

## EXHIBIT 1

### INTRODUCTION

Respondent Human Rights Campaign California Marriage PAC – No On Prop 8 Committee (“Respondent Committee”) was, at all times relevant herein, a state primarily formed committee. At all times relevant, Respondent James Rinefierd (“Respondent Rinefierd”) served as treasurer of Respondent Committee. Respondent Committee was sponsored by the Human Rights Campaign, a national advocacy organization established under Section 501(c)(4) of the Internal Revenue Code. This case arose from the 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 \$3,628,462 and making expenditures of approximately \$3,631,262.

As a primarily formed committee under the Political Reform Act<sup>1</sup> (the “Act”), Respondents had a duty to disclose accurately the contributions received by the committee as well as particular information regarding these contributions. However, Respondents violated the Act’s requirements for reporting of contributions.

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

COUNT 1: Respondents Human Rights Campaign California Marriage PAC – No On Prop 8 Committee and James Rinefierd failed to timely disclose information regarding contributions received, including those of \$100 or more, on a semi-annual campaign statement for the reporting period January 1, 2008 through June 30, 2008, by the July 31, 2008 due date, in violation of Section 84211, subdivisions (a), (c), (d), and (f).

COUNT 2: Respondents Human Rights Campaign California Marriage PAC – No On Prop 8 Committee and James Rinefierd failed to timely disclose information regarding contributions received, including those of \$100 or more, on a pre-election campaign statement for the reporting period July 1, 2008 through September 30, 2008, by the October 6, 2008 due date, in violation of Section 84211, subdivisions (a), (c), (d), and (f).

COUNT 3: Respondents Human Rights Campaign California Marriage PAC – No On Prop 8 Committee and James Rinefierd failed to timely disclose information regarding contributions received, including those of \$100 or more, on a pre-election campaign statement for the reporting period October 1, 2008 through October 18, 2008, by the October 23, 2008 due date, in violation of Section 84211, subdivisions (a), (c), (d), and (f).

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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.

## **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.)

### **Duty to Disclose Contributions on Campaign Statements**

Section 82015 defines a contribution as a payment made for political purposes. Section 84211, subdivision (a), requires committees to disclose the total amount of contributions received during the period covered by the campaign statement. Subdivision (c) of Section 84211 requires that the total amount of contributions of \$100 or more received must be disclosed and subdivision (d) requires that the total amount of contributions totaling less than \$100 also be disclosed. Additionally, Section 84211, subdivision (f), requires a committee to disclose 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 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. “Cumulative amount” means the amount of contributions received in the calendar year. (Section 82018, subd. (a).)

A monetary contribution is “received” on the date the committee, or the agent of the committee, obtains possession or control of the check or other negotiable instrument by which the contribution is made. (Regulation 18421.1, subd. (c).)

### **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 was a state primarily formed committee formed to oppose Proposition 8 in the November 4, 2008 General Election. At all times relevant, Respondent Rinefierd served as treasurer of Respondent Committee, which was sponsored by the Human Rights Campaign.

COUNTS 1 - 3

**Failure to Timely Disclose Required Information For Contributions Received**

Respondents had a duty to timely report the total amount of contributions received each period. These totals are required to include the total amount of contributions received, the total amount of contributions received of \$100 or more, and the total amount of contributions received of less than \$100. In addition, Respondents had a duty to itemize and disclose specific information regarding contributions received of \$100 or more. However, according to Respondents' campaign statements and the bank records, Respondents failed to timely disclose some monetary contributions received on three campaign statements for the reporting periods ending June 30, 2008, September 30, 2008, and October 18, 2008. In addition, Respondents erroneously reported some contributions which were not received. Respondents filed amendments after the election to remove these contributions from the campaign statements and to add the missing contribution information.

The information for the contributions received of \$100 or more that were not disclosed, the contributions reported of \$100 or more that were reported in error, and the amount of contributions received of less than \$100 that were not reported are listed below by reporting period.

<b>Reporting Period</b>	<b>Contributions Rec'd: Not Disclosed (≥ \$100)</b>	<b>Total Amount</b>	<b>Contributions Rptd But Not Received</b>	<b>Total Amount</b>	<b>Contributions Rec'd: Not Reported (&lt; \$100)</b>	<b>Amount Cash Balance Under reported</b>
<b>1/1/08 – 6/30/08</b>	46 contributions	\$12,350	6 contributions	\$3,800	\$5,739	\$14,289
<b>7/1/08 – 9/30/08</b>	249 contributions	\$63,936	23 contributions	\$8,257	\$27,697	\$83,376
<b>10/1/08 – 10/18/08</b>	33 contributions	\$46,250	7 contributions	\$31,560	\$8,225	\$22,915

By failing to timely disclose the total amount of contributions received, the total amount of contributions received of \$100 or more, the total amount of contributions received of less than

\$100, and the information regarding contributions of \$100 or more, Respondents violated Section 84211, subdivisions (a), (c), (d) and (f) of the Government Code.

## CONCLUSION

This matter consists of three 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.

Required Information For Contributions Received: The public harm inherent in campaign reporting violations is that the public is deprived of important information such as the contributors to the committee and the correct cash balances. At the March 15, 2012 Commission meeting, the Commission approved a \$3,500 fine *In the Matter of Davis Democratic Club and Elizabeth R. Weir*, FPPC No. 08/390 for violations including contributions not reported, contributions incorrectly reported and expenditures not reported. This fine was higher than the typical, mid-range fine since it *combined* contributions and expenditures not reported into a single count. At the same meeting, the Commission approved a \$2,000 per count penalty for *In the Matter of Vasquez for Downey Council 2010 and Jane Leiderman*, FPPC No. 11/057 for failure to report contributions. The amounts not reported in that case were smaller than in the current case; however, Respondents in both cases had undertaken steps to cure reporting errors and amended their campaign statements prior to being contacted by the Commission, albeit after the election.

In this case, Respondents assert that the violations were inadvertent and that they had hired a professional compliance firm to prepare the reports in a good faith effort to comply with the applicable disclosure requirements. The evidence reviewed by the Commission suggests that the violations were unintentional. As stated above, following the election, Respondents conducted an internal review of the Committee's finances and, upon their own initiative, filed amendments to remove the incorrect contributions from the campaign statements and to add the missing contribution information. Even though the amounts and the number of contributions are significant, a higher penalty is not being sought because Respondents cooperated fully with the post-election audit and have no prior enforcement history. Based on the foregoing facts and mitigating circumstances, a fine of \$2,000 per count is recommended.

Accordingly, the facts of this case justify imposition of a total proposed administrative penalty of \$6,000.