

1 ANGELA J. BRERETON  
Enforcement Chief  
2 RUTH YANG  
Senior Commission Counsel  
3 Fair Political Practices Commission  
1102 Q Street, Suite 3000  
4 Sacramento, CA 95811  
Telephone: (916) 322-7771  
5 Email: ryang@fppc.ca.gov

6 Attorneys for Complainant  
Enforcement Division of the Fair Political Practices Commission  
7

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

11  
12 In the Matter of:

13 DAKOTA BROTHERS, INC. and  
14 TROPICANA RUSSELL, INC.,

15 Respondents.

FPPC No. 19/1682

16 STIPULATION, DECISION, AND ORDER

17 **INTRODUCTION**

18 Respondents Dakota Brothers, Inc. (“Dakota”) and Tropicana Russell, Inc. (“Tropicana”) each  
19 made contributions in 2016 to Barry Chang for Assembly 2016 (the “Chang Committee”). Barry Chang  
20 was an unsuccessful candidate for the State Assembly in the June 7, 2016 Primary Election. Dakota and  
21 Tropicana violated the Political Reform Act (the “Act”)<sup>1</sup> by making contributions over the limit to the  
22 Chang Committee and failing to timely file a major donor campaign statement.

23 **SUMMARY OF THE LAW**

24 The violations in this case occurred in 2015 and 2016, and all legal references and discussions of  
25 law pertain to the Act’s provisions as they existed at that time.

26 ///

27 \_\_\_\_\_  
28 <sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory  
references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110  
through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 Need for Liberal Construction and Vigorous Enforcement of the Act

2 When enacting the Act, the people of the state of California found and declared previous laws  
3 regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup> One  
4 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously  
5 enforced.”<sup>3</sup> To that end, the Act must be liberally construed to achieve its purposes.<sup>4</sup>

6 Aggregating Contributions

7 Contributions from different entities are aggregated under certain circumstances. An “entity” is  
8 any person, other than an individual, such as a corporation.<sup>5</sup> “Majority owned” is an ownership of more  
9 than 50 percent.<sup>6</sup> A “person” is, among other things, an individual, joint venture, and any other  
10 organization or groups of persons acting in concert.<sup>7</sup> Contributions made by entities that are majority  
11 owned by any person shall be aggregated with the contributions of the majority owner and all other  
12 entities majority owned by that person, unless those entities act independently in their decisions to make  
13 contributions.<sup>8</sup>

14 Limits on Campaign Contributions

15 The Act imposes campaign contribution limits with respect to the making and receiving of certain  
16 contributions. These limits are adjusted periodically, and different limits apply depending upon who is  
17 contributing and who is receiving.<sup>9</sup> During the period of January 1, 2015 through December 31, 2016, a  
18 person, other than a small contributor committee or political party committee, wishing to contribute to a  
19 candidate for the State Assembly could not contribute more than \$4,200 per election.<sup>10</sup> A candidate for  
20 the State Assembly may raise contributions for a General Election prior to the Primary Election, for the  
21 same elective office if the candidate sets aside these contributions and uses these contributions for the  
22 General Election.<sup>11</sup>

---

24 <sup>2</sup> Section 81001, subd. (h).

25 <sup>3</sup> Section 81002, subd. (f).

26 <sup>4</sup> Section 81003.

27 <sup>5</sup> Section 85311, subd. (a)(1).

28 <sup>6</sup> Section 85311, subd. (a)(2).

<sup>7</sup> Section 82047.

<sup>8</sup> Section 85311, subd. (d).

<sup>9</sup> Sections 83124 and 85301, subd. (a).

<sup>10</sup> Section 85301, subd. (a); Regulation 18545, subd. (a)(1).

<sup>11</sup> Section 85318.

1 Major Donor Committee and Campaign Statements

2 A committee will qualify as a “major donor committee” when it makes contributions totaling  
3 \$10,000 or more in a calendar year to or at the behest of candidates or committees.<sup>12</sup> A major donor  
4 committee must file a campaign statement each year no later than July 31 for the reporting period ending  
5 on June 30, and no later than January 31 of the following year for the reporting period ending on  
6 December 31, if it made contributions or independent expenditures during the six-month period before  
7 the closing date of the statements.<sup>13</sup> When the filing deadline falls on a Saturday, Sunday, or official state  
8 holiday, the filing deadline must be extended to the next regular business day.<sup>14</sup>

