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2 Executive Director  
3 San Francisco Ethics Commission  
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5 San Francisco, CA 94102  
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8 BEFORE THE SAN FRANCISCO  
9 ETHICS COMMISSION

10 In the Matter of ) Complaint No. 24-101021  
11 )  
12 JANE KIM, JANE KIM FOR SUPERVISOR, )  
13 2010, )  
14 )  
15 ) **STIPULATION, DECISION**  
16 ) **AND ORDER**  
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THE PARTIES STIPULATE AS FOLLOWS:

1. This Stipulation, Decision and Order (“Stipulation”) is made and entered into by and between Jane Kim and Jane Kim for Supervisor, 2010, (“Respondents”), and the San Francisco Ethics Commission (“the Commission”).

2. Respondents and the Commission agree to settle and resolve all factual and legal issues in this matter and to reach a final disposition without an administrative hearing. Upon approval of this Stipulation and full performance by Respondents on the terms outlined in this Stipulation, the Commission will take no future action against Respondents and this Stipulation shall constitute the complete resolution of all claims by the Commission against Respondents related to the violations described in Exhibit A. Respondents understand and knowingly and

1 voluntarily waive all rights to judicial review of this Stipulation and any action taken by the  
2 Commission or its staff on this matter.

3 3. Respondents agree to pay a settlement in the amount of Five Thousand Seven  
4 Hundred Dollars (\$5,700) for the following violations: one violation of California Government  
5 Code section 84104, as incorporated by San Francisco Campaign & Governmental Conduct  
6 Code ("SF C&GCC") section 1.106, SF C&GCC section 1.109(a); one violation of California  
7 Government Code section 84300(b), as incorporated by SF C&GCC section 1.106; and two  
8 violations of SF C&GCC" section 1.114(a), as set forth in Exhibit A.  
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10 4. Within sixty (60) business days after the Commission approves this Stipulation,  
11 Respondents shall deliver the \$5,700 penalty to the Commission. The settlement amount shall be  
12 paid by check or money order made payable to the "City and County of San Francisco."

13 Respondents agree to deliver the check or money order to the following address:

14 San Francisco Ethics Commission  
15 Attn: Enforcement Division  
16 25 Van Ness Avenue, Suite 220  
17 San Francisco, CA 94102  
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19 5. If Respondents do not pay the \$5,700 penalty as set forth in Paragraphs 4 and 5,  
20 or if Respondents' payments do not clear the bank or cannot be negotiated in full by the Ethics  
21 Commission for any reason, or if Respondents otherwise fail to comply with the terms of this  
22 Stipulation, then the Commission reserves the right to reopen the matter and prosecute  
23 Respondents under Section C3.699-13 of the San Francisco Charter for any or all the violations  
24 set forth in Exhibit A hereto, including any violations stemming from the findings contained in  
25 the final Ethics Commission Audit Report: Jane Kim for Supervisor, 2010, FPPC ID#1324277.  
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1           6.       Respondents understand, and hereby knowingly and voluntarily waive, any and  
2 all procedural rights under Section C3.699-13 of the San Francisco Charter and the  
3 Commission's Regulations for Investigations and Enforcement Proceedings with respect to this  
4 matter. These include, but are not limited to, the right to appear personally at any administrative  
5 hearing held in this matter, to be represented by an attorney at Respondents' expense, to confront  
6 and cross-examine all witnesses testifying at the hearing and to subpoena witnesses to testify at  
7 the hearing.

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9           7.       Respondents understand and acknowledge that this Stipulation is not binding on  
10 any other government agency with the authority to enforce either California Government Code  
11 section 84200 *et seq.* or San Francisco Campaign & Governmental Conduct Code section 1.100  
12 *et seq.*, and does not preclude the Commission or its staff from cooperating with or assisting any  
13 other government agency with regard to the complaint, or any other matter related to it.

14           8.       This Stipulation is subject to the Commission's approval. In the event the  
15 Commission declines to approve this Stipulation, the Stipulation shall become null and void,  
16 except Paragraph 9, which shall survive.

