (i)(2), however, would by the plain statutory language be applicable, particularly since subdivision (i)(2) refers very broadly to requiring the violator to provide any "information required by this ordinance." Such a directive could readily encompass, for example, requiring the City Clerk to promptly "inform" candidates when an expenditure threshold has been exceeded, or to provide the "information" contained in candidates' campaign statements by promptly posting that information on the County's website.

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[11]Under section 1298, subdivision (d), the Clerk does have a duty to "*[r]eport* apparent violations of this ordinance to the appropriate agencies including the Commission." (Emphasis added.) However, there is no "amount or value" being "reported" in that instance. We believe the penalty set forth in section 1294 is plainly directed to the failure of *a candidate or committee* to properly report the amount or value of a contribution or expenditure, not to the Clerk's failure to report the candidate's or committee's *violation of the Ordinance* to the Commission.

[12]Section 1297, subdivision (i), addresses the penalties that the Commission is authorized to impose upon determining in an administrative hearing that a violation of the Ordinance has occurred. Section 1296, subdivision (d), authorizes the Investigating Attorney to include the *identical* range of penalties in a proposed voluntary settlement agreement with the alleged violator, which would then be subject to the Commission's acceptance in accordance with the procedures set forth in that section.

That leaves subdivision (i)(3)'s remedy of requiring the violator to "[p]ay a monetary penalty of up to five thousand dollars ($5,000) per violation to the General Fund of the County." Although by its terms this penalty could apply to a violation committed by the County Clerk — and, as we have shown above, the Fair Political Practices Commission has imposed substantial monetary penalties on filing officers for violating similar duties under the Political Reform Act — we do not believe that such an interpretation makes any sense in the context of the County's Ordinance. Any monetary penalty assessed against the County Clerk's office would simply be paid ***by*** the County ***to*** the County. Moreover, to the extent that the payment of any monetary penalty ordered by the Commission might require a transfer of funds specifically from *the County Clerk's budget* to the *County General Fund*, such a transfer could readily be reversed by subsequent action of the Board of Supervisors, which has the ultimate authority for determining how county funds are to be allocated among and spent by the various county departments and agencies.

It is well-established that in interpreting a statute or ordinance, the primary objective is to ascertain and effectuate the legislative intent. As we have seen, that process begins — and often ends — by examining the plain language of the ordinance. But the literal language may be disregarded if it would lead to absurd or unintended results. "It is presumed the Legislature intended reasonable results consistent with its expressed purpose, not absurd consequences." (*Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142, 1165–1166.) Thus, the "final step" in the process of statutory interpretation "is to apply reason, practicality, and common sense to the language at hand." (*Halbert's Lumber, Inc. v. Lucky Stores, Inc.* (1992) 6 Cal.App.4th 1233, 1238–1240.)

Here, in the final analysis, we simply do not believe that in enacting the County's Campaign Finance Reform Ordinance, the Board of Supervisors intended for this Commission to have the authority to impose monetary penalties on the County Clerk's office that either would be wholly meaningless (if they merely involved the payment of funds *from* the County's left pocket *to* the County's right pocket) or, worse yet, would have the ability to effectively supersede the Board's own budgetary decisions (by re-allocating funds from the County Clerk's budget to the General Fund). Thus, although we conclude that the Commission does have jurisdiction to determine whether the County Clerk's office is performing the duties assigned to it by the Ordinance, and to direct the Clerk to "cease and desist" from violating the Ordinance or to take any further actions required by the Ordinance, we are of the opinion that the Commission was not intended to have the authority to impose a monetary penalty on the Clerk's office upon determining that a violation has occurred.

We hope that the above analysis and conclusions are helpful to the Commission as it sorts through the difficult and unprecedented legal issues that have been raised by the instant Complaint. We will be attending the Commission's April 19, 2013 meeting, and we will be glad to respond to any questions the Commission may have of us at that time.

Sincerely,

Fredric D. Woocher

cc: Hon. Stephen Bennet, Complainant
Hon. Mark Lunn, Respondent
Leroy Smith, Esq.
Roberto Orellana, Esq.
Craig Steele, Esq.
Richard M. Norman, Esq.

EXHIBIT A

MEMBERS OF THE BOARD
JUDY MIKELS
Chair

STEVE BENNETT
LINDA PARKS
KATHY I. LONG
JOHN K. FLYNN

BOARD OF SUPERVISORS
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March 4, 2003

Board of Supervisors
800 South Victoria Ave.
Ventura, CA. 93009

Subject: Adoption of an Ordinance Repealing and Reenacting Sections of the Ventura County Ordinance Code Regarding Local Campaign Finance Reform

Recommendations:

1. Introduce and read in title only the attached Ordinance repealing and reenacting sections of the Ventura County Ordinance Code regarding Local Campaign Finance Reform.
2. Set March 11, 2003 as the second hearing date for final adoption of the Ordinance.
3. Approve a 60-day period following the effective date of the Ordinance for nomination of three candidates by each Supervisor for membership on the Campaign Finance Ethics Commission.
4. Commit to a review of this Ordinance and its provisions after final filings for the 2004 election cycle.
5. Request the County Clerk to report back to the Board in 45 days on the status of, and the anticipated county costs of, complying with the electronic filing requirements of the Ordinance.

Fiscal Impact:

Fiscal Impacts will occur from two aspects of the Ordinance: A) Electronic Filing of financial reports, and B) staff and legal support of the Campaign Finance Ethics Commission.

A) Electronic Filing:
Costs associated with County Clerk implementation of electronic filing will vary depending on the method of electronic filing and web site posting selected by the Clerk and Board. Implementation of San Francisco's web-based self-reporting system would incur a one-time expense of $30,000 for software licensing, but would minimize the labor of the Clerk's office. The opposite end of the implementation spectrum would have the Clerk scan and post the hard copy candidate's financial statements, as is done in the City of Thousand Oaks. The recommended action of the Board letter requests the Clerk evaluate and report back on the cost of compliance with the Electronic Filing requirements of the Ordinance. Other work efforts incurred by the Clerk would primarily be repetitions of provisions already in state law, and would appear to be within the current budget.

B) Campaign Finance Ethics Commission:
Costs associated with the Campaign Finance Ethics Commission could range from no additional cost to substantial costs depending on acceptance by the community and the degree of compliance by candidates. The seasonal staff time needed for a Commission working with minimal violations and challenges can be absorbed within current budgets. It should be noted that performance of enforcement by the volunteer Commission would represent substantial savings over enforcement by a full-cost legal department and court trials.

