

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent No on 8, Equality for All (“Respondent Committee”) is a state primarily formed committee. At all time relevant, Respondent Steven Mele (“Respondent Mele”) served as treasurer of Respondent Committee. This case arose from Franchise Tax Board (“FTB”) audit of Respondent Committee for the period January 1, 2008 through December 31, 2008. During the period covered by the audit, Respondent Committee reported receiving contributions of approximately \$43,291,424 and making expenditures of approximately \$43,100,227.

As a primarily formed committee under the Political Reform Act<sup>1</sup> (the “Act”), Respondents have a duty to timely file campaign statements and reports and disclose particular information. However, Respondents 1) failed to timely file late contribution reports; 2) failed to timely file election cycle reports; 3) failed to timely file \$5,000 reports; and 4) failed to disclose certain information regarding persons who contributed \$100 or more.

For the purposes of this Stipulation, Respondents’ violations of the Act are stated as follows:

#### **Late Contribution Reports**

**COUNT 1:** Respondent No on 8, Equality for All and Steven Mele failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$17,000 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about October 20, 2008 through October 24, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

**COUNT 2:** Respondent No on 8, Equality for All and Steven Mele failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$19,100 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about October 25, 2008 through October 27, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

**COUNT 3:** Respondent No on 8, Equality for All and Steven Mele failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$36,590 received during the late contribution reporting period before the November 4, 2008 General Election, due

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<sup>1</sup>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 18110 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.

on or about October 28, 2008 and October 29, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

COUNT 4: Respondent No on 8, Equality for All and Steven Mele failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$40,793 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about October 30, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

COUNT 5: Respondent No on 8, Equality for All and Steven Mele failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$32,086 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about October 31, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

COUNT 6: Respondent No on 8, Equality for All and Steven Mele failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$95,552 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about November 1, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

COUNT 7: Respondent No on 8, Equality for All and Steven Mele failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$35,707 received during the late contribution reporting period before the November 4, 2008 General Election, due on or about November 2, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

COUNT 8: Respondent No on 8, Equality for All and Steven Mele failed to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more totaling approximately \$30,907 received during the late contribution reporting period before the November 3, 2008 General Election, due on or about November 3, 2008 through November 4, 2008, in violation of Sections 84203 and 84605, subdivision (a), of the Government Code.

### **\$1,000 Online Reports**

COUNT 9: Respondent No on 8, Equality for All and Steven Mele failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$43,500 during the 90-day election cycle ending on November 4, 2008, due on or about September 4, 2008 through September 19, 2008, in violation of Government Code Section 85309, subdivision (b).

COUNT 10: Respondent No on 8, Equality for All and Steven Mele failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$27,500 during the 90-day election cycle ending on November 4, 2008, due on or about September 28, 2008 through October 9, 2008, in violation of Government Code Section 85309, subdivision (b).

COUNT 11: Respondent No on 8, Equality for All and Steven Mele failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$29,250 during the 90-day election cycle ending on November 4, 2008, due on or about October 10, 2008, in violation of Government Code Section 85309, subdivision (b).

COUNT 12: Respondent No on 8, Equality for All and Steven Mele failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$39,178 during the 90-day election cycle ending on November 4, 2008, due on or about October 11, 2008 through October 14, 2008, in violation of Government Code Section 85309, subdivision (b).

COUNT 13: Respondent No on 8, Equality for All and Steven Mele failed to file online campaign reports disclosing contributions of \$1,000 or more totaling \$71,342 during the 90-day election cycle ending on November 4, 2008, due on or about October 16, 2008 through November 5, 2008, in violation of Government Code Section 85309, subdivision (b).

### **\$5,000 Online Reports**

COUNT 14: On or about May 30, 2008, outside the 90-day election cycle, Respondent No on 8, Equality for All and Steven Mele received contributions of \$5,000 or more, totaling \$18,609, and failed to disclose the contributions within 10 business days of receipt in an online campaign report, in violation of Government Code Section 85309, subdivision (d).

COUNT 15: On or about November 5, 2008 through November 16, 2008, outside the 90-day election cycle, Respondent No on 8, Equality for All and Steven Mele received contributions of \$5,000 or more, totaling \$173,747, and failed to disclose the contributions within 10 business days of receipt in an online campaign report, in violation of Government Code Section 85309, subdivision (d).

