

1 JOHN ST. CROIX
2 Executive Director
3 SAN FRANCISCO ETHICS COMMISSION
4 25 Van Ness Avenue, Suite 220
5 San Francisco, CA 94102
6 415-252-3100

7 Complainant

8
9 BEFORE THE SAN FRANCISCO
10 ETHICS COMMISSION

11 In the Matter of) Ethics Complaint No. 20-100927

12 BILL HEMENGER,)
13 Respondent.) **STIPULATION, DECISION**
14) **AND ORDER**

15 THE PARTIES STIPULATE AS FOLLOWS:

16 1. This Stipulation, Decision, and Order (“Stipulation”) is made and entered into by
17 and between Bill Hemenger (“Respondent”) and the San Francisco Ethics Commission (“the
18 Commission”).

19 2. Respondent and the Commission find it in their best mutual interest and advantage to
20 settle and resolve all factual and legal issues in this matter and to reach a final disposition without
21 the necessity of holding an administrative hearing to determine Respondent’s liability.

22 3. Respondent agrees to pay a settlement in the amount of two-hundred fifty dollars
23 (\$250). This amount represents an administrative penalty for a violation of San Francisco
24 Campaign & Governmental Conduct Code (“SF C&GCC”) Section 1.162.
25

4. Within ten (10) business days after the Commission approves this Stipulation, Respondent shall deliver two-hundred fifty dollars (\$250) to the Commission. This settlement amount shall be paid by check or money order made payable to "The City and County of San Francisco." The check or money order shall be delivered to the following address:

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

5. Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural rights under Section C3.699-13 of the San Francisco Charter and the Commission's Regulations for Investigations and Enforcement Proceedings with respect to this matter. This includes, but is not limited to, the right to appear personally at any administrative hearing held in this matter, to be represented by an attorney at Respondent's expense, to confront and cross-examine all witnesses testifying at the hearing and to subpoena witnesses to testify at the hearing.

6. Respondent understands and acknowledges that this Stipulation is not binding on any other law enforcement agency, and does not preclude the Commission or its staff from cooperating with or assisting any other government agency with regard to the complaint, or any other matter related to it.

7. This Stipulation is subject to approval by the Commission. In the event the Commission declines to approve this Stipulation, it shall become null and void.

8. In the event the Commission rejects this Stipulation and a full evidentiary hearing before the Commission becomes necessary, the parties agree that no member of the Commission shall be disqualified because of his or her prior consideration of this Stipulation.

9. This Stipulation, along with the attached Exhibit A, reflects the entire agreement between the parties hereto and supersedes any and all prior negotiations, understandings, and

1 agreements with respect to the transactions contemplated herein. This Stipulation may not be
2 amended orally. Any amendment or modification to this Stipulation must be in writing duly
3 executed by all parties.

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

7 11. For the reasons set forth in Exhibit A, the parties agree that two-hundred fifty dollars
8 (\$250) is an appropriate settlement amount to resolve this matter.

9 12. 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.

11 Dated: _____

12 JOHN ST. CROIX, Executive Director
13 San Francisco Ethics Commission, Complainant

14 Dated: _____

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16
17 BILL HEMENGER

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DECISION AND ORDER
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The foregoing Stipulation of the parties "In the Matter of Bill Hemenger, San Francisco
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Ethics Commission Complaint Number 20-100927," including the attached exhibit, is hereby
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accepted as the final decision and order of the San Francisco Ethics Commission, effective upon
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execution below by the Chairperson.
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IT IS SO ORDERED.
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Dated: _____
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JAMIENNE S. STUDLEY, Chairperson
San Francisco Ethics Commission

EXHIBIT A

Factual Background

1. On February 26, 2010, Respondent filed a Form 410, Statement of Organization, forming the campaign committee: Committee to Elect Bill Hemenger Supervisor District 8.

2. As of the latest filing of his Campaign Statement Form 460, Respondent's campaign committee reported receiving a total of \$18,578.98.

3. Respondent contracted with the Bay Area Reporter to place a campaign advertisement in support of his campaign in the September 23, 2010, edition. The total cost of the ad was \$763.

4. In the September 23, 2010, edition of the Bay Area Reporter, Respondent's advertisement appeared on the front page without the disclosure required by San Francisco Campaign and Governmental Conduct Code, section 1.162.

Count I – Failure to disclose identity of person who paid for campaign advertisement.

Applicable Law

5. San Francisco Campaign and Governmental Conduct Code, section 1.162 requires any campaign advertisement that urges support for or opposition to one or more candidates for City elective office must include a disclosure containing, at a minimum, the words “paid for by [name of person who paid for the communication]” and appear at least once on the advertisement.”

6. Section 1.162, subsection (b)(2), defines “campaign advertisement” as “a communication placed in a newspaper; periodical or magazine of general circulation.”

Factors in Mitigation

7. Respondent has no prior enforcement history with the Commission.
8. Respondent is a first-time candidate for any elective office.
9. Respondent's other electioneering communications contain the correct disclosure, indicating to staff that the disclosure was omitted from the advertisement without any intent to deceive the public as to the true source of funds for the advertisement.

10. Respondent admitted to mistakenly placing the advertisement without the required disclosure and was remorseful.

11. Respondent was cooperative with staff's investigation.

Factors in Aggravation

12. There are no factors in aggravation.