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SAN FRANCISCO
ETHICS COMMISSION

1 John St. Croix
2 Executive Director
3 San Francisco Ethics Commission
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BEFORE THE SAN FRANCISCO
ETHICS COMMISSION

8 In the Matter of) Complaint No. 12-141110
9)
10 JANE KIM; JANE KIM FOR SUPERVISOR,)
11 2014)
12)
13)
14) **STIPULATION, DECISION**
15 Respondents.) **AND ORDER**
16)
17)

18 THE PARTIES STIPULATE AS FOLLOWS:

19 1. This Stipulation, Decision and Order (“Stipulation”) is made and entered into by
20 and between Jane Kim and Jane Kim for Supervisor, 2014, (“Respondents”), and the San
21 Francisco Ethics Commission (“the Commission”).

22 2. Respondents and the Commission agree to settle and resolve all factual and legal
23 issues in this matter and to reach a final disposition without an administrative hearing. Upon
24 approval of this Stipulation and full performance by Respondents on the terms outlined in this
25 Stipulation, the Commission will take no future action against Respondents related to the
26 violations described in Exhibit A, and this Stipulation shall constitute the complete resolution of
27 all claims by the Commission against Respondents related to the violations described in Exhibit
28 A. Respondents understand and knowingly and voluntarily waive all rights to judicial review of
this Stipulation and any action taken by the Commission or its staff on this matter.

3. Respondents agree to pay a settlement in the amount of two thousand five
hundred dollars (\$2,500) for the following violation: one violation of San Francisco Campaign
and Governmental Conduct Code, section 1.122(b)(1), as set forth in Exhibit A.

1 4. Within ten (10) business days after the Commission approves this Stipulation,
2 Respondents shall deliver two thousand five hundred dollars (\$2,500) to the Commission. This
3 settlement amount shall be paid by check or money order made payable to the "City and County
4 of San Francisco." Respondents agree to deliver the check(s) or money order(s) to the following
5 address:

6 San Francisco Ethics Commission
7 Attn: Enforcement Division
8 25 Van Ness Avenue, Suite 220
9 San Francisco, CA 94102

10 5. If Respondents do not pay the \$2,500 settlement amount as set forth in Paragraphs
11 3 and 4, or if Respondents' payment does not clear the bank or cannot be negotiated in full by the
12 Ethics Commission for any reason, or if Respondents otherwise fail to comply with the terms of
13 this Stipulation, then the Commission reserves the right to reopen the matter and prosecute
14 Respondents under Section C3.699-13 of the San Francisco Charter for any or all the violations
15 set forth in Exhibit A hereto.

16 6. Respondents understand, and hereby knowingly and voluntarily waive, any and
17 all procedural rights under section C3.699-13 of the San Francisco Charter and the
18 Commission's Regulations for Investigations and Enforcement Proceedings with respect to this
19 matter. These include, but are not limited to, the right to appear personally at any administrative
20 hearing held in this matter, to be represented by an attorney at Respondents' expense, to confront
21 and cross-examine all witnesses testifying at the hearing and to subpoena witnesses to testify at
22 the hearing.

23 7. Respondents understand and acknowledge that this Stipulation is not binding on
24 any other government agency with the authority to enforce either California Government Code
25 section 84200 *et seq.* or the San Francisco Campaign & Governmental Conduct Code section
26 1.100 *et seq.*, and does not preclude the Commission or its staff from cooperating with or
27 assisting any other government agency with regard to the complaint, or any other matter related
28 to it.

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


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

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

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

17 12. For the reasons set forth in Exhibit A, the parties agree that two thousand five
18 hundred dollars (\$2,500) is an appropriate settlement for Respondents' violation of the
19 provisions listed in Paragraph 3 of this Stipulation.

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

22 Dated: 6/17/15 _____ 

23 JOHN ST. CROIX, EXECUTIVE DIRECTOR
24 SAN FRANCISCO ETHICS COMMISSION
25 COMPLAINANT

26 Dated: 6/8/15 _____ 

27 JANE KIM, INDIVIDUALLY, AND ON BEHALF OF JANE
28 KIM FOR SUPERVISOR, 2014
RESPONDENTS

DECISION AND ORDER

1
2 The foregoing Stipulation of the parties in the matter of “Jane Kim; Jane Kim for
3 Supervisor, 2014; San Francisco Ethics Commission Complaint Number 12-141110,” including
4 the attached exhibit, is hereby accepted as the final Decision and Order of the San Francisco
5 Ethics Commission, effective upon execution below by the Chairperson.

6 IT IS SO ORDERED.

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10 Dated: June 29, 2015



11 PAUL RENNE, CHAIRPERSON
12 SAN FRANCISCO ETHICS COMMISSION
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EXHIBIT A

INTRODUCTION

Respondent Jane Kim was the District 6 Supervisor on the Board of Supervisors for the City and County of San Francisco at all times relevant. Respondent Kim was first elected to the Board of Supervisors in November 2010 and was re-elected in November 2014.

On August 5, 2013, Respondent Kim filed a Candidate Intention Statement, Form 501, with the Ethics Commission indicating her intention to run for “Member, Board of Supervisors” for San Francisco District 6 in the 2014 election. On October 30, 2013, Respondent Kim formed a candidate controlled committee “Jane Kim for Supervisor, 2014” (“the Committee”) for the District 6 seat of the San Francisco Board of Supervisors by filing a Statement of Organization, Form 410, with the Ethics Commission.

