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3 **FAIR POLITICAL PRACTICES COMMISSION**
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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
10
11

12 In the Matter of) FPPC No. 12/662
13)
14 GEORGE SHIRAKAWA, GEORGE) STIPULATION, DECISION and
SHIRAKAWA FOR SCHOOL BOARD, AND) ORDER
15 SHIRAKAWA FOR SUPERVISOR)
16 Respondents.)
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18 Complainant the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents George Shirakawa, George Shirakawa for School Board, and Shirakawa for Supervisor
20 agree that this Stipulation will be submitted for consideration by the Fair Political Practices Commission
21 at its next regularly scheduled meeting.

22 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
23 matter and to reach a final disposition without the necessity of holding an administrative hearing to
24 determine the liability of the Respondent, pursuant to Section 83116 of the Government Code.

25 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
26 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
27 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
28 the right to personally appear at any administrative hearing held in this matter, to be represented by an

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

4 It is further stipulated and agreed that Respondents George Shirakawa, George Shirakawa for
5 School Board, and Shirakawa for Supervisor violated the Political Reform Act by making expenditures
6 that were unrelated to a political, legislative, or governmental purpose, in violation of Government Code
7 Section 89512 (10 counts). These counts are described in Exhibit 1, which is attached hereto and
8 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
9 the facts in this matter.

10 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
11 Respondent also agrees to the Commission imposing upon them an administrative penalty in the amount
12 of Fifty Thousand Dollars (\$50,000). A cashier's check from Respondents in said amount, made
13 payable to the "General Fund of the State of California," is submitted with this Stipulation as full
14 payment of the administrative penalty, to be held by the State of California until the Commission issues
15 its decision and order regarding this matter. The parties agree that in the event the Commission refuses
16 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
17 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
18 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
19 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
20 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
21 shall be disqualified because of prior consideration of this Stipulation.

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23 Dated: _____

Gary S. Winuk, Chief of Enforcement
Fair Political Practices Commission

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25
26 Dated: _____

Respondent George Shirakawa, Individually
and on behalf of George Shirakawa for School
Board, and Shirakawa for Supervisor, Respondents

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of George Shirakawa, George Shirakawa
3 for School Board, and Shirakawa for Supervisor,” FPPC No. 12/662, including all attached exhibits, is
4 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective
5 upon execution below by the Chair.

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7 **IT IS SO ORDERED.**

8
9 Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent George Shirakawa was a member of the governing board of the East Side Union High School District and the Santa Clara County Board of Supervisors at all times relevant to this complaint. He had served as a school board member, prior to his election as a supervisor in 2008.

Respondent Committee “George Shirakawa for School Board” (“School Board Committee”) qualified as a candidate controlled recipient committee under the Political Reform Act (the “Act”)¹ on or about October 24, 2002, upon the filing of a statement of organization. Paz Rocha was the treasurer for this committee. Respondent Shirakawa ran for, and was elected to, a seat on the governing board of the East Side Union High School District in the 2002 and 2006 elections.

Respondent Committee “Shirakawa for Supervisor” (“Supervisor Committee”) qualified as a candidate controlled recipient committee under the Act on or about November 7, 2007, upon the filing of a statement of organization. Linda Delgado was the treasurer for this committee. Respondent ran for, and was elected to, the office of Santa Clara County Supervisor in 2008.

Respondent Shirakawa made numerous personal expenditures of funds from the campaign bank accounts of both committees, with a bank card issued in his name and subject to his personal control. This settlement has been reached in conjunction with criminal prosecution by the Santa Clara County District Attorney’s Office, where Respondent Shirakawa has been charged with felony perjury in connection with the filing of campaign statements, and misdemeanors for campaign disclosure statement filing violations.

Respondents violated the Act by making expenditures totaling approximately \$131,670 that were unrelated to a political, legislative, or governmental purpose.