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18           9.       In the event the Commission rejects the Stipulation and further administrative  
19 proceedings before the Commission are necessary, Respondents agree that the Stipulation and all  
20 references to it are inadmissible, and that Respondents agree not to challenge, dispute, or object  
21 to the participation of any member of the Commission or its staff because of his or her prior  
22 consideration of this Stipulation.

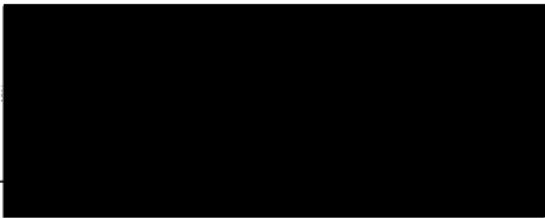
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24           10.       This Stipulation, along with the attached Exhibit A, reflects the entire agreement  
25 between the parties hereto and supersedes any and all prior negotiations, understandings, and  
26 agreements with respect to the transactions contemplated herein. This Stipulation may not be  
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1 amended orally. Any amendment or modification to this Stipulation must be in writing duly  
2 executed by all parties and approved by the Commission at a regular or special meeting.


3 11. This Stipulation shall be construed under, and interpreted in accordance with, the  
4 laws of the State of California. If any provision of the Stipulation is found to be unenforceable,  
5 the remaining provisions shall remain valid and enforceable.

6 12. For the reasons set forth in Exhibit A, the parties agree that Five Thousand Seven  
7 Hundred Dollars (\$5,700) is an appropriate settlement for Respondents' violations of the  
8 provisions listed in Paragraph 3 of this Stipulation.

9 13. The parties hereto may sign different copies of this Stipulation, which will be  
10 deemed to have the same effect as though all parties had signed the same document.

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14 Dated: 5/6/15 \_\_\_\_\_ 

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16 JOHN ST. CROIX, EXECUTIVE DIRECTOR  
17 SAN FRANCISCO ETHICS COMMISSION  
18 COMPLAINANT

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20 Dated: 5/1/2015 \_\_\_\_\_ 

21 JANE KIM, INDIVIDUALLY, AND ON BEHALF OF JANE  
22 KIM FOR SUPERVISOR, 2010  
23 RESPONDENTS

**DECISION AND ORDER**

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2 The foregoing Stipulation of the parties in the matter of “Jane Kim for Supervisor, 2010;  
3 San Francisco Ethics Commission Complaint Number 24-101021,” including the attached  
4 exhibit, is hereby accepted as the final Decision and Order of the San Francisco Ethics  
5 Commission, effective upon execution below by the Chairperson.  
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7 IT IS SO ORDERED.  
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11 Dated: May 27, 2015



12 PAUL A. RENNE, CHAIRPERSON  
13 SAN FRANCISCO ETHICS COMMISSION  
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28 PAUL A. RENNE, CHAIRPERSON

**EXHIBIT A**  
**INTRODUCTION**

Respondent Jane Kim was a candidate for the San Francisco Board of Supervisors in District 6 in 2010. Respondent Kim was elected to the San Francisco Board of Supervisors on November 2, 2010. Respondent Kim was re-elected to the San Francisco Board of Supervisors on November 4, 2014.

On February 1, 2010, Respondent Kim formed the "Jane Kim for Supervisor, 2010" committee ("Committee"), FPPC # 1324277, by filing a Form 410 Statement of Organization Recipient Committee ("Form 410"). The Committee is also a named Respondent in this matter.

Staff received a complaint in October 2010 alleging that the Committee committed multiple violations of local and state campaign finance law and staff initiated an investigation into those allegations. As the Committee was publicly funded, the Ethics Commission conducted an audit of the Committee and issued its draft audit report to the Committee on July 22, 2013. The audit found that, for the period from January 1, 2010 to December 31, 2010, the Committee received \$135,005 in monetary contributions and \$90,817 in public funds, and incurred \$249,402 in expenditures.

