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9 **BEFORE THE CAMPAIGN FINANCE ETHICS COMMISSION**
10 **COUNTY OF VENTURA**

11 In the Matter of:

12 PETER FOY FOR SUPERVISOR COMMITTEE,
13 Respondent.

CASE NO. 2006-08

STIPULATION, FINDINGS, PROPOSED
DECISION AND ORDER

14
15 Respondent Peter Foy for Supervisor Committee (“Respondent”) and Petitioner hereby
16 stipulate and agree as follows:

17 This Stipulation, Findings, Proposed Decision and Order (the “Stipulation”), addresses an
18 alleged violation of the Ventura County Campaign Finance Reform Ordinance (the “Ordinance”).

19 The Stipulation will be submitted for consideration by the Ventura County Campaign
20 Finance Ethics Commission (the “Commission”) at its meeting scheduled on April 20, 2007, or as
21 soon thereafter as the Commission determines the matter may be heard.

22 The promises, obligations and admissions contained herein are contingent upon the approval
23 of the Stipulation by the Commission.

24 The Stipulation, once approved, shall resolve all factual and legal issues raised in this matter
25 and is intended to accomplish a final disposition without the necessity of holding an administrative
26 hearing to determine the liability of Respondent.

27 Respondent understands and hereby knowingly and voluntarily waives any and all procedural
28 rights in this matter under the Ordinance, including but not limited to a right to a determination of

1 probable cause, the issuance and receipt of a complaint, discovery, an evidentiary hearing with the
2 right to examine and cross examine witnesses, and judicial review.

3 Respondent stipulates that it violated the Ordinance by receiving excess contributions as
4 described in the Findings, attached hereto and incorporated herein by reference, and that the
5 Findings constitute a true and accurate summary of the facts in this matter.

6 The maximum administrative penalty in this matter is \$5,000 per violation or three times the
7 amount or value not properly reported or improperly received or expended, whichever is greater.
8 (See Ordinance sections 1294 and 1295(p).) As set forth in the Findings, in this case there was one
9 violation and an overage of \$600.

10 Because the amount in excess is less than \$1,000, there is no prior history of violation, and
11 the existence of other mitigating factors and the lack of aggravating factors, Petitioner recommends
12 that the Commission not assess a monetary penalty in this matter.

13 The parties agree that in the event the Commission chooses not to approve of the Stipulation
14 in its entirety, the Stipulation shall become null and void and may not be used for any purpose.
15 Respondent further stipulates and agrees that if the Commission chooses not to approve of the
16 Stipulation and an evidentiary hearing before the Commission is necessary, no member of the
17 Commission or any staff to the Commission, including the undersigned investigator, shall be
18 disqualified because of prior communications or considerations with respect to the Stipulation.

19 SO STIPULATED:

20
21 DATED: 4/20/02

COLANTUONO & LEVIN, PC

22 
23 KENNETH C. HARDY
Investigator & Petitioner

24
25 DATED: 4-17-2007

PETER FOY FOR SUPERVISOR COMMITTEE
26 By: 
27 PETER FOY
28

FINDINGS (Stipulated)
CASE NO. 2006-08

On June 2, 2006, the Peter Foy for Supervisor Committee (the "Committee") received the following "late contributions": \$300.00 from Joe Cassella; \$300.00 from Gina Cassella; \$300.00 from "Simi Pacific Building Materials"; and \$300.00 from "Pacific Building Materials, Inc." The Committee submitted a Late Contribution Report (Form 497) on June 5, 2006, which identifies Joe Cassella and Gina Cassella as owners of Simi Pacific Building Material.

At the time the contributions were made: Simi Pacific Building Materials and Pacific Building Materials, Inc., were the same entity or very closely affiliated entities; Joe Cassella and Gina Cassella were owners of both entities; Joe Cassella had an ownership interest of more than 50 percent in both entities; Joe Cassella directed and controlled both entities.

The \$300.00 contribution from Pacific Building Materials, Inc., and the \$300.00 contribution from Simi Pacific Building Materials shall be treated as contributions from Joe Cassella, pursuant to Ventura County Campaign Finance Reform Ordinance (the "Ordinance") sections 1282 and 1288. Section 1282 provides: "All contributions by a person made to a county candidate, including contributions which are in any way earmarked or otherwise directed to the candidate through an intermediary or conduit, are contributions from the person to the candidate." Section 1288(b) provides: "For purposes of the contribution limits contained in this ordinance, two or more entities shall be treated as one person when any of the following circumstances apply: . . . (5) . . . an individual and any corporation in which the individual owns a controlling interest [fifty percent (50%) or more], or an individual and any entity in which the individual has the authority to direct and control the contribution decisions of the entity." (See also Government Code section 85311; California Code of Regulations, title 2, section 18215.1.)

VIOLATION

COUNT 1: EXCESS CONTRIBUTION RECEIVED

[Violation of Ordinance Section 1267]

At the time in question, Peter Foy was a non-participating candidate. Ordinance section 1264(e) defines a non-participating candidate as a candidate who has not agreed to limit his or her

1 expenditures pursuant to Ordinance Section 1265. As a non-participating candidate, Peter Foy was
2 subject to campaign contribution limits set forth in Ordinance section 1267. Section 1267(a)
3 provides in pertinent part that “no person shall make to any county candidate, or the controlled
4 committee of such a candidate . . . and no such county candidate, or controlled committee of such
5 candidate shall accept from a person[,] any contribution totaling more than three hundred dollars
6 (\$300) for each of the following elections for which the individual is a candidate: a primary election
7 or a general (runoff) election.”

8 Since the two \$300.00 contributions from the business entities in question shall be treated as
9 contributions from Joe Cassella, for purposes of the Ordinance the Peter Foy for Supervisor
10 Committee accepted \$900.00 in total contributions from Joe Cassella, which is \$600.00 above the
11 maximum \$300.00 allowed in Ordinance section 1267.

12 FACTORS IN MITIGATION

13 Neither Peter Foy nor the Peter Foy for Supervisor Committee has a history of violation of
14 the Ordinance. The Peter Foy for Supervisor Committee returned the two \$300 contributions from
15 the business entities within five days of being notified by the Elections Division of the violation.
16 Peter Foy has cooperated with the investigation in this matter.

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COLANTUONO & LEVIN, PC

DATED: 4/20/07

Kenneth C. Hardy
KENNETH C. HARDY
Investigator & Petitioner

RESPONDENT PETER FOY FOR SUPERVISOR
COMMITTEE

DATED: 4-17-2007

By: Peter Foy
PETER FOY

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DECISION AND ORDER

The Ventura County Campaign Finance Ethics Commission, having reviewed the Stipulation and Findings at its meeting on _____, hereby adopts such Stipulation and Findings as its final decision and determination in Case No. 2006-08. It is hereby ordered that, in accordance with the Stipulation, the Peter Foy for Supervisor Committee shall not pay any fine or penalty in Case No. 2006-08.

DATE: _____

Honorable William L. Peck
Chair, Campaign Finance Ethics Commission