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

COUNT 1: On or between July 1, 2008, and August 10, 2008, Respondents George Shirakawa, George Shirakawa for School Board, and Shirakawa for Supervisor, made 24 expenditures totaling approximately \$24,432.19 that were unrelated to a political, legislative, or governmental purpose, in violation of Section 89512.

COUNT 2: On or between August 18, 2008, and December 29, 2008, Respondents George Shirakawa, and Shirakawa for Supervisor, made 8 expenditures totaling

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 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.

approximately \$15,038.95 that were unrelated to a political, legislative, or governmental purpose, in violation of Section 89512.

- COUNT 3: On or between January 12, 2009, and June 24, 2009, Respondents George Shirakawa, and Shirakawa for Supervisor, made 34 expenditures totaling approximately \$35,498.61 that were unrelated to a political, legislative, or governmental purpose, in violation of Section 89512.
- COUNT 4: On or between July 3, 2009, and December 29, 2009, Respondents George Shirakawa, and Shirakawa for Supervisor, made 21 expenditures totaling approximately \$15,507.32 that were unrelated to a political, legislative, or governmental purpose, in violation of Section 89512.
- COUNT 5: On or between January 4, 2010, and May 3, 2010, Respondents George Shirakawa, and Shirakawa for Supervisor, made 11 expenditures totaling approximately \$11,184.91 that were unrelated to a political, legislative, or governmental purpose, in violation of Section 89512.
- COUNT 6: On or between July 7, 2010, and July 12, 2010, Respondents George Shirakawa, and Shirakawa for Supervisor, made 5 expenditures totaling approximately \$5,204.42 that were unrelated to a political, legislative, or governmental purpose, in violation of Section 89512.
- COUNT 7: On or between February 1, 2011, and June 6, 2011, Respondents George Shirakawa, and Shirakawa for Supervisor, made 16 expenditures totaling approximately \$11,677.90 that were unrelated to a political, legislative, or governmental purpose, in violation of Section 89512.
- COUNT 8: On or between August 18, 2011, and December 5, 2011, Respondents George Shirakawa, and Shirakawa for Supervisor, made 11 expenditures totaling approximately \$7,487.94 that were unrelated to a political, legislative, or governmental purpose, in violation of Section 89512.
- COUNT 9: On or between January 31, 2012, and June 25, 2012, Respondents George Shirakawa, and Shirakawa for Supervisor, made 12 expenditures totaling approximately \$4,471.93 that were unrelated to a political, legislative, or governmental purpose, in violation of Section 89512.
- COUNT 10: On or between July 2, 2012, and July 5, 2012, Respondents George Shirakawa, and Shirakawa for Supervisor, made 5 expenditures totaling approximately \$1,165.98 that were unrelated to a political, legislative, or governmental purpose, in violation of Section 89512.

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.

Section 82013, subdivision (a), defines a “committee” to include any person who receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly known as a “recipient committee.” A committee controlled directly or indirectly by a candidate, or that acts jointly with a candidate, is known as a candidate-controlled committee. (Section 82016.)

Prohibition Against the Personal Use of Campaign Funds

All contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office. (Section 89510, subdivision (b).) Under Section 89512, an expenditure to seek office is within the lawful execution of the trust imposed by Section 89510 if it is *reasonably related* to a political purpose.

SUMMARY OF THE FACTS

Respondent George Shirakawa was a member of the governing board of the East Side Union High School District and the Santa Clara County Board of Supervisors at all times relevant to this complaint.

Respondent School Board Committee qualified as a candidate controlled recipient committee under the Political Reform Act on or about October 24, 2002, upon the filing of a statement of organization. Respondent Committee Supervisor Committee qualified as a candidate controlled recipient committee under the Act on or about November 7, 2007, upon the filing of a statement of organization.

Respondent Shirakawa made numerous personal expenditures of funds from the campaign bank accounts of both committees, with a bank card issued in his name and subject to his personal control. These personal expenditures consisted of cash withdrawals made at casinos, or at ATM machines in the vicinity of casinos. These expenditures totaled approximately \$131,670, and were made over a 5 year time period.