### **\$100 or More Contributor Information**

COUNT 16: Respondent No on 8, Equality for All and Steven Mele failed to disclose occupation and/or employer information for persons who contributed \$100 or more on campaign statements for 791 individual contributors for contributions received totaling \$162,744, in violation of Section 84211, subdivision (f), of the Government Code.

## SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act, therefore, establishes a campaign reporting system designed to accomplish this purpose of disclosure.

### **Duty to File Campaign Statements**

Section 82013, subdivision (a), defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly known as a “recipient committee.” Section 82047.5 defines a “primarily formed committee” to include “a committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose... [a] single measure....” Under the Act’s campaign reporting system, state primarily formed ballot measure committees are required to file specified campaign statements and reports disclosing contributions received and expenditures made by certain deadlines with the Secretary of State’s office (“SOS”). (See Sections 84200 – 84209.) A “contribution” is a payment made for political purposes. (Section 82015.)

### **Duty to File Late Contribution Reports**

Under Section 84203, subdivisions (a) and (b), when a committee makes or receives a late contribution, the committee must disclose the contribution in a late contribution report within 24 hours of making or receiving the contribution. Section 82036, subdivision (b), defines a “late contribution,” in relevant part, as a contribution which totals in the aggregate one thousand dollars (\$1,000) or more that is made to or received by a committee formed or existing primarily to support or oppose a candidate or measure before the date of any state election but after the closing date of the last campaign statement required to be filed before the election. Under Sections 84200.7 and 84200.8, the late contribution reporting period of an election covers the last 16 days before the election. Section 84203, subdivision (e), provides that paper copies are not required when this information has been disclosed online pursuant to Section 85309, subdivisions (a) or (b).

### **Duty to File Reports Online**

In order to maximize the availability of information regarding campaign disclosure to the public, the Act requires any candidate, officeholder, committee, or other person who is required to file statements, reports, or other documents in connection with a state elective office to file them *online* or *electronically* when the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is \$50,000 or more<sup>2</sup>. (Section 84605, subd. (a).) Once a person or entity is required to file online or electronically, the person or entity is required

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<sup>2</sup> Although the current threshold to qualify as an electronic filer is \$25,000 under Section 84605, in 2008, the qualifying threshold was \$50,000. All law sections referred to in this Exhibit reflect the law as it was in effect at the time of the violation.

to file all subsequent reports online or electronically as well. (Section 84605, subd. (g).) Persons filing online or electronically are also required to continue to file required disclosure statements and reports in paper format, which continue to be the official filing for audit and other legal purposes until the Secretary of State determines the online or electronic disclosure system is operating securely and effectively. (Section 84605, subd. (i).)

### **Duty to Report Contributions of \$1,000 or More Received During the Election Cycle**

A primarily formed ballot measure committee who is required to file reports pursuant to Section 84605 shall file online or electronically with the SOS a report disclosing receipt of a contribution of \$1,000 or more received during an election cycle. This campaign report shall disclose the same information required by subdivision (a) of Section 84203<sup>3</sup> and shall be filed within 24 hours of receipt of the contribution. (Section 85309, subd. (b).) “Election cycle” for the purposes of Section 85309 means the period of time commencing 90 days prior to an election and ending on the date of the election. (Section 85204.)

### **Duty to Report Contributions of \$5,000 or More Received Outside the Election Cycle**

A primarily formed ballot measure committee who is required to file reports pursuant to Section 84605 shall file online or electronically with the SOS within 10 business days a report disclosing receipt of a contribution of \$5,000 or more that is received at any other time than during the election cycle. (Section 85309, subdivision (d).) This campaign report must disclose specified information regarding the contribution. (*Ibid.*)

### **Duty to Disclose Contributor Information on Campaign Statements**

Section 84211, subdivision (f), requires a committee to report on each of its campaign statements the following information about a person if the cumulative amount of contributions received from that person is \$100 or more and a contribution has been received from that person during the reporting period covered by the campaign statement: (1) the contributor’s full name; (2) the contributor’s street address; (3) the contributor’s occupation; (4) the name of the contributor’s employer, or if self-employed, the name of the contributor’s business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor. Section 84211, subdivision (g), includes these same requirements for a person if the cumulative amount of loans received from that person is \$100 or more. “Cumulative amount” means the amount of contributions received in the calendar year. (Section 82018, subd. (a).)