The Chief Executive Officer has reviewed this Fiscal Impact statement and concurs.

Discussion:

Our Board had a healthy discussion last Tuesday concerning the draft version of the Campaign Finance Ordinance initially circulated to the public February 11th. We appreciate the valuable comment and testimony provided by the public, other elected officials and members of the Board of Supervisors. Based on that input, we are reviewing the draft language of the Ordinance and will submit proposed revisions to the Clerk of the Board for distribution this Friday.

The County Counsel's initial review of the legal issues raised by the District Attorney indicates that all of the major provisions of the Ordinance meet statutory authorities vested in the Board of Supervisors. This review includes County Counsel's stated belief that the Board clearly does have the authority to create a Campaign Finance Ethics Commission empowered to enforce the Ordinance through administrative fines and penalties. County Counsel suggests, and we agree, that some modifications of the procedures regarding the appointment process of the Campaign Finance Ethics

Commission are necessary. County Counsel is conducting further review of this issue, and any ensuing modifications along with any other revisions will be in the Ordinance language distributed Friday.

We have welcomed the input from the public, elected officials and fellow Board members, and look forward to moving forward with enacting a meaningful Campaign Finance Ordinance as we start the current election cycle.

Cordially,

Steve Bennett
Supervisor, First District

Kathy I. Long
Supervisor, Third District

Attachment: Ordinance (to be distributed February 28th)

Exhibit B

EXHIBIT 1

INTRODUCTION

The California Department of Water Resources ("DWR") is a state agency. DWR's purpose is to provide dam safety and flood control services, and operate and maintain the State Water Project, which is the largest, state-run, multiple use water and power system in the nation.

In February 2001, in response to a state of emergency and executive order issued by Governor Gray Davis, DWR promptly created the California Energy Resources Scheduling division (the "CERS division"). Over the next several months, from January 2001 to May 2001, DWR contracted with various individuals and companies to staff the new CERS division with dozens of consultants.

As required by the Political Reform Act (the "Act")[1] and DWR's conflict of interest code, each consultant was required to file a statement of economic interests within 30 days of assuming office. On the statement, each consultant was required to disclose his or her investments and interests in real property held on the date of assuming office, and income received during the previous 12 month period. In this matter, 52 consultants did not timely file an assuming office statement of economic interests. As the filing officer for the consultants' statements of economic interests, DWR was required by the Act to determine whether the required documents were timely filed, and if not, promptly notify the consultants of their obligation to file. DWR failed to do so, in violation of Section 81010.

For the purposes of this Stipulation, Respondent's violations are stated as follows:

COUNTS 1-52

On or about and between February 25, 2001 and January 9, 2002, Respondent California Department of Water Resources failed to determine whether 52 consultants timely filed their assuming office statements of economic interests, and if not, promptly notify the consultants of their obligation to file, in violation of Section 81010.

SUMMARY OF THE LAW

[1] The Political Reform 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 18109 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.

Conflict of Interest Code Requirements

An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided. In furtherance of this purpose, Section 87300 requires every agency to adopt and promulgate a conflict of interest code. The agency's conflict of interest code must specifically designate the employees and contractors of the agency who are required to file statements of economic interests disclosing their reportable investments, business positions, interests in real property, and other income.

Under Section 82019, subdivision (c), and Section 87302, subdivision (a), the persons who must be designated in an agency's conflict of interest code are the officers, employees, members, and consultants of the agency, whose position entails making, or participating in making, governmental decisions that may have a reasonably foreseeable material effect on any economic interest.

As mandated by Section 87302, subdivision (b), an agency's conflict of interest code must require a new consultant to file a statement of economic interests within thirty (30) days of assuming office. On the statement of economic interests, the consultant must disclose his or her investments and interests in real property held on the date of assuming office, and income received during the 12 months before assuming office. Section 87300 provides that a conflict of interest code has the force and effect of law, and any violation of the code is deemed a violation of the Act.

Definition of "Consultant"

Regulation 18701, subdivision (a)(2) defines a "consultant," for the purposes of Section 82019, as an individual who, pursuant to a contract, makes specified governmental decisions, or serves in a staff capacity with the agency and in that capacity participates in making specified governmental decisions. Under Regulation 18702.1, an individual contractor of a governmental agency "makes a governmental decision" when the contractor, among other things, commits the agency to any course of action, or enters into any contractual agreement on behalf of the agency. Under Regulation 18702.2, the contractor "participates in making a governmental decision" when the contractor negotiates with third parties, or advises or makes recommendations to the agency's decision makers, without significant intervening substantive review.

Duties of Filing Officers

The filing officer for statements of economic interests is the person or agency, which receives and retains original statements of economic interests. (Section 82027 and Regulation 18115.) Under Section 87500, subdivision (o), the filing officer for statements of economic interests filed by a consultant is the state agency that has contracted with the consultant. Section 81010 sets forth the duties of filing officers, and requires filing officers to: (1) supply the necessary forms and manuals prescribed by the Commission; (2) determine whether required documents

have been filed, and, if so, whether they conform on their face with the requirements of the Act; (3) notify promptly all persons who have failed to file a statement in the form and at the time required by the Act; and (4) report apparent violations of the Act to the appropriate agencies.

SUMMARY OF THE FACTS

In February 2001, in response to a state of emergency and executive order issued by Governor Gray Davis, DWR created the CERS division to mitigate the effects of the energy crisis. Over several months, DWR contracted with various individuals and companies to staff the new CERS division with dozens of consultants.

As mandated by DWR's conflict of interest code, each consultant had a duty to file a statement of economic interests ("SEI") within 30 days of assuming office. On the SEI, each consultant was required to disclose his or her reportable investments and interests in real property held on the date of assuming office, and income received during the previous 12-month period. DWR's conflict of interest code applied the broadest disclosure requirements to consultants. However, if a consultant's duties were limited in scope, the Director of DWR had the authority to modify his or her disclosure category.

Notwithstanding DWR's conflict of interest code, 52 consultants did not timely file an assuming office SEI within 30 days of assuming office. When the consultants failed to file an assuming office SEI, DWR had a duty to determine whether the required documents were filed, and if not, promptly notify the consultants of their obligation. DWR failed to perform these duties promptly, in violation of Section 81010.