The audit found that the Committee did not keep required documentation to substantiate all expenses incurred by the Committee. The audit also found that the Committee incurred cash expenditures of over \$100 as evidence by cash withdrawals shown on the Committee's bank statements. In addition, the audit found that the Committee reported receiving contributions in excess of the \$500 limit. The Committee provided a response to the audit findings on September 24, 2013 and the Ethics Commission published its final audit report on October 10, 2013. The Committee amended campaign finance disclosure statements on March 2, 2014. The Committee paid \$3,300 in forfeitures on March 11, 2014.

In this matter, Respondents failed to maintain documentation required to be maintained by committees, incurred cash expenditures of over \$100, and received contributions in excess of the \$500 contribution limit to candidate committees. Respondents agreed to stipulate and pay a penalty for the following violations:

For the purposes of this Stipulation, Respondents admit the following violations:

- COUNT 1:** Respondents failed to maintain required documentation, in violation of California Government Code section 84104, as incorporated by San Francisco Campaign and Governmental Conduct Code ("SF C&GCC") section 1.106, and SF C&GCC section 1.109(a).
- COUNT 2:** Respondents made five cash expenditures over \$100 each, in violation of California Government Code section 84300(b), as incorporated by SF C&GCC section 1.106.
- COUNT 3:** Respondents accepted a contribution that was in excess of the \$500 contribution limit, in violation of SF C&GCC section 1.114(a).
- COUNT 4:** Respondents accepted a contribution that was in excess of the \$500 contribution limit, in violation of SF C&GCC section 1.114(a).

## **SUMMARY OF APPLICABLE LAW**

For the purposes of this Stipulation, Respondent violated California Government Code as incorporated by the San Francisco Campaign and Governmental Conduct Code. California Government Code section 81000 et seq. is also known as the Political Reform Act.

### **California Government Code & FPPC Regulation**

California Government Code section 84104 states that it shall be the duty of each candidate, treasurer to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements and to establish that campaign statements were properly filed.

California Government Code section 82013, subdivision (a), states that a committee is a person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year.

California Government Code section 84300, subdivision (b), prohibits expenditures of one hundred dollars or more from being made in cash.

Fair Political Practices Commission Regulation 18401 outlines the required records that must be maintained pursuant to the Political Reform Act.

### **San Francisco Campaign & Governmental Conduct Code**

SF C&GCC section 1.109(a) states that “[a]ll candidates and committees that are required to file statements prescribed by this Chapter shall maintain detailed accounts, records, bills, and receipts as necessary to prepare those statements. Each candidate or committee shall retain for a period of four years detailed information and original source documentation supporting those statements. The Ethics Commission may by regulation describe the information and documentation required to be retained for each type of statement.”

SF C&GCC section 1.114(a) states that no treasurer for a candidate committee shall solicit or accept any contribution which will cause the total amount contributed by a person to such candidate committee in an election to exceed \$500.

## **VIOLATIONS OF LAW**

### **COUNT 1**

#### **FAILURE TO MAINTAIN REQUIRED COMMITTEE RECORDS**

California Government Code section 84104 and SF C&GCC section 1.109(a) require all candidates and committees that file campaign statements to maintain detailed accounts, records, bills, and receipts as necessary to prepare those campaign statements and to establish that campaign statements were properly filed. Each candidate or committee must retain the detailed information and original source information supporting the campaign statements for a period of four years.

In this matter, the Committee failed to maintain, or provide to staff, supporting documentation for \$1,227.06 in expenses reported on Schedule E of its campaign finance disclosure statements. In addition, the Committee also failed to maintain, or provide to staff, supporting documentation for \$40,209.50 in

reported salary expenses. In total, the Committee failed to maintain supporting documentation for approximately 16.6% of the Committee's total expenditures in 2010.

Because they failed to maintain required records in order to establish that the campaign statements were properly filed, Respondents violated California Government Code section 84104, as incorporated by SF C&GCC section 1.106, and SF C&GCC section 1.109(a).

