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1 Kenneth C. Hardy
2 COLANTUONO & LEVIN, PC
3 555 West 5th Street, 31st Floor
4 Los Angeles, California 90013
5 Telephone: (213) 533-4206
6 Facsimile: (213) 533-4191
7 khardy@cclaw.us

8 Investigator/Petitioner

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

11 In the Matter of:

12 FRIENDS OF STEVE BENNETT,

13 Respondent.

CASE NO. 2007-01

NOTICE OF MOTION AND MOTION TO
DISMISS COMPLAINT; MEMORANDUM
OF POINTS AND AUTHORITIES;
PROPOSED DECISION AND ORDER

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16 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

17 PLEASE TAKE NOTICE that at the next regularly scheduled meeting of the Ventura County
18 Campaign Finance Ethics Commission (the "Commission"), which meeting shall take place at the
19 County Government Center, Hall of Administration, Board of Supervisors Hearing Room, 800 South
20 Victoria Avenue, California 93009, Petitioner will move the Commission to dismiss Complaint No.
21 2007-01 in its entirety. Petitioner files this motion pursuant to Section 13.03 of the Ventura County
22 Campaign Finance Ethics Commission Operating Policies (the "Operating Policies"), revised and
23 adopted July 11, 2007.
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1 The motion to dismiss is based on the memorandum of points and authorities filed
2 concurrently herewith and any oral argument and additional material presented to the Commission at
3 the hearing on the matter.

4 DATED: August 22, 2007

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7 KENNETH C. HARDY
8 Investigator & Petitioner
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MEMORANDUM OF
POINTS AND AUTHORITIES

I.

FACTS

Respondent Steve Bennett¹ is a member of the Ventura County Board of Supervisors. On June 4, 2007, Respondent filed with Ventura County a Form 501 "Candidate Intention Statement," indicating his intent to seek reelection to the Board. A direct primary election is scheduled for June 3, 2008. On June 4, 2007, according to filed reports, Respondent's controlled committee had a cash balance of more than \$10,000.² On June 25, 2007, Respondent filed a Form 410 "Statement of Organization," which contains basic information about Respondent's controlled committee. On July 12, 2007, Respondent filed an electronic version of Form 410.³

On July 12, 2007, Carroll Dean Williams filed a complaint with the Ventura County Campaign Finance Commission. It does not expressly allege how Respondent violated the Ventura County Campaign Finance Reform Ordinance (the "Ordinance"), although it refers to Section 1278(a), which provides in part: "Any county candidate and the candidate's controlled committee that raises or spends at least ten thousand dollars (\$10,000) . . . in any county election in support of or opposition to a county candidate, shall file all campaign statements in a format that is approved by the Clerk for electronic filing." The complaint suggests that Respondent violated Section 1278(a) because Respondent did not electronically file a Form 410 until July 12, 2007.

II.

ANALYSIS

Respondent did not violate Section 1278(a). First, assuming *arguendo* that Respondent was subject to Section 1278 when he filed the Form 501 (indicating his intent to run for reelection) due to the cash balance of his committee at the time of this filing,⁴ we note that Section 1278 is silent as to

¹ Respondent means Steve Bennett and/or the Friends of Steve Bennett (a controlled committee of Mr. Bennett).

² See Exhibit 1. Respondent's controlled committee reported an ending cash balance of \$64,634.41 as of December 31, 2006, and reported raising more cash (and spending very little), between January 1 and June 30, 2007.

³ See Exhibit 2.

⁴ There are a number of issues, such as how to treat funds raised during a prior election and carried over to a new election, and how to determine when a "county election" exists for purposes of Section 1278, that are relevant to determine whether and when Respondent triggered the obligations under Section 1278. These do need to be addressed in

1 the number of days within which Respondent had to submit electronic filings once the \$10,000
2 threshold had been met. Therefore, under the circumstances of this case,⁵ the text of Section 1278
3 does not expressly require a conclusion that Respondent's electronic filing of the Form 410 eight
4 days after he declared his intent to run for reelection violated Section 1278.

5 Second, although Section 1278 provides that a candidate or committee "shall file all
6 campaign statements" electronically, this wording is ambiguous given that the Fair Political
7 Practices Commission describes the range of campaign documents to include not just "statements"
8 but also "reports" and "forms." Section 1275 clearly extends to the various reports of contributions
9 and expenditures. But it is not clear, absent controlling guidelines, policies, or practices of the
10 County, that it extends to Form 410.

11 Third, no guidelines, policies, or practices of the County⁶ suggest that Respondent violated
12 Section 1278. The County Clerk and Recorder recently stated in a memorandum dated August 20,
13 2007, that it was apparently unclear whether Form 410 had to be filed electronically for the current
14 election cycle, and that "[b]ecause this is the beginning of our second elected officer cycle using the
15 online system, I do not consider the time between filing paper copies of Form 410 and the online
16 updating of the Form 410 by committee treasurers a violation of the County Ordinance in this
17 specific circumstance." This position is reasonable. We note it is limited to this circumstance.

18 **Conclusion**

19 Based on the foregoing, we respectfully request that the Campaign Finance Ethics
20 Commission dismiss Case No. 2007-01 in its entirety.

21 DATED: August 22, 2007

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23 
24 KENNETH C. HARDY
25 Investigator & Petitioner
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27 this case because of other issues discussed herein. We reserve the right to examine and argue these issues in the future.

28 ⁵ These circumstances include, among other things, the very early stage of the election cycle.

⁶ We do not discuss at this time the extent they are legally relevant in determining whether a violation of Section 1278 has occurred.

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DECISION AND ORDER

The Ventura County Campaign Finance Ethics Commission, having reviewed the Motion for Dismissal, supporting papers, any opposition, and oral arguments, at its meeting on _____, hereby grants the Motion for Dismissal in its entirety. It is hereby ordered that all complaints and charges in Case No. 2007-01 are dismissed.

DATE: _____

Honorable William L. Peck
Chair, Campaign Finance Ethics Commission

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555 West 5th Street, 31st Floor
Los Angeles, CA 90013