According to initial determinations made by DWR, the 52 consultants who did not file their SEI within 30 days of assuming office fell into three categories: spot market traders, energy contract negotiators, and energy market or financial advisors.

Spot Market Traders. The spot market traders were individual consultants who entered into personal service contracts with DWR, for a term of six months, to work as traders and trading managers. These individuals purchased and sold electric energy on the "real time," "hour ahead," and "day ahead" markets operated by the Independent System Operator. These individuals had independent authority to bind DWR financially.

Energy Contract Negotiators. The energy contract negotiators were owners or employees of companies that were under contract with DWR. These companies included the Electric Power Group, Navigant Consulting, and Interstate Gas Company. Consultants from these firms engaged in direct negotiations with electric energy generators and marketers to obtain short and long-term energy supply contracts for the State. The individual negotiators made recommendations to CERS regarding the terms of these transactions. In some cases, CERS relied on the expertise of the negotiators when acting upon their recommendations. The negotiators had authority to indicate to trading parties when it appeared an agreement in principle had been

reached, but did not have signature authority to bind DWR financially.

Energy Market and Financial Advisors. The energy market and financial advisors were owners or employees of the firms, Deloitte & Touche; Montague DeRose and Associates; Orrick, Herrington & Sutcliffe; and Hardy Engineering; which were under contract with DWR. Consultants from these firms attended policy meetings, prepared reports, and gave advice on various policy issues. In some cases, CERS relied on the expertise of these advisors when making decisions on energy supply contracts.

The following table, organized according to the counts set forth in the exhibit, lists the following information: (1) the dates that each of the 52 consultants assumed office; (2) the job description of each consultant; (3) the employer of each consultant; (4) the dates that each of consultant filed their SEI; and (4) the number of days the SEI was overdue.

Job Description	Counts/Consultant	Employer	Start Date (2001)	File Date (2001)	# Days Late
Spot Market Traders (16)	1. Terry Sack	CERS (personal contract)	Jan. 29	Jul. 12	133
	2. Michael Brown	CERS (personal contract)	Jan. 29	Jul. 12	133
	3. William Mead	CERS (personal contract)	Feb. 13	Jul. 12	119
	4. Arthur Primm	CERS (personal contract)	Feb. 13	Jul. 12	119
	5. Elaine Griffin	CERS (personal contract)	Feb. 20	Jul. 11	111
	6. Constantine Louie	CERS (personal contract)	Feb. 20	Jul. 12	112
	7. Kelly Park	CERS (personal contract)	Feb. 21	Jul. 12	111
	8. Isaac Tseng	CERS (personal contract)	Feb. 26	Jul. 12	106
	9. An Nguyen	CERS (personal contract)	Feb. 26	Jul. 12	106
	10. Bernard Barretto	CERS (personal contract)	Mar. 1	Jul. 12	102
	11. Herman Leung	CERS (personal contract)	Mar. 19	Jul. 12	85
	12. Peggy Cheng	CERS (personal contract)	Apr. 2	Jul. 12	70
	13. Atsumi Ito	CERS (personal contract)	Apr. 4	Jul. 12	68
	14. Linda Ng	CERS (personal contract)	Apr. 9	Jul. 12	63
	15. Susan Lee	CERS (personal contract)	Apr. 16	Jul. 12	56
	16. Harry Cleveland	CERS (personal contract)	May 20	Jul. 24	36
Energy Contract Negotiators (23)	17. Ronald Nichols	Navigant Consulting	Jan. 19	Jul. 16	147
	18. Catherine Elder	Navigant Consulting	Jan. 24	Jul. 24	150
	19. Vikram Budhraja	Electric Power Group	Jan. 25	Jul. 12	137
	20. James Dyer	Electric Power Group	Jan. 25	Jul. 12	137
	21. Richard Ferreira	CERS (personal contract)	Jan. 31	Jul. 11	130
	22. Tom Skupnjak	Navigant Consulting	Feb. 1	Jul. 16	134
	23. Fred Mobasheri	Electric Power Group	Feb. 1	Aug. 29	173
	24. M. Kabir Faal	Navigant Consulting	Feb. 1	Jan. 2, 2002	306
	25. Jeffrey Van Horne	Navigant Consulting	Feb. 1	Jan. 2, 2002	306
	26. Craig McDonald	Navigant Consulting	Feb. 5	Aug. 30	178
	27. David Swank	Navigant Consulting	Feb. 10	Sept. 6	179
	28. Timothy Haines	Navigant Consulting	Mar. 1	Jul. 13	104
	29. Tara Nolan	Navigant Consulting	Mar. 1	Jul. 12	103
	30. Sumner White	Navigant Consulting	Mar. 6	Jul. 16	104

	31. Mark Skowronski	Electric Power Group	Mar. 7	Jul. 24	109
	32. Joe Judge	Electric Power Group	Mar. 19	Jul. 16	89
	33. Gregory Rowe	Electric Power Group	Mar. 19	Jul. 16	89
	34. Richard Germaine	Navigant Consulting	Apr.10	Jul. 26	76
	35. Simon Freeman	CERS (personal contract)	Apr. 16	Jul. 10	54
	36. Mark Baldwin	Interstate Gas Co.	May 15	Jul. 24	40
	37. Suzanne McFadden	Interstate Gas Co.	May 15	Sept. 10	87
	38. Joy Young	Interstate Gas Co.	May 15	Sept. 10	87
	39. Johnnie Painter	Interstate Gas Co.	May 28	Sept. 10	64
	40. Christian Dusel	Navigant Consulting	Jun. 4	Jan. 2, 2002	181
	41. Brett Franklin	Navigant Consulting	Oct. 8	Jan. 9, 2002	93
Market and Financial Advisors (11)	42. Dominic Young	Deloitte and Touche	Jan. 21	Jul. 12	140
	43. James Bemis	Montague, DeRose Assocs.	Jan. 25	Jul. 12	136
	44. Douglas Montague	Montague, DeRose Assocs.	Jan. 25	Jul. 12	136
	45. Hamid Dayani	Deloitte and Touche	Jan. 29	Sept. 6	189
	46. Kendra Heinicke	Deloitte and Touche	Jan. 30	Aug. 20	171
	47. Darlene DeRose	Montague, DeRose Assocs.	Feb. 1	Jul. 12	130
	48. Stanley Dirks	Orrick, Herrington	Feb. 1	Aug. 28	180
	49. Ronald Slater	Montague, DeRose Assocs.	Mar. 1	Jul. 12	103
	50. Randall Hardy	Hardy Engineering	Mar. 6	Aug. 31	147
	51. Kimberly Stephens	Deloitte and Touche	Mar. 23	Jul. 12	79
	52. William Green	CERS (personal contract)	Apr. 16	Jul. 16	60

DWR hired each of the 52 consultants over a period of ten months. In January 2001, within two weeks after the Governor issued his executive order, 12 energy consultants joined DWR to work on the energy crisis. The following month, in February 2001, 15 more energy consultants joined DWR. In March 2001, another 11 consultants joined DWR to work on the energy crisis.