## **COUNT 2**

### **MAKING CASH EXPENDITURES**

California Government Code section 84300, subdivision (b), prohibits expenditures of one hundred dollars or more from being made in cash. In this matter, the audit found that the Committee incurred cash expenditures of over \$100 as evidenced by cash withdrawals shown on the Committee's bank statements. On September 15, 2010, \$500 in cash was withdrawn from the Committee's bank account. On October 4, 2010, \$500 in cash was withdrawn from the Committee's bank account. On October 13, 2010, \$2,000 in cash was withdrawn from the Committee's bank account. On November 15, 2010, \$500 in cash was withdrawn from the Committee's bank account. On November 18, 2010, \$500 in cash was withdrawn from the Committee's bank account. In total, \$4,000 in cash, approximately 1.6% of the Committee's total expenditures in 2010, was withdrawn from the Committee's bank account in 2010.

Because the Committee incurred cash expenditures of over \$100, for a total of \$4,000, Respondents committed one violation of California Government Code section 84300(b), as incorporated by SF C&GCC section 1.106.

## **COUNT 3**

### **EXCEEDING CONTRIBUTION LIMITS**

SF C&GCC section 1.114(a) states that no treasurer for a candidate committee shall solicit or accept any contribution which will cause the total amount contributed by a person to such candidate committee in an election to exceed \$500. During the reporting periods for committee activity between July 1, 2010 and December 31, 2010, the Committee accepted \$1,500 in in-kind contributions for a three-month lease at a rate of \$500/month, which was \$1,000 over the \$500 contribution limit.

Because they accepted in-kind contributions of \$1,500, which was over the \$500 contribution limit, Respondents committed one violation of SF C&GCC section 1.114(a).

## **COUNT 4**

### **EXCEEDING CONTRIBUTION LIMITS**

SF C&GCC section 1.114(a) states that no treasurer for a candidate committee shall solicit or accept any contribution which will cause the total amount contributed by a person to such candidate committee in an election to exceed \$500. During the reporting period for committee activity between October 17, 2010 and December 31, 2010, the Committee accepted a \$1,200 in-kind contribution of political advertisement, the inclusion on a slate card, which was \$700 over the \$500 contribution limit.

Because they accepted an in-kind contribution of \$1,200, which was over the \$500 contribution limit, Respondents committed one violation of SF C&GCC section 1.114(a).

### PENALTY DISCUSSION

This matter consists of four counts of violations of the SF C&GCC carrying a maximum administrative penalty of \$5,000 per violation for a total of \$20,000.

When determining penalties, the Ethics Commission considers all of the relevant circumstances surrounding the case, including but not limited to: (a) the severity of the violation; (b) the presence or absence of any intention to conceal, deceive, or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was an isolated incident or part of a pattern; (e) whether the respondent has a prior record of violations of law; and (f) the degree to which the respondent cooperated with the investigation and demonstrated a willingness to remedy any violations.

The Political Reform Act was enacted in part to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that the voters may be fully informed and improper activities may be inhibited. The Political Reform Act was also enacted to assist voters in making informed electoral decisions and ensure compliance with campaign contribution limits through the required filing of campaign statements detailing the sources of campaign contributions and how those contributions have been expended.

In this matter, the violations of law were not severe. The violations were negligent and not deliberate. There was no intention to conceal, deceive, or mislead, and minimal public harm. Throughout the 2010 election season, Respondents filed the required campaign finance disclosure statements in a timely manner. Respondents readily admitted the errors and were cooperative with staff's investigation. The Committee provided additional documentation in response to the audit report and amended its campaign finance statements. The Committee also paid \$3,300 in forfeitures in March 2014. Respondent Kim has no prior enforcement history with the Ethics Commission.

In *Ethics Complaint No. 13-111013* and *Ethics Complaint No. 22-121119*, neither of which involved Respondent Kim or her candidate committee, the Commission approved a similar penalty for other Respondents who failed to maintain required committee records.

### CONCLUSION

After consideration of the facts of this case and a recent decision by the Commission, the Executive Director of the Ethics Commission recommends the imposition of the agreed upon penalty of Two Thousand Five Hundred Dollars (\$2,500) for Count 1, Two Thousand Dollars (\$2,000) for Count 2, One Thousand Two Hundred Dollars (\$1,200) for Counts 3 and 4, for a total agreed upon penalty of **Five Thousand Seven Hundred Dollars (\$5,700)**.