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<sup>3</sup> Section 84203, subdivision (a), requires that recipients of contributions must report “his or her full name and street address, the date and amount of the late contribution, and whether the contribution was made in the form of a loan. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.”

**Liability of Committee Treasurers**

As provided in Section 84100, every committee shall have a treasurer. Under Section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under Sections 83116.5 and 91006, a committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

**SUMMARY OF THE FACTS**

Respondent Committee is a state primarily formed committee formed to oppose Proposition 8 in the November 4, 2008 General Election. At all time relevant, Respondent Mele served as treasurer of Respondent Committee.

**COUNTS 1-8**

**Failure to Timely File Late Contribution Reports**

For the November 4, 2008 General Election, Respondents were required to file late contribution reports within 24 hours of receiving or making contributions of \$1,000 or more during the late reporting period, October 19, 2008 through November 3, 2008. Respondents failed to timely file 15 late contribution reports for that election for contributions *received* aggregating \$1,000 or more from a single source.

Respondents, as electronic filers, were required to file these reports electronically. The following late contribution reports were not timely filed on paper<sup>4</sup> or electronically:

<b>Count</b>	<b>Name of Contributor</b>	<b>Amount Not Disclosed Timely on LCR</b>	<b>Date LCR Threshold Reached</b>	<b>Total Amount Not Reported</b>
	Jeanette Cisneros	\$1,000	10/19/2008	
	Marie Vansch Ravendijk	\$1,000	10/19/2008	
	Rob Goldman	\$2,000	10/21/2008	
	Dennis Hammer	\$1,000	10/21/2008	
	Amy Risch	\$1,000	10/21/2008	

<sup>4</sup>Pursuant to Section 84203, subdivision (e), paper copies are not required when this information has been disclosed online pursuant to Section 85309, subdivisions (a) or (b).

1	Ashly Roy	\$1,000	10/21/2008	\$17,000
	Timothy Sweeney	\$1,000	10/21/2008	
	Luis Belicena	\$1,000	10/22/2008	
	Frank Elliot	\$1,000	10/22/2008	
	Joseph Sarrett	\$2,500	10/22/2008	
	John Kelley	\$1,000	10/23/2008	
	Paul Kemp	\$1,000	10/23/2008	
	Josh Olson	\$1,000	10/23/2008	
	Stephan Pyles	\$1,000	10/23/2008	
2	Eric Challgren	\$1,000	10/24/2008	\$19,100
	Adrian Davis	\$1,000	10/24/2008	
	Elissa R. Davis	\$5,000	10/24/2008	
	Star Lightner	\$1,000	10/24/2008	
	Friends of Ellen Corbett	\$1,000	10/24/2008	
	Log Cabin Republicans Against 8	\$1,000	10/24/2008	
	Gary DeLossa	\$1,000	10/25/2008	
	Gerald Kiernan	\$1,000	10/25/2008	
	Sebastian Mancel	\$1,100	10/25/2008	
	Jennifer Pizer	\$1,000	10/25/2008	
	Art Maruyama	\$1,500	10/26/2008	
	Steven Pounian	\$1,000	10/26/2008	
	Simon Snellgrove	\$2,500	10/26/2008	
3	John Kelley	\$1,000	10/27/2008	\$36,590
	Robert Major	\$4,000	10/27/2008	
	David Peck	\$1,020	10/27/2008	
	Christopher Rosas	\$2,500	10/27/2008	
	Martin Skea	\$5,000	10/27/2008	
	Dan Strawn	\$1,000	10/27/2008	
	Wendy Tonkin	\$2,500	10/27/2008	
	Rishi Varma	\$1,000	10/27/2008	
	Sarah Armstrong	\$1,050	10/28/2008	
	Wayne Armstrong	\$1,250	10/28/2008	
	Elizabeth Deeley	\$1,000	10/28/2008	
	Seth Dudley	\$1,000	10/28/2008	
	Jesse Escobar	\$1,000	10/28/2008	
	Raphael Ginsberg	\$1,125	10/28/2008	
	Elizabeth Grinnell	\$1,000	10/28/2008	
Paul Jack	\$1,075	10/28/2008		