Approximately six weeks after contracting with the first consultant, on or about March 1, 2001, CERS Deputy Director Raymond Hart approached DWR's Chief Counsel, Susan Weber, about whether any conflict of interest laws applied to energy contractors. No decision was made regarding that issue. Two weeks later, on March 16, 2001, Mark Gladstone of the San Jose Mercury News contacted DWR, and inquired whether energy consultant Vikram Budhraja, president of Electric Power Group, was required to file an assuming office SEI. Neil Gould, a staff attorney for DWR, informed the reporter that DWR had not yet made a determination on that issue.

Thereafter, DWR staff, both legal and program staff, spent the next two months, from March 16 to May 24, 2001, investigating the facts and conducting legal research on whether the energy contractors were required to file assuming office SEI's. First, the duties and activities of the consultants had to be evaluated in a manner that corresponded to the legal definition of "consultant." This evaluation focused on the meaning of the term "consultant," as defined by the Act, and as used in DWR's conflict of interest code, and on whether a broad or narrow disclosure category should apply to each of the consultants. Because of the demands on the agency and their

own lack of familiarity with the energy industry, the staff's research was complex and time-consuming. At the same time, they were responsible for reviewing Public Records Act requests, and responding to Public Records Act litigation.

In April 2001, another seven energy consultants joined DWR to work on the energy crisis in the CERS division. The following month, in May 2001, five more energy consultants joined DWR. On May 24, 2001, DWR staff submitted a memorandum to DWR Director Thomas Hannigan, Raymond Hart, and Chief Personnel Officer Gregory Rowsey. The memorandum listed those consultants who were required to file SEI's, and their newly defined disclosure categories. Raymond Hart signed the memorandum on May 30, 2001. Thomas Hannigan signed the memorandum on June 5, 2001.

In June 2001, three more energy consultants joined DWR. On June 15, 2001, Gregory Rowsey sent a memorandum to 27 consultants, advising them to file an assuming office SEI by July 16, 2001. Twenty-five of the 27 consultants complied with Mr. Rowsey's request, and filed an assuming office SEI before July 16, 2001. Two of the consultants were later deemed not to have filing obligations. Nine additional consultants also filed by July 16, 2001. On July 19, 2001, Mr. Rowsey sent another memorandum to an unspecified number of consultants, advising them to file an assuming office SEI. Six of the consultants filed an assuming office SEI the following week. Thereafter, DWR officials continued to review whether any other energy contractors had an obligation to file an assuming office SEI. Four consultants filed their SEI in August 2001; five consultants filed their SEI in September 2001; and four consultants filed their SEI in January 2002.

By taking several months to inform 52 consultants of their duty to file an assuming office SEI, DWR failed to promptly notify them of their obligation to file, in violation of Section 81010. DWR's violation led to 52 consultants making, and participating in making, governmental decisions that involved the purchase of millions of dollars of energy, for several months, without the public having the ability to monitor their activities for conflicts of interests.

In aggravation, before the energy crisis and the formation of the new CERS division, DWR had no procedures in place to ensure that consultants who worked for DWR complied with the disclosure provisions of DWR's conflict of interest code.

In mitigation, DWR was responding to a state of emergency. On January 19, 2001, Governor Gray Davis declared a state of emergency, and issued an executive order directing DWR to take steps necessary to respond to an energy crisis. Increases in the price of electricity had resulted in shortages of electricity, and affected California's economy, as well as the solvency of major public utilities. Blackouts occurring throughout California caused some business to experience economic losses, and affected services provided by law enforcement agencies, hospitals and schools.

In February 2001, in response to the executive order, DWR promptly created the CERS division. Within a few days, DWR changed from a state agency charged with administering the state's water assets to one with the responsibility of meeting the state's electricity demands.

DWR's previous experience with providing electricity was limited to buying and selling power for the state water project. The state water project had a peak demand of 2,400 megawatts. During the energy crisis, the new CERS division handled a peak demand of 17,000 megawatts. DWR did not have a sufficient number of qualified staff members to perform its new duties. Upon its creation, the new division had more than 90 staff vacancies. DWR was not able to hire enough new state employees fast enough to fill those vacancies.

DWR's primary concern was obtaining enough energy to prevent future blackouts. During the time the violations occurred, many DWR employees and consultants worked 60 to 80 hours per week. In addition to handling the energy crisis, DWR staff spent a significant amount of time and resources responding to public requests for agency documents, including energy contracts, under the Public Records Act.

DWR eventually complied with its obligation as filing officer by determining that 52 contractors qualified as consultants, and advising them to file their SEI's. To avoid violations in the future, DWR has adopted new procedures to incorporate consultants into the SEI notification process used for DWR employees.

CONCLUSION

This matter involves 52 violations of Section 81010 of the Act, and carries a maximum administrative penalty of Five Thousand Dollars ($5,000) per count, for a total administrative penalty of Two Hundred and Sixty Thousand Dollars ($260,000).

However, the emergency circumstances under which these violations occured justify a penalty less than the maximum penalty. In fashioning a resolution, the Enforcement Division took into account the specific duties of the three types of consultants that were involved, and the length of time that their SEI filings were overdue. Therefore, as the duties of spot market traders involved more than making mere recommendations, DWR's failure to promptly notify these types of consultants of their filing obligation justifies the imposition of a higher penalty for those counts. In addition, significantly late SEI's also justifies the imposition of a higher penalty for those counts where consultants filed more than 100 days late. Accordingly, penalties were assessed as follows:

COUNTS 1-10
Spot Market Traders Who Filed More Than 100 Days Late

Spot market traders made governmental decisions involving energy contracts without disclosing to the public their relevant economic interests. Ten of the spot market traders filed their SEI's more than 100 days past the filing due date. DWR's failure to ensure that these 10 individuals timely filed their SEI's resulted in serious public harm. For a significant length of time, DWR's violations deprived the public of the ability to monitor whether these decision-makers had conflicts of interest. This type of violation might therefore call for a maximum administrative penalty of $5,000. However, as the violations occurred in the context of the emergency crisis, the

administrative penalty of $3,000 for each violation, for a total of $30,000, is appropriate.