COUNT 1

Making an Expenditure Not Related to a Political, Legislative, or Governmental Purpose

All contributions deposited into Respondent Committees’ campaign account were held in trust for expenses associated with Respondent Shirakawa’s s election to public office, or for expenses associated with his holding office. (Section 89510, subd. (b).) Expenditures for

Respondent Shirakawa to seek office were within the lawful execution of the trust imposed by Section 89510 as long as they were *reasonably related* to a political, legislative, or governmental purpose. (Section 89512.)

In this matter, according to Respondent Committees' bank records and Respondent Shirakawa's admission, Respondents made 24 expenditures to Respondent Shirakawa between July 1, 2008, and August 10, 2008, totaling \$24,432.19. Respondent Shirakawa admits he used these funds for gambling. The expenditures, therefore, were neither reasonably nor directly related to a political, legislative, or governmental purpose.

By making expenditures not reasonably nor directly related to a political, legislative, or governmental purpose, Respondents violated Section 89512.

COUNT 2

Making an Expenditure Not Related to a Political, Legislative, or Governmental Purpose

All contributions deposited into Respondent Committee's campaign account were held in trust for expenses associated with Respondent Shirakawa's election to public office, or for expenses associated with his holding office. (Section 89510, subd. (b).) Expenditures for Respondent Shirakawa to seek office were within the lawful execution of the trust imposed by Section 89510 as long as they were *reasonably related* to a political, legislative, or governmental purpose. (Section 89512.)

In this matter, according to Respondent Committee's bank records and Respondent Shirakawa's admission, Respondents made 8 expenditures to Respondent Shirakawa between August 18, 2008, and December 29, 2008, totaling \$15,038.95. Respondent Shirakawa admits he used these funds for gambling. The expenditures, therefore, were neither reasonably nor directly related to a political, legislative, or governmental purpose.

By making expenditures not reasonably nor directly related to a political, legislative, or governmental purpose, Respondents violated Section 89512.

COUNT 3

Making an Expenditure Not Related to a Political, Legislative, or Governmental Purpose

All contributions deposited into Respondent Committee's campaign account were held in trust for expenses associated with Respondent Shirakawa's election to public office, or for expenses associated with his holding office. (Section 89510, subd. (b).) Expenditures for Respondent Shirakawa to seek office were within the lawful execution of the trust imposed by Section 89510 as long as they were *reasonably related* to a political, legislative, or governmental purpose. (Section 89512.)

In this matter, according to Respondent Committee's bank records and Respondent Shirakawa's admission, Respondents made 34 expenditures to Respondent Shirakawa between

January 12, 2009, and June 24, 2009, totaling \$35,498.61. Respondent Shirakawa admits he used these funds for gambling. The expenditures, therefore, were neither reasonably nor directly related to a political, legislative, or governmental purpose.

By making expenditures not reasonably nor directly related to a political, legislative, or governmental purpose, Respondents violated Section 89512.

COUNT 4

Making an Expenditure Not Related to a Political, Legislative, or Governmental Purpose

All contributions deposited into Respondent Committee's campaign account were held in trust for expenses associated with Respondent Shirakawa's election to public office, or for expenses associated with his holding office. (Section 89510, subd. (b).) Expenditures for Respondent Shirakawa to seek office were within the lawful execution of the trust imposed by Section 89510 as long as they were *reasonably related* to a political, legislative, or governmental purpose. (Section 89512.)

In this matter, according to Respondent Committee's bank records and Respondent Shirakawa's admission, Respondents made 21 expenditures to Respondent Shirakawa between July 3, 2009, and December 29, 2009, totaling \$15,507.32. Respondent Shirakawa admits he used these funds for gambling. The expenditures, therefore, were neither reasonably nor directly related to a political, legislative, or governmental purpose.

By making expenditures not reasonably nor directly related to a political, legislative, or governmental purpose, Respondents violated Section 89512.