9 Liability

10 Any person who violates any provision of the Act, who purposely or negligently causes any other  
11 person to violate any provision of the Act, or who aids and abets any other person in the violation of any  
12 provision of the Act shall be held jointly and severally liable.<sup>15</sup>

13 **SUMMARY OF THE FACTS**

14 Campaign statements filed by and campaign records from the Chang Committee show that Dakota  
15 and Tropicana made the following contributions:

Name	Contribution Date	Amount	Ownership and Shares
Dakota Brothers, Inc.	December 30, 2015	\$8,400	Steve Lai-Ching Huang –34% Randy Ruey-Ting Cheng – 19% Larry Wei – 8% Harvey Pi-Chuan Tung – 7% Davis Chang – 5% Her Ching Ku – 5% <b>Total: 78%</b>
Tropicana Russell, Inc.	December 30, 2015	\$8,400	Steve Lai-Ching Huang – 6.57% Randy Ruey-Ting Cheng – 22.34% Larry Wei – 9.4% Harvey Pi-Chuan Tung – 8.23% Davis Chang – 5.89% Her Ching Ku – 5.89% <b>Total: 58.32%</b>

27 <sup>12</sup> Section 82013, subd. (c).

28 <sup>13</sup> Section 84200, subd. (b).

<sup>14</sup> Former Regulation 18116, subd. (a).

<sup>15</sup> Sections 83116.5 and 91006.

1 Dakota and Tropicana are corporations that were majority owned by the same combination of  
2 individuals at the time when the two entities made the contributions listed above. Because Dakota and  
3 Tropicana were majority owned by the same combination of individuals, contributions made by those  
4 entities must be aggregated. The aggregated contributions made by Dakota and Tropicana exceeded the  
5 contribution limit of \$4,200 per election for the 2016 Primary and General Elections. Dakota and  
6 Tropicana contributed approximately \$16,800, in aggregation, to the Chang Committee, exceeding the  
7 contribution limit by around \$8,400 total, or at least \$4,200 per election.

8 Furthermore, since Dakota and Tropicana's aggregated contributions exceeded the \$10,000  
9 threshold for the calendar year, they qualified as a major donor committee in 2015. As a result, Dakota  
10 or Tropicana should have filed a major donor campaign statement for the reporting period of July 1, 2015  
11 through December 31, 2015 by February 1, 2016, but neither entity filed that campaign statement.

## 12 VIOLATIONS

### 13 Count 1: Making Contributions Over the Limit

14 Dakota Brothers, Inc. and Tropicana Russell, Inc. made campaign contributions to a candidate  
15 that exceeded the campaign contribution limit for candidates for the State Assembly for the 2016 Primary  
16 and General Elections, in violation of Government Code Section 85301, subdivision (a); and Regulation  
17 18545, subdivision (a)(1).

### 18 Count 2: Failure to Timely File a Major Donor Campaign Statement

19 Dakota Brothers, Inc. and Tropicana Russell, Inc. failed to timely file a major donor campaign  
20 statement for the reporting period of July 1, 2015 through December 31, 2015, due on February 1, 2016,  
21 in violation of Government Code Section 84200, subdivision (b).

## 22 PROPOSED PENALTY

23 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per  
24 count. Thus, the maximum total penalty that may be imposed is \$10,000.<sup>16</sup>

25 In determining the appropriate penalty for a particular violation of the Act, the Enforcement  
26 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an  
27 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers

28 \_\_\_\_\_  
<sup>16</sup> Section 83116, subd. (c).

1 the facts and circumstances of the violation in the context of the following factors set forth in Regulation  
2 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the  
3 specific violation; (2) The level of experience of the violator with the requirements of the Political  
4 Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence  
5 or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate,  
6 negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission  
7 staff or any other governmental agency in a manner not constituting complete defense under Government  
8 Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the  
9 violator has a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the  
10 violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.<sup>17</sup>

11 Making campaign contributions in excess of the campaign contribution limits is one of the more  
12 serious violations of the Act. Contribution limits exist to prevent persons from exerting disproportionate  
13 influence over elected officials. The contribution aggregation rules exist to ensure that an individual does  
14 not use multiple entities to circumvent contribution limits. Nevertheless, the Enforcement Division did  
15 not discover any evidence displaying any intention by Respondents to conceal, deceive, or mislead the  
16 public. Further, Respondents have little experience with the Act and do not have a prior history of  
17 violating the Act.