	Josh Lehan	\$1,020	10/28/2008	
	Terry McKenzie	\$1,000	10/28/2008	
	Robert Stockman	\$1,000	10/28/2008	
	Roxanne Sullivan	\$1,000	10/28/2008	
	David Thompson	\$1,050	10/28/2008	
	David Tick	\$1,000	10/28/2008	
	Stephen Tollafield	\$1,000	10/28/2008	
	Kevin Wilcox	\$1,000	10/28/2008	
	Roy Wilks	\$1,000	10/28/2008	
	Rebecca Womeldorf	\$1,000	10/28/2008	
4	Dianne Admire	\$1,000	10/29/2008	\$40,793
	Simao Avila	\$1,000	10/29/2008	
	Lori Baker	\$1,000	10/29/2008	
	Leonard Bloom	\$1,000	10/29/2008	
	Steven Brown	\$1,250	10/29/2008	
	Richard Colbert	\$1,000	10/29/2008	
	Moises Cruz	\$1,073	10/29/2008	
	Stephen Deline	\$1,020	10/29/2008	
	Jason Farber	\$1,000	10/29/2008	
	Cecil Harvell	\$1,250	10/29/2008	
	Joe Iacoponi	\$1,000	10/29/2008	
	Jon Jump	\$1,000	10/29/2008	
	Laurence Kamins	\$1,100	10/29/2008	
	Keenan Kelsey	\$1,000	10/29/2008	
	Brady Lea	\$1,000	10/29/2008	
	Eugene Lee	\$1,000	10/29/2008	
	Barry Love	\$1,100	10/29/2008	
	Sebastian Mancel	\$1,500	10/29/2008	
	Renee Mangrum	\$1,000	10/29/2008	
	Anne Massey	\$1,000	10/29/2008	
	Warren Mathews	\$1,000	10/29/2008	
	Stephen McMahon	\$1,000	10/29/2008	
	Diana Nelson	\$1,000	10/29/2008	
	Nancy Nugent	\$1,000	10/29/2008	
	Gary Passon	\$1,000	10/29/2008	
	Pearl Renaker	\$1,000	10/29/2008	
Diana Saca	\$1,000	10/29/2008		
Bernard Shay	\$1,000	10/29/2008		
Sydney Smith	\$1,000	10/29/2008		



	Taylor Sublett	\$1,000	10/29/2008	
	Mike Syers	\$1,000	10/29/2008	
	Greg Taber	\$1,000	10/29/2008	
	Rachel B. Tiven	\$1,000	10/29/2008	
	Mildred Tseng	\$1,000	10/29/2008	
	Michael Tuciarone	\$1,000	10/29/2008	
	Michael Vilkin	\$1,000	10/29/2008	
	Kim Wallace	\$1,000	10/29/2008	
	Debra Wollesen	\$1,000	10/29/2008	
	Jonathan Zimman	\$1,000	10/29/2008	
	Harry Zinn	\$1,000	10/29/2008	
	Nancy Achilles	\$1,250	10/30/2008	
	Matthew Alexander	\$1,000	10/30/2008	
	Richard Bentley	\$1,000	10/30/2008	
	Ray Bernstein	\$1,250	10/30/2008	
	Eoin Bullock	\$1,000	10/30/2008	
	David Glasser	\$1,091	10/30/2008	
	Stephen Halpert	\$1,000	10/30/2008	
	Eric Henderson	\$1,000	10/30/2008	
	Kevin Herglotz	\$1,000	10/30/2008	
	Cheryl Hess	\$1,100	10/30/2008	
	Ann Hollingsworth	\$1,000	10/30/2008	
	Lisa Honig	\$1,000	10/30/2008	
	Rev. Deborah Johnson	\$1,000	10/30/2008	
	John Koostra	\$1,000	10/30/2008	
5	Jeffrey Lasker	\$1,000	10/30/2008	\$32,086
	Thomas-Tony Lawson-Gonzales	\$1,000	10/30/2008	
	David Levine	\$1,050	10/30/2008	
	James Loftus, MD	\$1,000	10/30/2008	
	John Marsh	\$1,000	10/30/2008	
	David McMahan	\$1,000	10/30/2008	
	James Nachbaur	\$1,100	10/30/2008	
	Mark Phariss	\$1,050	10/30/2008	
	Steven Planchard	\$1,000	10/30/2008	
	Joaquin Randle	\$1,095	10/30/2008	
	Jack Rosenfeld	\$1,000	10/30/2008	
	Tony Rousmaniere	\$1,000	10/30/2008	
	Robert Southworth	\$1,000	10/30/2008	
	Stephanie Van Zant	\$1,000	10/30/2008	