COUNT 5

Making an Expenditure Not Related to a Political, Legislative, or Governmental Purpose

All contributions deposited into Respondent Committee's campaign account were held in trust for expenses associated with Respondent Shirakawa's election to public office, or for expenses associated with his holding office. (Section 89510, subd. (b).) Expenditures for Respondent Shirakawa to seek office were within the lawful execution of the trust imposed by Section 89510 as long as they were *reasonably related* to a political, legislative, or governmental purpose. (Section 89512.)

In this matter, according to Respondent Committee's bank records and Respondent Shirakawa's admission, Respondents made 11 expenditures to Respondent Shirakawa between January 4, 2010, and May 3, 2010, totaling \$11,184.91. Respondent Shirakawa admits he used these funds for gambling. The expenditures, therefore, were neither reasonably nor directly related to a political, legislative, or governmental purpose.

By making expenditures not reasonably nor directly related to a political, legislative, or governmental purpose, Respondents violated Section 89512.

COUNT 6

**Making an Expenditure Not Related to a
Political, Legislative, or Governmental Purpose**

All contributions deposited into Respondent Committee's campaign account were held in trust for expenses associated with Respondent Shirakawa's election to public office, or for expenses associated with his holding office. (Section 89510, subd. (b).) Expenditures for Respondent Shirakawa to seek office were within the lawful execution of the trust imposed by Section 89510 as long as they were *reasonably related* to a political, legislative, or governmental purpose. (Section 89512.)

In this matter, according to Respondent Committee's bank records and Respondent Shirakawa's admission, Respondents made 5 expenditures to Respondent Shirakawa between July 7, 2010, and July 12, 2010, totaling \$5,204.42. Respondent Shirakawa admits he used these funds for gambling. The expenditures, therefore, were neither reasonably nor directly related to a political, legislative, or governmental purpose.

By making expenditures not reasonably nor directly related to a political, legislative, or governmental purpose, Respondents violated Section 89512.

COUNT 7

**Making an Expenditure Not Related to a
Political, Legislative, or Governmental Purpose**

All contributions deposited into Respondent Committee's campaign account were held in trust for expenses associated with Respondent Shirakawa's election to public office, or for expenses associated with his holding office. (Section 89510, subd. (b).) Expenditures for Respondent Shirakawa to seek office were within the lawful execution of the trust imposed by Section 89510 as long as they were *reasonably related* to a political, legislative, or governmental purpose. (Section 89512.)

In this matter, according to Respondent Committee's bank records and Respondent Shirakawa's admission, Respondents made 16 expenditures to Respondent Shirakawa between February 1, 2011, and June 6, 2011, totaling \$11,677.90. Respondent Shirakawa admits he used these funds for gambling. The expenditures, therefore, were neither reasonably nor directly related to a political, legislative, or governmental purpose.

By making expenditures not reasonably nor directly related to a political, legislative, or governmental purpose, Respondents violated Section 89512.

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COUNT 8

**Making an Expenditure Not Related to a
Political, Legislative, or Governmental Purpose**

All contributions deposited into Respondent Committee's campaign account were held in trust for expenses associated with Respondent Shirakawa's election to public office, or for expenses associated with his holding office. (Section 89510, subd. (b).) Expenditures for Respondent Shirakawa to seek office were within the lawful execution of the trust imposed by Section 89510 as long as they were *reasonably related* to a political, legislative, or governmental purpose. (Section 89512.)

In this matter, according to Respondent Committee's bank records and Respondent Shirakawa's admission, Respondents made 11 expenditures to Respondent Shirakawa between August 18, 2011, and December 5, 2011, totaling \$7,487.94. Respondent Shirakawa admits he used these funds for gambling. The expenditures, therefore, were neither reasonably nor directly related to a political, legislative, or governmental purpose.

By making expenditures not reasonably nor directly related to a political, legislative, or governmental purpose, Respondents violated Section 89512.