Respondent Kim’s candidate controlled committee paid for the production and airing of a television advertisement prior to the November 2014 election. The advertisement was wholly in support of local ballot measure J (“Proposition J” or “Prop J”), which also appeared on the November 2014 ballot. The purpose of Proposition J was to increase the minimum wage in San Francisco.

In this matter, Respondent Kim used funds from her candidate controlled committee to produce and air a television commercial in support of Proposition J, in violation of San Francisco Campaign and Governmental Conduct Code (“SF C&GCC”), section 1.122(b)(1). For the purposes of this Stipulation, Respondents admit the following violation:

COUNT 1: Respondents used funds from Respondent Kim’s candidate committee for purposes other than her candidacy for District 6 Supervisor in violation of SF C&GCC, section 1.122(b)(1).

SUMMARY OF APPLICABLE LAW

SF C&GCC, section 1.122(b)(1) states, in relevant part, that “funds in a candidate committee’s campaign account may be used only on behalf of the candidacy for the office specified in the candidate’s declaration of intention filed under [SF C&GCC, section 1.122(a)] or for expenses associated with holding that office, provided that such expenditures are reasonably related to a legislative, governmental, or political purpose. Contributions solicited or accepted under [section 1.122] for one candidate shall not be expended for the candidacy of any other candidate for local, state or federal office, in support of or opposition to any measure or in support of or opposition to any state ballot proposition, or for donations to a charitable organization.”

FACTUAL SUMMARY

During the course of Respondent’s campaign, the Committee produced a television advertisement in support of Proposition J. Proposition J appeared on the November 2014 ballot with the purpose of increasing san Francisco’s minimum wage to \$15 per hour. In the advertisement, Respondent Kim appears stating:

“I’m Supervisor Jane Kim. We all know that San Francisco’s becoming increasingly unaffordable. But this November we’ll have an opportunity

to do something about it. Proposition J will raise our minimum wage to 15 dollars an hour. [voiceover: This ad is paid for by Jane Kim for Supervisor, 2014.] Because we strongly believe that San Francisco deserves a raise. So San Francisco, let's make history again. Vote yes on Prop J. Let's raise the minimum wage to 15 dollars an hour."

Throughout the advertisement, at the lower portion of the screen appears the logo "Jane Kim for Supervisor." At the start of the advertisement, the words "A message from Supervisor Jane Kim" appear on the screen. Midway through the advertisement, the words "\$15/hour Minimum Wage for San Francisco" appear next to Supervisor Kim. Shortly thereafter, the words "Jane Kim authored legislation for a \$15/hour minimum wage" appear in the advertisement. Finally, at the end of the advertisement, a disclosure statement appears stating that the advertisement was paid for by the Committee.

The Committee paid \$7,500 to produce the video and \$20,542 to air the advertisement. The advertisement aired approximately 114 times over nine networks from about October 14 through November 3, 2014.

VIOLATION OF LAW – COUNT 1

Supervisor Kim filed a Form 501 indicating she would be a candidate for the District 6 seat on the Board of Supervisors in the November 2014 election, and filed a Form 410 forming a committee to raise and spend funds in support of that candidacy. The Committee paid for an advertisement to urge a yes vote on a local ballot measure using the funds raised and held by her candidate committee. At no point during the advertisement does Supervisor Kim urge the public to vote for her for Supervisor of District 6 in the November 2014 election. The entire advertisement promotes Proposition J and then urges the public to vote for Proposition J.

By using funds from Respondent Kim's candidate committee to produce and air a commercial that had the purpose to support a local ballot measure, Respondents committed one violation of SF C&GCC, section 1.122(b)(1)

PENALTY DISCUSSION

This matter consists of one violation of the SF C&GCC carrying a maximum administrative penalty of \$5,000.

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.

In this matter, Respondent Kim was an incumbent running for re-election and won the November 2014 election. The violation is severe; however there are significant factors in mitigation. There was no intention to conceal or mislead the public, as the Committee identified itself as having

paid for the advertisement. The violation was isolated and was negligent. Respondent Kim believed that as the author of Proposition J she could advocate for its passage using her candidate committee's funds. Respondent Kim was extremely cooperative with staff's investigation and readily admitted that the Committee paid for the advertisement. In aggravation, Respondent has previous enforcement history with the Commission.

On February 23, 2015, the Commission approved a stipulation of \$8,000 for four campaign finance violations. (Ethics Complaint No. 22-121119.) In that matter, the respondent failed to file campaign statements and failed to maintain committee records. The respondent was an incumbent but had no prior enforcement history with the Commission. On April 28, 2014, the Commission approved a stipulation of \$7,500 for three campaign finance violations. (Ethics Complaint No. 13-111013.) In that matter, the respondent committed three campaign finance violations involving the failure to maintain records. Respondent had no prior enforcement history with the Commission but had previously run for Mayor of San Francisco.

CONCLUSION

After consideration of the facts of this case and of penalties in prior enforcement actions, Respondent and the Ethics Commission agree that the appropriate settlement amount is two thousand five hundred dollars (\$2,500) for one violation of SF C&GCC, section 1.122(b)(1).