	Kelly Wagner	\$1,000	10/30/2008	
	Tom Waldron	\$1,000	10/30/2008	
	David Yule, R.N.	\$1,100	10/30/2008	
	Aaron Anderson	\$1,020	10/31/2008	
	Robert Ashcroft	\$1,250	10/31/2008	
	Teresa Bacigalupi	\$1,050	10/31/2008	
	Leah Beckman	\$1,000	10/31/2008	
	David Bernard	\$1,000	10/31/2008	
	Gearl Brace	\$1,000	10/31/2008	
	Margaret Burd	\$1,000	10/31/2008	
	Radah Butler	\$1,000	10/31/2008	
	Carol Cantwell	\$1,000	10/31/2008	
	Sheila Cardno	\$1,000	10/31/2008	
	M. R. Carrillo	\$1,000	10/31/2008	
	Leslie Chatham	\$1,000	10/31/2008	
	Timothy Cherna	\$1,000	10/31/2008	
	Charles Cook	\$1,000	10/31/2008	
	Farah Ebrahimi	\$2,500	10/31/2008	
	Richard Foglia	\$1,300	10/31/2008	
	Julie Greenberg	\$1,000	10/31/2008	
	John Gross	\$1,000	10/31/2008	
	Nicolas Hamatake	\$1,050	10/31/2008	
	Robert Hasty	\$1,350	10/31/2008	
	Bradford Hise	\$1,100	10/31/2008	
	Justin Hogan	\$1,000	10/31/2008	
	Chris Holdren	\$1,000	10/31/2008	
	Darren Howard	\$1,000	10/31/2008	
	Denys Howard	\$1,000	10/31/2008	
	Timothy Howard	\$1,000	10/31/2008	
	F.W. Irion	\$1,000	10/31/2008	
	Bruce Johnson	\$1,100	10/31/2008	
6	Gerald Kiernan	\$1,000	10/31/2008	\$107,131
	Daryl Kling	\$1,000	10/31/2008	
	Trace Larson	\$1,000	10/31/2008	
	Matthew Lindner	\$1,000	10/31/2008	
	James Loduca	\$1,000	10/31/2008	
	Henry Lopez	\$1,300	10/31/2008	
	Albert T. Lucero	\$1,250	10/31/2008	
	Ricardo Martinez	\$1,023	10/31/2008	

Art Maruyama	\$1,000	10/31/2008
David McCartney	\$1,250	10/31/2008
Earl Nelson	\$1,000	10/31/2008
Maureen O'Connell	\$1,005	10/31/2008
Melissa O'Neill	\$1,250	10/31/2008
Angus Parker	\$1,000	10/31/2008
Richard Paz	\$1,000	10/31/2008
Mark Pettygrove	\$1,050	10/31/2008
Matthew Porta	\$1,000	10/31/2008
John J. Quinn	\$1,000	10/31/2008
Denise Raabe	\$1,000	10/31/2008
Rich Ratkelis	\$1,000	10/31/2008
Drew G. Reenberg	\$1,000	10/31/2008
Joseph Samaritano	\$1,200	10/31/2008
Noam Shendar	\$1,250	10/31/2008
Phil R. Smith	\$1,100	10/31/2008
Robert Swirsky	\$1,000	10/31/2008
J. Thomere	\$1,050	10/31/2008
Timothy Toohey	\$1,000	10/31/2008
Judith Twentyman	\$1,000	10/31/2008
Unitarian Universalist Legislative Ministry Action Network CA PAC	\$11,579	10/31/2008
Emily Wenner	\$1,000	10/31/2008
William Werb	\$1,250	10/31/2008
Debra Wollesen	\$1,000	10/31/2008
Sherri Yeager	\$1,000	10/31/2008
Carol Yeates	\$1,000	10/31/2008
No on 8 – Equality California	\$29,854	10/31/2008
Aviva Aron-Dine	\$1,200	11/01/2008
Mira Bernstein	\$1,100	11/01/2008
Brian Bomhoff	\$1,600	11/01/2008
Leslie Boswell	\$1,000	11/01/2008
Genelle Cate	\$1,000	11/01/2008
Caroline Cha	\$1,000	11/01/2008
Douglas Cook	\$1,000	11/01/2008
Adrian Davis	\$1,000	11/01/2008
Marion Denny	\$1,250	11/01/2008
Patrick Fitzgerald	\$1,000	11/01/2008