COUNTS 11-16

Spot Market Traders Who Filed Between 60 and 90 Days Late

Six of the 16 spot market traders filed their SEI's between 30 to 90 days past the filing due date. DWR's failure to ensure that these six individuals timely filed their SEI's resulted in serious public harm. However, as these individuals filed within 30 to 90 days of the filing due date, a penalty less than $3,000 for each count is appropriate. Therefore, these counts justify an administrative penalty of $1,500 per violation, for a total of $9,000.

COUNTS 17-31, 40, 42-50

Negotiators and Advisors Who Filed More Than 100 Days Late

Negotiators and advisors made recommendations regarding energy contracts without disclosing their relevant economic interests. Unlike spot market traders, negotiators and advisors did not make governmental decisions, but only participated in those decisions by providing advice. As such, the resulting public harm was significant, but less serious than for spot market traders. Twenty-five of these 36 experts filed their SEI's more than 100 days after the filing due date. For a significant length of time, DWR's violations deprived the public of the ability to monitor whether these expert advisors had conflicts of interests. Accordingly, the appropriate administrative penalty for these counts is $1,000 per violation, for a total of $25,000.

COUNTS 32-39, 41, 51-52

Negotiators and Advisors Who Filed Between 30 and 90 Days Late

Eleven of the 36 energy experts filed their SEI's between 30 to 90 days past the filing due date. DWR's failure to ensure that these 11 individuals timely filed their statements of economic interests resulted in significant public harm. However, as these individuals filed within 30 to 90 days of the filing due date, a penalty less than $1,000 for each count is appropriate. Therefore, these counts justify an administrative penalty of $500 per violation, for a total of $5,500.

Based on the foregoing facts and circumstances, a total administrative penalty of $69,500 is justified.

Exhibit C

STEVEN BENITO RUSSO
Chief of Enforcement
STEVEN MEINRATH
Commission Counsel
FAIR POLITICAL PRACTICES COMMISSION
428 J. Street, Suite 620
Sacramento, California 95814
Telephone: (916) 322-5660
Facsimile: (916) 322-1932

Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of: COMPTON COMMUNITY COLLEGE DISTRICT AND ULIS C. WILLIAMS, Superintendent/President, Respondents.	FPPC No.: 01/729 STIPULATION, DECISION, and ORDER

Complainant Mark Krausse, Executive Director of the Fair Political Practices Commission, and Respondents Compton Community College District and Ulis C. Williams hereby agree that this stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

The parties agree to enter into this stipulation to resolve all factual and legal issues raised in this matter and to reach a final disposition without the necessity of holding an administrative hearing to determine the liability of Respondents.

Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in sections 83115.5, 11503 and 11523 of the Government Code, and in section 18361 of title 2 of the California Code of Regulations. This includes, but is not limited to, the right to personally appear at any administrative hearing held in this matter, to be

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

It is further stipulated and agreed that Respondents Compton Community College District and Ulis C. Williams committed 42 violations of the Political Reform Act by failing to perform, and negligently causing a failure to perform, the required filing officer duties of the Compton Community College District concerning 42 statement of economic interests filings, in that for each of these filings the Compton Community College District failed to: supply the filer with the necessary forms and manuals; determine whether the filer filed the statements required by law; notify the filer of the failure to file the statement as required by law; and report the failure to file the statement as required by law to the appropriate agencies; in violation of section 81010 of the Government Code, as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

Respondents agree to the issuance of the decision and order, which is attached hereto. Respondents also agree to the Commission imposing upon them an administrative penalty in the amount of One Hundred Thousand Dollars ($100,000). A cashier's check from Respondents in the amount of $25,000, made payable to the "General Fund of the State of California," is submitted with this stipulation as the first of four payments to satisfy the administrative penalty. This check is to be held by the State of California until the Commission issues its decision and order regarding this matter. Respondents agree to pay the remainder of the penalty in three additional installments of $25,000 each, the first due on December 6, 2004, the second payment due on April 6, 2005, and the third and final payment due on August 6, 2005. The parties agree that in the event the Commission refuses to accept this stipulation, it shall become null and void, and within fifteen (15) business days after the Commission meeting at which the stipulation is rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to Respondents. Respondents further stipulate and agree that in the event the

Commission rejects the stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any member of the Commission, nor the Executive Director, shall be disqualified because of prior consideration of this stipulation.

Dated: _____

Mark Krausse, Executive Director
Fair Political Practices Commission

Dated: _____

Ulis C. Williams, Respondent, individually and on behalf of Respondent Compton Community College District.

Dated: _____

Arthur Tyler, Special Trustee, on behalf of Respondent Compton Community College District.

DECISION AND ORDER

The foregoing stipulation of the parties "In the Matter of Compton Community College District and Ulis C. Williams, FPPC No. 01/729," 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 Chairman.

IT IS SO ORDERED.

Dated: _____

Liane M. Randolph, Chairman
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Compton Community College District ("CCCD") is part of the California state community college system. Respondent CCCD operates the Compton Community College, the only college in the district, with an annual operating budget in excess of 43 million dollars. Respondent Ulis C. Williams has served as both the Superintendent of Respondent CCCD and the President of the Compton Community College since 1997.

Respondent CCCD is required by the Political Reform Act (the "Act")[1] to establish a conflict of interest code applicable to its board members, employees, and consultants, and to monitor compliance with the code. The code must designate board members, employees and consultants of CCCD who are required to file personal financial disclosure statements known as statements of economic interests ("SEI's"). Under the Act, a filing officer is the person or agency who receives and retains the original SEI. The filing officer for Respondent Williams and for Respondent CCCD's board members is CCCD's code reviewing body, the Los Angeles County Board of Supervisors (the "LACBOS"). Respondent CCCD's conflict of interest code specifies that Respondent CCCD is the filing officer for its employees and consultants.