18 The Commission also considers penalties in prior cases with comparable violations. A recent case  
19 with similar violations include the following:

20 *In the Matter of Daniel Stephenson, et al.*; FPPC No. 15/1545. (The Commission approved a  
21 stipulated agreement on December 17, 2015.) Respondents, an individual and numerous entities which  
22 were directed and controlled by the same individual, made contributions to a candidate for the State  
23 Senate that, when aggregated, exceeded the applicable contribution limit by \$7,808. Stephenson hosted  
24 two fundraisers that were valued at a total of \$7,808.58. In conjunction with the fundraisers, Stephenson  
25 provided campaign contribution checks from the entities he directed and controlled, totaling an additional  
26 \$8,200. Moreover, Respondents did not file a major donor campaign statement despite qualifying as a  
27 major donor committee as a result of the aforementioned contributions. Respondents filed the delinquent  
28

---

<sup>17</sup> Regulation 18361.5, subd. (e).

1 major donor campaign statement after receiving contact from the Enforcement Division. The  
2 Commission approved a penalty of \$3,500 for making contributions over the limit and \$2,000 for failing  
3 to timely file a major donor campaign statement, for a total penalty of \$5,500.

4 The aggregated contributions in this case exceeded the limit by a similar amount as in *Stephenson*,  
5 but involved only two entities, as opposed to 17. In aggravation, unlike in *Stephenson*, the names of the  
6 entities were not similar, raising almost no suspicion that the entities were somehow affiliated with each  
7 other. In mitigation, as in *Stephenson*, Respondents in this case also filed their delinquent major donor  
8 campaign statement after receiving contact from the Enforcement Division. A penalty of \$3,500 is  
9 recommended for making contributions over the limit, and a penalty of \$2,000 is recommended for failing  
10 to timely file a major donor campaign statement.

11 In summary, the following penalties are recommended:

Count #	Violation	Penalty Amount
1	Making Contributions Over the Limit	\$3,500
2	Failure to Timely File a Major Donor Campaign Statement	\$2,000
	<b>Total:</b>	<b>\$5,500</b>

## 16 CONCLUSION

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
18 Respondents Dakota Brothers, Inc. and Tropicana Russell, Inc. hereby agree as follows:

19 1. The Respondents violated the Act as described in the foregoing pages, which are a true  
20 and accurate summary of the facts in this matter.

21 2. This stipulation will be submitted for consideration by the Fair Political Practices  
22 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

23 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose  
24 of reaching a final disposition without the necessity of holding an administrative hearing to determine  
25 the liability of the Respondents pursuant to Section 83116.

26 4. The Respondents understand, and hereby knowingly and voluntarily waive, any and all  
27 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.  
28 This includes, but is not limited to the right to appear personally at any administrative hearing held in

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

5 5. The Respondents agree to the issuance of the decision and order set forth below. Also, the  
6 Respondents agree to the Commission imposing against it an administrative penalty in the amount of  
7 \$5,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General  
8 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
9 administrative penalty described above, and same shall be held by the State of California until the  
10 Commission issues its decision and order regarding the matter.

11 6. If the Commission declines to approve this stipulation—then this stipulation shall become  
12 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
13 rejected, all payments tendered by the Respondents in connection with this stipulation shall be reimbursed  
14 to the Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing  
15 before the Commission becomes necessary, neither any member of the Commission, nor the Executive  
16 Director, shall be disqualified because of prior consideration of this Stipulation.

17 7. The parties to this agreement may execute their respective signature pages separately. A  
18 copy of any party's executed signature page including a hardcopy of a signature page transmitted via fax  
19 or as a PDF email attachment is as effective and binding as the original.

20  
21 Dated: \_\_\_\_\_  
22 Angela J. Brereton, Chief of Enforcement  
23 Fair Political Practices Commission

24 Dated: \_\_\_\_\_  
25 \_\_\_\_\_, on behalf of Dakota  
26 Brothers, Inc.

27 Dated: \_\_\_\_\_  
28 \_\_\_\_\_, on behalf of Tropicana  
Russell, Inc.

1           The foregoing stipulation of the parties “In the Matter of Dakota Brothers, Inc. and Tropicana  
2 Russell, Inc.,” FPPC No. 19/1682, is hereby accepted as the final decision and order of the Fair Political  
3 Practices Commission, effective upon execution below by the Chair.

4  
5 IT IS SO ORDERED.

6  
7           Dated: \_\_\_\_\_

\_\_\_\_\_ Richard C. Miadich, Chair  
Fair Political Practices Commission