7	Kurt Gollhardt	\$2,000	11/01/2008	\$38,707
	Gregory Grosh	\$1,000	11/01/2008	
	Neil Heather	\$1,000	11/01/2008	
	Theodore Jones	\$1,000	11/01/2008	
	Darren Kameya	\$1,349	11/01/2008	
	Mark Katz	\$1,100	11/01/2008	
	James Knickerbocker	\$1,000	11/01/2008	
	Nicholas Krupa	\$1,300	11/01/2008	
	Neil Lieberman	\$1,450	11/01/2008	
	Rochelle Mains	\$1,000	11/01/2008	
	Jeff Mallory	\$1,400	11/01/2008	
	Michael Malone	\$1,258	11/01/2008	
	Stephen McCallion	\$1,000	11/01/2008	
	Charles Middleton	\$1,000	11/01/2008	
	Andrew Nance	\$1,000	11/01/2008	
	Sandy Oxley	\$1,020	11/01/2008	
	Steven Polsky	\$1,000	11/01/2008	
	Jean Paul Samaita	\$1,000	11/01/2008	
	David Shayne	\$1,250	11/01/2008	
	Brenda Sunseri	\$1,000	11/01/2008	
	Naomi Sunshine	\$1,430	11/01/2008	
	Shirley Sutton	\$1,000	11/01/2008	
Ray Tamargo	\$1,000	11/01/2008		
Stan Yogi	\$1,000	11/01/2008		
8	Andrew Abowitz	\$1,200	11/02/2008	\$31,907
	Chris Anderson	\$1,385	11/02/2008	
	Caroline Cha	\$1,000	11/02/2008	
	Gary Delossa	\$1,250	11/02/2008	
	Robert Dockendorff	\$1,000	11/02/2008	
	Gene Heard	\$1,000	11/02/2008	
	Jinnifer Pitcher	\$1,000	11/02/2008	
	Phyllis Smith	\$1,000	11/02/2008	
	Hugh Biele	\$1,100	11/03/2008	
	William Delvac	\$1,000	11/03/2008	
	Walter M. Egbert III	\$1,000	11/03/2008	
	Eric Hall	\$1,000	11/03/2008	
	Kellie McKeown	\$1,000	11/03/2008	
	Re-elect Fiona Ma	\$1,000	11/03/2008	
Mike Samuel	\$1,000	11/03/2008		

	Gregory Scott	\$1,000	11/03/2008	
	Jessie Stickgold-Sarah	\$1,050	11/03/2008	
	Sam Thurber	\$1,000	11/03/2008	
	Dan Zigmond	\$1,000	11/03/2008	
	Democratic State Central Committee of California	\$11,922	11/03/2008	

By failing to file within 24 hours of receipt late contribution reports disclosing contributions aggregating \$1,000 or more, Respondents violated Sections 84203 and 84605, subdivision (a), eight times.

**COUNTS 9-13**

**Failure to Report Contributions of \$1,000 or More Online**

During the 90-day period before the November 4, 2008 General Election, from August 6, 2008, through November 4, 2008, Respondents were required to disclose each contribution of \$1,000 or more in an online campaign report filed within 24 hours of receipt.

In this matter, Respondents failed to disclose 63 contributions of \$1,000 or more totaling \$210,770 during this reporting period within 24 hours of receipt in online campaign reports. The following contributions were not reported in 17 separate online reports:

<b>Count</b>	<b>Number of Contributions Received</b>	<b>Date Received (17 Dates)</b>	<b>Amount of Contributions</b>	<b>Total Amount Not Reported</b>
<b>9</b>	<b>1</b>	09/03/08	\$1,000	\$43,500
	<b>1</b>	09/17/08	\$2,500	
	<b>1</b>	09/18/08	\$40,000	
<b>10</b>	<b>5</b>	09/27/08	\$6,500	\$27,500
	<b>1</b>	09/29/08	\$5,000	
	<b>4</b>	10/01/08	\$12,000	
	<b>2</b>	10/08/08	\$4,000	
<b>11</b>	<b>12</b>	10/09/08	\$29,250	\$29,250
<b>12</b>	<b>12</b>	10/10/08	\$20,000	\$39,178
	<b>5</b>	10/11/08	\$5,000	
	<b>3</b>	10/12/08	\$9,500	
	<b>1</b>	10/13/08	\$4,678	
<b>13</b>	<b>8</b>	10/15/08	\$54,224	\$71,342
	<b>2</b>	10/16/08	\$2,000	
	<b>1</b>	10/17/08	\$1,670	
	<b>2</b>	10/18/08	\$7,448	
	<b>2</b>	11/04/08	\$6,000	