For two decades, none of the employees or consultants designated in Respondent CCCD's conflict of interest code filed an SEI. As the filing officer for the employees, Respondent CCCD was required to supply all 11 designated CCCD employees and consultants with the necessary SEI forms and manuals; determine whether the required SEI's were properly filed; promptly notify any employees who failed to timely file their SEI's; and report any noncompliance to the Enforcement Division of the Fair Political Practices Commission (the "Commission"). For the entire five year period covered in this stipulation, (and corresponding to the applicable statute of limitations period) Respondent CCCD failed to perform its obligations as filing officer, in violation of section 81010. As President of the Compton Community College and Superintendent of Respondent CCCD, Respondent Ulis Williams, by failing to ensure that CCCD's duties as a filing officer were performed, negligently caused the violations alleged herein, and is therefore also liable as provided in section 83116.5.

[1] The Political Reform 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 18109 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.

For the purposes of this stipulation, Respondents' violations are stated as follows:

COUNTS 1-42

On or about and between January 1, 1999 and June 30, 2003, Respondents Compton Community College District and Ulis C. Williams failed to perform, and negligently caused a failure to perform, the required filing officer duties of Respondent Compton Community College District concerning 42 statements of economic interests filings, in that for each of these filings Respondent Compton Community College District failed to: supply the filer with the necessary forms and manuals; determine whether the filer filed the statements required by law; notify the filer of the failure to file the statement as required by law; and report the failure to file the statement as required by law to the appropriate agencies, in violation of section 81010 of the Government Code.

SUMMARY OF THE LAW

Conflict of Interest Code Requirements

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided. In furtherance of this purpose, section 87300 requires every agency to adopt and promulgate a conflict of interest code. Any conflict of interest code adopted by a local agency must be approved by its code reviewing body. (Section 87303.) Once a conflict of interest code has been established, each local agency covered under the Act is required by section 87306.5 to review its conflict of interest code every two years, and if a change in its code is necessitated by changed circumstances, submit an amended conflict of interest code to the code reviewing body. After the local agency reviews its code, if no change in the code is required, the local agency head shall submit a written statement to that effect to the code reviewing body no later than October 1 of the same year. If a local agency fails to adopt or amend a conflict of interest code as required by the Act, the agency's code reviewing body may adopt a conflict of interest code for the agency. (Section 87304.)

An agency's conflict of interest code must specifically designate the employees and consultants of the agency who are required to file statements of economic interests disclosing their reportable investments, business positions, interests in real property, and sources of income. Under section 82019, subdivision (c), and section 87302, subdivision (a), the persons who must be designated in an agency's conflict of interest code are the officers, employees, members, and consultants of the agency, whose position with the agency entails making, or participating in making, governmental decisions that may have a

reasonably foreseeable material effect on any financial interest.

As mandated by section 87302, subdivision (b), an agency's conflict of interest code must require each new employee or consultant of the agency, who is so designated, to file a statement of economic interests within thirty (30) days of assuming office. On the assuming office statement of economic interests, the employee or consultant must disclose his or her investments and interests in real property held on the date of assuming office, and income received during the 12 months before assuming office. Section 87302, subdivision (b) also provides that an agency's conflict of interest code must require every designated employee or consultant to file an annual statement of economic interests, disclosing reportable economic interests during the previous calendar year, or since the date the designated employee or consultant took office if during the calendar year. Section 87302, subdivision (b) also provides that an agency's conflict of interest code must require every designated employee or consultant to file a leaving office statement of economic interests within 30 days after leaving office. On the leaving office statement, a designated employee or consultant must disclose his or her reportable economic interests during the period between the closing date of the last annual statement and the date of leaving office.

Section 87300 provides that a conflict of interest code has the force and effect of law, and any violation of the code is deemed a violation of the Act.

Definition of "Consultant"

Regulation 18701, subdivision (a)(2) defines a "consultant" as an individual who, pursuant to a contract with a state or local government agency, makes specified governmental decisions, or serves in a staff capacity with the agency and in that capacity participates in making governmental decisions.

Duties of Filing Officers

The filing officer for a statement of economic interests is the person or agency which receives and retains the original of that statement. (Section 82027 and Regulation 18115.) Section 87500, subdivision (j) provides that the filing officer for the head of an agency, or a member of a board or commission not under a department of state government or under the jurisdiction of a local legislative body, is the code reviewing body for that person's agency. At the discretion of the code reviewing body, an agency's head and its board members may file their SEI's with the agency, who must then make copies and forward the original SEI's to the code reviewing body or may file their SEI's directly with the code reviewing body. Under section 87500, subdivision (o), the filing officer for the employees and consultants of an agency is the agency that employs or has contracted with the employees or consultants. The agency may specify another filing officer in its conflict of interest code.

Section 81010 sets forth the duties of filing officers, and requires every filing officer to: (1) supply the necessary forms and manuals prescribed by the Commission; (2) determine whether required documents have been filed, and, if so, whether they conform on their face with the requirements of the Act; (3) notify promptly all persons who have failed

to file a statement in the form and at the time required by the Act; (4) report apparent violations of the Act to the appropriate agencies; and (5) complete and maintain a current list of all reports and statements filed with the filing officer.

Aiding and Abetting Liability

In addition to those who themselves violate the Act, any person who has filing or reporting obligations under the Act, or who is compensated for services involving the planning, organizing, or directing of any activity regulated by the Act, who purposely or negligently causes another to violate the Act, or who aids and abets another in violating the Act, is himself or herself liable for violating the Act. (Section 83116.5.)

SUMMARY OF THE FACTS

In 1977, Respondent CCCD first enacted a conflict of interest code which applied to its directors, officers, employees, and consultants. During much of the 1980's and 1990's, Respondent CCCD failed to comply with its obligation to conduct biennial reviews of its conflict of interest code, as required by section 87306.5. Respondent CCCD's failure to respond to several biennial review notices sent to it by its code reviewing body, the LACBOS, led the LACBOS to adopt a conflict of interest code on behalf of Respondent CCCD in 1992, as permitted by section 87304. The 1992 conflict of interest code specifically enumerates 11 positions, including the position of "consultant," as being designated employee positions, the holders of which are required to file SEI's. The 1992 conflict of interest code specifies that the filing officer for the designated employees, which shall receive and retain their SEI's, is Respondent CCCD.