COUNT 9

**Making an Expenditure Not Related to a
Political, Legislative, or Governmental Purpose**

All contributions deposited into Respondent Committee's campaign account were held in trust for expenses associated with Respondent Shirakawa's election to public office, or for expenses associated with his holding office. (Section 89510, subd. (b).) Expenditures for Respondent Shirakawa to seek office were within the lawful execution of the trust imposed by Section 89510 as long as they were *reasonably related* to a political, legislative, or governmental purpose. (Section 89512.)

In this matter, according to Respondent Committee's bank records and Respondent Shirakawa's admission, Respondents made 12 expenditures to Respondent Shirakawa between January 31, 2012, and June 25, 2012, totaling \$4,471.93. Respondent Shirakawa admits he used these funds for gambling. The expenditures, therefore, were neither reasonably nor directly related to a political, legislative, or governmental purpose.

By making expenditures not reasonably nor directly related to a political, legislative, or governmental purpose, Respondents violated Section 89512.

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COUNT 10

Making an Expenditure Not Related to a Political, Legislative, or Governmental Purpose

All contributions deposited into Respondent Committee's campaign account were held in trust for expenses associated with Respondent Shirakawa's election to public office, or for expenses associated with his holding office. (Section 89510, subd. (b).) Expenditures for Respondent Shirakawa to seek office were within the lawful execution of the trust imposed by Section 89510 as long as they were *reasonably related* to a political, legislative, or governmental purpose. (Section 89512.)

In this matter, according to Respondent Committee's bank records and Respondent Shirakawa's admission, Respondents made 5 expenditures to Respondent Shirakawa between July 2, 2012, and July 5, 2012, totaling \$7,487.94. Respondent Shirakawa admits he used these funds for gambling. The expenditures, therefore, were neither reasonably nor directly related to a political, legislative, or governmental purpose.

By making expenditures not reasonably nor directly related to a political, legislative, or governmental purpose, Respondents violated Section 89512.

CONCLUSION

This matter consists of ten counts, which carries a maximum possible administrative penalty of Five Thousand Dollars (\$5,000) per count, for a total of Fifty Thousand Dollars (\$50,000).

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division 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. The Enforcement Division also considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6), which include: 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; whether there was a pattern of violations; and whether upon learning of the violation the Respondent voluntarily filed amendment to provide full disclosure. Additionally, liability under the Act is governed in significant part by the provisions of Section 91001, subdivision (c), which requires the Commission to consider whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith, in applying remedies and sanctions.

The typical administrative penalty for personal use of campaign funds has been in the upper end of the penalty range.

A Recent stipulation involving personal use of campaign funds includes:

In the Matter of Ken Bukowski and Citizens to Elect Ken Bukowski, FPPC No. 06/029 (Default). In this matter, Respondent made eleven expenditures, totaling \$2,290, that were not related to a political, legislative or governmental purpose. Respondent Bukowski also agreed as part of the stipulation to repay the \$2,290 he used for personal expenses to Respondent Committee. The commission approved settlement of this case, with a \$5,000 penalty for this violation, on October 8, 2009.

The personal use of campaign funds is a very serious violation. Respondent Shirakawa's extensive personal use of campaign funds, over a period of 5 years, is one of the most egregious personal use cases seen to date. Respondent Shirakawa has held elected offices for approximately 20 years, and Respondent was aware of the duties imposed by the Act. Respondent Shirakawa withdrew campaign funds for the purpose of gambling, and actively sought to conceal this activity, which he knew to be an improper use of campaign funds, by failing to file required campaign statements. In mitigation, Respondent contends he has paid a substantial portion of the money back, both prior to the Enforcement action and through payment of this penalty. In addition, Respondent cooperated fully with the investigation of this matter.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the Respondent's patter of behavior, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of Five Thousand Dollars (\$5,000) per count, for a total of Fifty Thousand Dollars (\$50,000) is recommended.

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