By failing to file online campaign reports disclosing contributions of \$1,000 or more received during the election cycle, as set forth above, Respondents committed five violations of Government Code Section 85309, subdivision (b).

**COUNTS 14 & 15**  
**Failure to File a \$5,000 Online Report**

Respondents were required to disclose each contribution of \$5,000 or more received at a time other than during an election cycle in an online campaign report filed within 10 business days of receipt. According to Respondent Committee's records, Respondent Committee received contributions of \$5,000 or more on or about May 30, 2008 and November 5, 2008 through November 16, 2008. Respondents failed to disclose these contributions on \$5,000 online reports. The unreported contributions are shown in the following table, according to the Count to which they correspond.

<b>Count</b>	<b>Contributor</b>	<b>Date Received</b>	<b>Amount</b>	<b>Total Amt Not Timely Reported</b>
14	Stock Stephens, LLP	5/30/08	\$18,609	\$18,609
15	Re-Elect Fiona Ma	11/05/08	\$9,000	\$173,747
	Ronald W. Burkle	11/12/08	\$142,000	
	Diane Wilsey	11/14/08	\$5,000	
	No on 8 – Equality California	11/15/08	\$12,167	
	Human Rights Campaign (HRC)	11/16/08	\$5,580	

By failing to file online campaign reports disclosing contributions of \$5,000 or more received outside the election cycle, on or about May 30, 2008 and November 5, 2008 through November 16, 2008, totaling \$192,356, Respondents violated of Section 85309, subdivision (d), two times.

**COUNT 16**  
**Failure to Disclose Required Contributor Information**

Respondents had a duty to disclose occupation and employer information for persons who contributed \$100 or more in a calendar year. However, Respondents failed to disclose occupation and/or employer information for 791 persons for the following four reporting periods: April 1, 2008 - June 30, 2008; July 1, 2008 – September 30, 2008; October 1, 2008 – October 18, 2008;

and October 19, 2008 – December 31, 2008. The total amount of contributions made by these 791 individuals totaled approximately \$162,744, which is less than 1% of the total contributions received by Respondent Committee during these four reporting periods surrounding the election. These contributions should have been returned since the information was not obtained within 60 days of the receipt by Respondents. According to records maintained by the Secretary of State, Respondents filed these campaign statements, but did not disclose the required information regarding the 791 contributors.

By failing to disclose required contributor information for contributions of \$100 or more, Respondents violated Section 84211, subdivisions (f), of the Government Code.

## CONCLUSION

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

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Commission considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

Late Contribution Reports: The public harm inherent in disclosure violations is that the public is deprived of important information prior to the election, such as the sources and amounts of contributions to a campaign and the expenditures of the committee. In this case, Respondents failed to timely file 15 late contribution reports for that election for contributions received aggregating \$1,000 or more from a single source. The total amount of contributions not timely reported on these reports is approximately \$323,314, which is approximately 1% of the total contributions received by Respondent Committee during the audit period. The amounts not reported vary and the majority of these contributions were not reported by the contributors since most were received from individuals, not other committees.

Although there are no cases that are similar in size and amount of contributions received that have been considered by the Commission in the recent past, *In the Matter of Abel Maldonado, Abel Maldonado for Senate, Christopher J. Raymer, and Chris Steinbruner*, FPPC No. 10/070, a two million dollar campaign for State Controller, the Commission approved a \$2,000 penalty per count for \$75,000 in late contributions received, which totaled almost 4% of the total contributions received by that committee during the audit period. In the *Maldonado* case, the violations were charged as one count per day. The Commission also approved a \$3,000 penalty for contributions of smaller amounts, though they made up a large percentage of the amount raised by that committee (*In the Matter of Arturo Chacon and Art Chacon for Water Board 2010*, FPPC No. 08/652). Both of these previous cases also dealt with multiple other reporting violations. After taking the specific facts of this case into consideration, including the

fact that the 15 required reports have been compressed into these eight counts each encompassing between \$17,000 and \$95,552 in contributions received, which is different than the per day charging in the *Maldonado* matter which resulted in a lower penalty amount per count but a higher number of counts, a fine amount of \$3,000 per violation is recommended for these late contribution reports not timely filed for contributions received.