Throughout the 1980's and 1990's, none of the employees or consultants designated as SEI filers in Respondent CCCD's conflict of interest code filed any SEI's. Respondent CCCD has violated the Act as the filing officer for its designated employees and consultants concerning 42 separate SEI filings by failing to: supply the designated CCCD employees and consultants with the necessary SEI forms and manuals; determine whether they properly filed the required SEI's; promptly notify the employees and consultants that they failed to timely file their SEI's as required under the Act; and report any noncompliance to the Enforcement Division of the Commission. Respondent Ulis C. Williams is employed for compensation as the President of the Compton Community College and Superintendent of Respondent CCCD, and is the person with primary responsibility for the administration of Respondent CCCD. Respondent Williams negligently caused these violations by failing to ensure that Respondent CCCD performed its duties as the filing officer for its employees.

The chart below sets forth, by count, each of the instances in which Respondents violated the Act, by Respondent CCCD not performing its duties as the filing officer for its designated employees and consultants, and by Respondent Williams negligently causing the violations by not taking necessary action to ensure that Respondent CCCD performed these duties.

Count	Date Assumed Office / Reporting Period Beginning	Reporting Period Ending Date	SEI Filing Due Date	Statement Type	Employee/Consultant Name (First, Last)	Filed	Position
1	01/01/1998	12/31/1998	04/01/1999	Annual	Essie French-Preston	NO	Dean of Student Affairs
2	01/01/1998	12/31/1998	04/01/1999	Annual	Ben Lett	6/20/01	Director of Business Affairs
3	01/01/1998	12/31/1998	04/01/1999	Annual	Shirley Shephard	NO	Purchasing Agent
4	01/01/1998	12/31/1998	04/01/1999	Annual	Gwyndolyn Oliver	NO	Director of Maintenance and Operations
5	09/09/1998	12/31/1998	04/01/1999	Annual	Darnell Mitchell	NO	Director of Athletics
6	01/01/1998	12/31/1998	04/01/1999	Annual	Eugene Hewitt	NO	Director of Research and Planning
7	01/01/1998	12/31/1998	04/01/1999	Annual	Leroy Porter	NO	Vice President of Evening Division (Formerly: Dean of Evening Division and Extended Programs.)
8	07/01/1998	12/31/1998	04/01/1999	Annual	Ann Stevens	NO	Head Librarian
9	01/1/1998	12/31/1998	04/01/1999	Annual	Paul Richards	NO	Consultant
10	01/01/1999	4/01/1999	05/01/1999	Annual / Leaving	Gwyndolyn Oliver	NO	Director of Maintenance and Operations
11	01/19/2000	1/18/2000	02/19/2000	Assuming	Larry Todd	NO	Director of Maintenance and Operations
12	01/01/1999	12/31/1999	04/01/2000	Annual	Paul Richards	NO	Consultant
13	01/01/1999	12/31/1999	04/01/2000	Annual	Essie French-Preston	NO	Dean of Student Affairs
14	01/01/1999	12/31/1999	04/01/2000	Annual	Ben Lett	6/20/01	Director of Business Affairs
15	01/01/1999	12/31/1999	04/01/2000	Annual	Shirley Shephard	NO	Purchasing Agent
16	01/01/1999	12/31/1999	04/01/2000	Annual	Darnell Mitchell	NO	Director of Athletics
17	01/01/1999	12/31/1999	04/01/2000	Annual	Eugene Hewitt	NO	Director of Research and Planning
18	01/01/1999	12/31/1999	04/01/2000	Annual	Leroy Porter	NO	Vice President of Evening Division (Formerly: Dean of Evening Division and Extended Programs.)
19	01/01/1999	12/31/1999	04/01/2000	Annual	Ann Stevens	NO	Head Librarian
20	07/01/2000	06/30/2000	08/01/2000	Assuming	Mervyn Dymally	NO	Consultant
21	01/01/2000	12/31/2000	04/01/2001	Annual	Paul Richards	NO	Consultant
22	01/01/2000	12/31/2000	04/01/2001	Annual	Essie French-Preston	NO	Dean of Student Affairs
23	01/01/2000	12/31/2000	04/01/2001	Annual	Ben Lett	7/11/01	Director of Business Affairs
24	01/01/2000	12/31/2000	04/01/2001	Annual	Shirley Shephard	NO	Purchasing Agent
25	01/19/2000	12/31/2000	04/01/2001	Annual	Larry Todd	NO	Director of Maintenance and Operations
26	01/01/2000	12/31/2000	04/01/2001	Annual	Darnell Mitchell	NO	Director of Athletics
27	01/01/2000	12/31/2000	04/01/2001	Annual	Eugene Hewitt	NO	Director of Research and Planning
28	01/01/2000	12/31/2000	04/01/2001	Annual	Leroy Porter	NO	Vice President of Evening Division (Formerly: Dean of Evening Division and Extended Programs.)

29	01/01/2000	12/31/2000	04/01/2001	Annual	Ann Stevens	NO	Head Librarian
30	07/01/2000	12/31/2000	04/01/2001	Annual	Mervyn Dymally	NO	Consultant
31	01/01/2001	5/--/2001	06/30/2001	Leaving	Larry Todd	NO	Director of Maintenance and Operations
32	01/01/2001	06/30/2001	07/30/2001	Leaving	Mervyn Dymally	NO	Consultant
33	07/01/2001	6/30/2001	08/01/2001	Assuming	Shirley Edwards	NO	Executive Vice President (Formerly: Dean of Instruction and Curriculum)
34	07/25/2001	09/26/2001	10/26/2001	Assuming/ Annual / Leaving	Richard Alatorre	NO	Consultant
35	01/01/2001	12/31/2001	04/01/2002	Annual	Paul Richards	NO	Consultant
36	07/01/2001	12/31/2001	04/01/2002	Annual	Shirley Edwards	NO	Executive Vice President (Formerly: Dean of Instruction and Curriculum)
37	01/01/2001	12/31/2001	04/01/2002	Annual	Darnell Mitchell	NO	Director of Athletics
38	01/01/2001	12/31/2001	04/01/2002	Annual	Eugene Hewitt	NO	Director of Research and Planning
39	01/01/2001	12/31/2001	04/01/2002	Annual	Leroy Porter	NO	Vice President of Evening Division (Formerly: Dean of Evening Division and Extended Programs.)
40	01/01/2002	12/31/2002	04/01/2003	Annual	Paul Richards	NO	Consultant
41	01/01/2002	12/31/2002	04/01/2003	Annual	Shirley Edwards	NO	Executive Vice President (Formerly: Dean of Instruction and Curriculum)
42	01/01/2002	12/31/2002	04/01/2003	Annual	Leroy Porter	NO	Vice President of Evening Division (Formerly: Dean of Evening Division and Extended Programs.)

ADDITIONAL INFORMATION

Upon discovering, as part of an unrelated investigation, that the employees and consultants of Respondent CCCD were not filing SEI's, Enforcement Division Investigator Jon Wroten conducted a conference call with Robert Joiner, Dean of Human Resources and Economic Development, and Reuben James, Special Advisor to the President and Financial Planning and Internal Auditor of Business Affairs for Compton Community College. Mr. James stated during that conference call that no one at Respondent CCCD had ever notified any employees or consultants that they were failing to comply with an obligation to file SEI's, and he was unaware of Respondent CCCD having a duty to do so. Investigator Wroten followed up on that conference call with a letter to Mr. James, informing him that Respondent CCCD was in violation of the Act and needed to immediately bring itself into compliance. Mr. Wroten made a referral to the Commission's Technical Assistance Division and admonished Mr. James to contact the Technical Assistance Division for assistance in bringing Respondent CCCD into compliance with its filing officer duties. Neither Mr. James, nor anyone else associated with Respondent CCCD, contacted the Technical Assistance Division for assistance.

Based on Investigator Wroten's referral, Bonita Kwong of the Commission's Technical Assistance Division spoke with Rueben James by telephone to explain the SEI Outreach program and to schedule an SEI training session with Respondent CCCD. Ms. Kwong also sent a brochure to Mr. James by facsimile, explaining the Outreach program. Mr. James stated that he would need to speak with his supervisor (Respondent Ulis Williams) before he could schedule the training session. Mr. James told Ms. Kwong that he would return her call, but he failed to do so. When she had not heard from Mr. James, Ms. Kwong left a voicemail message for Mr. James once again attempting to schedule an outreach visit. Mr. James never responded to Ms. Kwong.

At the same time that the Enforcement Division was acting on Respondents' failure to see that the employees and consultants of Respondent CCCD began filing SEI's, the LACBOS was also taking action. After repeatedly notifying Respondent CCCD of its obligation to conduct a biennial review of its conflict of interest code, on July 2, 2002, the LACBOS mailed to Respondent CCCD another biennial review notice and included a detailed packet of information explaining conflict of interest code review procedures, as well as explaining the actions required of Respondent CCCD. In October 2002, Respondent CCCD submitted to the LACBOS a proposed amended conflict of interest code *which deleted all employees as SEI filers*, with the exception of the members of the Board of Trustees and the President/Superintendent. On November 6, 2002, John McKibben, Deputy Executive Officer for the LACBOS, sent a letter to Rueben James that stated he could not recommend approval of Respondent CCCD's proposed amended conflict of interest code to the Board of Supervisors because Respondent CCCD's proposal to delete all designated employees below the highest level of the District's organization failed to comply with the requirements of the Act. Along with his letter, Mr. McKibben provided documentation to assist Respondent CCCD in properly reviewing and amending its conflict of interest code, and offered to assist further, if necessary.

On March 14, 2003, Mr. McKibben followed up on his earlier communication with a sharply-worded five-page letter to Mr. James that detailed Respondent CCCD's chronic failure to comply with its obligation to review and update its conflict of interest code, despite the numerous attempts made by the LACBOS to secure such compliance. Mr. McKibben gave Mr. James a firm deadline of April 1, 2003 to provide the LACBOS with an amended conflict of interest code.

On March 27, 2003, Mr. James sent Mr. McKibben a draft of an amended conflict of interest code for Respondent CCCD, but failed to provide the necessary explanation and justification for the proposed amendments, despite explicit instructions to do so.

Further correspondence ensued between the LACBOS and Respondent CCCD until, on June 3, 2003, the LACBOS approved an amended conflict of interest code for Respondent CCCD, based largely on the March 27, 2003 code proposed by Respondent CCCD. Respondent CCCD's new conflict of interest code designates a total of 34 positions as SEI filers.

On July 21, 2003, in a conversation with Investigator Wroten, Respondent Williams

stated that he apologized on behalf of Respondent CCCD for its past violations of the Act, and stated that a system had been established to ensure future compliance. Since that time, the state Chancellor of the Community College system has taken control of Respondent District on the basis of Respondent District's extreme financial mismanagement. Although the Chancellor has suspended Respondent District's elected Board of Trustees and appointed a special trustee in its place, he has allowed Respondent Ulis Williams to remain in office.

CONCLUSION

Throughout the period covered by this stipulation, Respondent CCCD completely failed to comply with its duties as the filing officer for its employees and consultants, and thereby violated the Act. In failing to ensure that Respondent CCCD complied with these duties, Respondent Ulis Williams negligently caused these violations. When advised of their lack of compliance, Respondents resisted bringing themselves into compliance despite substantial efforts on the part of both the LACBOS and the Commission's Technical Assistance Division to assist them.

Respondents failed to supply employees designated as SEI filers under Respondent CCCD's conflict of interest code with the necessary forms and manuals prescribed by the Commission; failed to determine whether required documents had been filed, and, if so, whether they conformed on their face with the requirements of the Act; failed to notify promptly all persons who failed to file a statement in the form and at the time required by the Act; and failed to report apparent violations of the Act to the appropriate agencies for 42 separate SEI filings, all in violation of section 81010.

This matter involves 42 violations of section 81010 of the Act, and carries a total maximum administrative penalty of One Hundred Fifty Thousand Dollars ($150,000).[2]

The special trustee has brought Respondent District up to date in terms of its responsibilities as a filing officer and has agreed to closely monitor Respondents' future compliance.

Although the violations described above are very serious, in recognition of the recent efforts to bring Respondent District into compliance with the law, a penalty somewhat below the maximum is appropriate. Based on the foregoing facts and circumstances, the agreed upon administrative penalty of $100,000 is justified.

[2] Prior to January 1, 2001, section 83116 provided that violations of the Political Reform Act were punishable by an administrative penalty of up to $2,000 (counts 1-20). Proposition 34, approved by voters in November 2000, amended section 83116, which now provides that violations committed on or following January 1, 2001 are punishable by administrative penalties of up to $5,000 per violation (counts 21-42).