\$1,000 Reports: Respondents failed to disclose 63 contributions of \$1,000 or more totaling \$210,770 during 90-day period before the November 4, 2008 General Election within 24 hours of receipt in online campaign reports. Contributions were not reported in 17 separate online reports. With regard to the \$1,000 online reporting violations, the typical administrative penalty for failing to file online reports within 24 hours disclosing contributions of \$1,000 or more received during the election cycle have historically resulted in penalties around \$2,000, depending on the facts of the case. *In the Matter of Abel Maldonado, et al*, FPPC No. 10/070, mentioned above, the Commission adopted a penalty of \$2,000 per count for failing to report 40 contributions in eight separate online campaign election cycle reports, totaling \$61,600. The counts were charged per day and ranged from a low of \$3,000 for one day to a high of \$15,400 for another day. *In the Matter of No on 54: Teachers, Workers, Healthcare, Civil Liberties & Entertainment Groups and Abdi Soltani*, FPPC No. 05/527, the Commission, at the September 11, 2008 Commission meeting, imposed penalties ranging from \$1,500 - \$2,500 on a committee that raised and spent over \$5.2 million and failed to report seven contributions totaling \$90,282 within 24 hours of receipt in an online report. The counts were charged per day and the penalty amount varied based on the amount not reported that day. In this matter, 17 required reports have been combined into these five counts totaling between \$27,500 and \$71,342. Therefore, a penalty amount of \$2,500 per count is recommended.

\$5,000 Reports: In this matter, Respondent Committee received contributions of \$5,000 or more on or about May 30, 2008 and November 5, 2008 through November 16, 2008. Respondents failed to disclose these contributions on \$5,000 online reports which would have shown a total of \$18,609 received in increments of \$5,000 or more on May 30, 2008 and a total of \$173,747 received on November 5, 2008 through November 16, 2008. *In the Matter of Abel Maldonado, et al*, FPPC No. 10/070, mentioned above, the Commission adopted a penalty of \$2,000 per count for four counts consisting of 18 contributions received totaling \$721,572. *In the Matter of Michael Glover, Michael G. Glover for Assembly, Glover for Assembly 2008, Committee to Elect Mike Glover for 70th AD, 2010, and Doris Neel*, FPPC No. 09/615, approved in part by the Commission as a default decision on April 11, 2011, the Commission approved a penalty of \$1,500 for the missing \$5,000 online report which would have disclosed a \$27,000 loan the Respondent gave to his own campaign. In this matter, a fine amount of \$2,000 for each of the two reports that were missed which would have disclosed 6 contributions of \$5,000 or more is recommended.

Occupation and Employer Information: Penalties for violations regarding disclosure of contributor information have varied widely based on the circumstances. *In the Matter of San Bernardino County Safety Employees' Benefit Association, Local PAC; Colin McKenzie; and William Abernathie*, FPPC No. 08/113, a \$3,000 fine was levied by the Commission at the February 11, 2010 meeting regarding the non-reporting of a large amount of members who reached the \$100 threshold through dues payments to the committee. At that same meeting, *In*



*the Matter of Marco Robles, Committee to Elect Marco A. Robles, and Rosa Lira*, FPPC No. 08/329, was approved with a \$1,000 penalty for missing occupation and employer information for a less sophisticated committee who failed to disclose multiple contributors over several reporting periods but amended promptly when requested to do so. Here, Respondents failed to disclose occupation and/or employer information for 791 persons for four reporting periods who contributed \$100 or more, totaling \$162,744, which is less than 1% of the total contributions received by Respondent Committee during these four reporting periods surrounding the election. In mitigation, although these contributions were not returned within the statutory deadline of within 60 days, 666 contributions totaling \$143,318 were returned to donors after the election on March 10, 2009. In light of the multiple reporting periods included in this count but taking into consideration the relatively low total amount and percentage of all contributions received during these periods, a penalty of \$2,000 is proposed for this lack of reporting.

Accordingly, the facts of this case justify imposition of a total administrative penalty of \$42,500.