

Item #6 - Stipulation and Case Summary

1 Kellie F. Johnson
2 Enforcement Chief
3 CITY OF OAKLAND PUBLIC ETHICS COMMISSION
4 1 Frank Ogawa Plaza, Rm. 104
5 Oakland, CA 94612
6 Telephone: (510) 238-4976

7 Petitioner

8 BEFORE THE CITY OF OAKLAND

9 PUBLIC ETHICS COMMISSION

10 In the Matter of

) Case No.: 19-06

) **STIPULATION AND EXHIBIT**

11
12 ANNIE CAMPBELL WASHINGTON FOR
13 OAKLAND CITY COUNCIL 2018

) **Date:** 10/20/2021

14
15 Respondent.

) **Place:** 1 Ogawa Plaza, Hearing Rm. 1
Oakland, CA 94612

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17 **STIPULATION**

18 Petitioner, the Enforcement Unit of the City of Oakland Public Ethics Commission, and Respondent
19 Annie Campbell Washington, agree as follows:

- 20
21 1. This Stipulation will be submitted for consideration by the City of Oakland Public Ethics
22 Commission (Commission) at its next regularly scheduled meeting;
- 23 2. This Stipulation resolves all factual and legal issues raised in this matter and represents the
24 final resolution to this matter without the necessity of holding an administrative hearing to
25 determine the liability of Respondents;
- 26 3. Respondent knowingly and voluntarily waive all procedural rights under the Oakland City
27 Charter, Oakland Municipal Code, and Public Ethics Commission Complaint Procedures,
28 including, but not limited to, the right to personally appear at an administrative hearing

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1 held in this matter, to be represented by an attorney at his own expense, to confront all
2 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to
3 have the matter judicially reviewed;

4 4. This Stipulation is not binding on any other law enforcement agency, and does not preclude
5 the Commission or its staff from referring the matter to, cooperating with, or assisting any
6 other government agency with regard to this matter, or any other matter related to it;

7 5. In 2018, Respondent, a candidate for Oakland City Council, violated the Oakland Campaign
8 Reform Act by failing to file a Semi-Annual Campaign Statement for the period of July 1,
9 2018 through December 31, 2018, as required by section 3.12.340 (A) of the Oakland
10 Campaign Reform Act.

11 6. The attached exhibit (Exhibit) is a true and accurate summary of the facts in this matter and
12 is incorporated by reference into this Stipulation;

13 7. The Commission will impose upon Respondent a total administrative penalty in the amount
14 of \$2,171 (\$1,000 penalty, +\$1,171 late fees = \$2,171);

15 8. A cashier's check from Respondent, in said amount, made payable to the "City of Oakland,"
16 is submitted with this Stipulation as full payment of the administrative penalty, to be held
17 by the Commission until the Commission issues its decision and order regarding this matter;

18 9. In the event the Commission refuses to accept this Stipulation, it shall become null and
19 void, and within fifteen business days after the Commission meeting at which the
20 Stipulation is rejected, all payments tendered by Respondents in connection with this
21 Stipulation will be reimbursed to them; and

22 10. In the event the Commission rejects the Stipulation and a full evidentiary hearing before the
23 Commission becomes necessary, neither any member of the Commission, nor the Executive
24 Director, shall be disqualified because of prior consideration of this Stipulation.

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Dated: _____
Kellie F. Johnson, Enforcement Chief of the City of Oakland
Public Ethics Commission, Petitioner

Dated: _____
Annie Campbell Washington, Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties to “In the Matter of Annie Campbell Washington for Oakland City Council 2018,” PEC Case No. 19-06, including all attached exhibits, is hereby accepted as the final Decision and Order of the City of Oakland Public Ethics Commission, effective upon execution below by the Chair.

Dated: _____
Michael MacDonald, Chair
City of Oakland Public Ethics Commission

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INTRODUCTION

On January 3, 2019, the City of Oakland Public Ethics Commission (PEC) Campaign Filing Officer Suzanne Doran emailed to former City Council Member Annie Campbell Washington the first warning “Notice of Non-filer Non-compliance” for failure to file a Semi-Annual Campaign Statement for the period of July 1, 2018 through December 31, 2018. On May 9, 2019, for Annie Campbell Washington for Oakland City Council 2018, the Filing Officer referred the matter to PEC Enforcement Unit for Non-filer enforcement. After investigating the Respondent’s campaign filings, PEC staff determined that Campbell-Washington and her campaign committee, despite multiple warnings, did not electronically file the required campaign information pursuant to section 3.12.340 (A) of the Oakland Campaign Reform Act (OCRA). Staff recommends that the Commission approve a stipulation that Annie Campbell Washington for Oakland City Council 2018 violated the Oakland Campaign Reform Act for a penalty of \$1,000 on Count 1, and \$1,171 in late fees, totaling \$2,171 in fines and penalties.

SUMMARY OF LAW:

All statutory references and discussions of law pertain to the referenced statutes and laws as they existed at the time of the violations.

O.M.C. § 3.12.340 (A) OCRA requires that any person required by State or local law to file a campaign statement or report with the local filing officer, shall file the statement or report in an electronic format with the Public Ethics Commission.

TIMELINE OF EVENTS:

| | |
|-----------|---|
| 1/03/2019 | PEC Filing Officer emailed a warning notice of Non-compliance to the Respondent. |
| 2/19/2019 | PEC Filing Officer sent a formal letter and notice of Non-compliance to the Respondent. |
| 3/05/2019 | PEC Filing Officer contacted the Respondent and spoke to her by telephone regarding the Non-compliance. |

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1 3/27/2019 PEC Filing Officer sent a formal letter and notice of Non-compliance to the
2 Respondent.

3 4/01/2019 PEC Filing Officer emailed a notice of Non-compliance to the Respondent.

4 5/09/2019 PEC Enforcement notified Respondent via formal letter that a Non-compliance report
5 was submitted for formal Enforcement.

6 6/06/2019 PEC Enforcement via formal letter offered to the Respondent an early resolution
7 settlement offer.

8 9 **FACTUAL SUMMARY AND ANALYSIS:**

10 In 2018, the Respondent was a candidate for Oakland City Council District 4 and established a
11 committee for "Annie Campbell Washington for Oakland City Council 2018." The Respondent had
12 been an elected member of the Oakland City Council and had previously filed required campaign
13 forms with the City since 2015. In 2018, the Respondent abruptly ended her campaign for City
14 Council. After ending her campaign, she failed to file a Semi-Annual Campaign Statement for the
15 period of July 1, 2018, through December 31, 2018. The PEC Filing Officer made numerous attempts to
16 gain the Respondent's compliance, including warning the Respondent that she was subject to daily
17 late filer fees for failing to timely file her Semi-Annual Campaign Statement. Despite PEC staff best
18 efforts to gain the Respondent's compliance, she did not submit the required campaign filing.

19
20 In May 2019, the Filing Officer referred the matter pursuant to PEC Enforcement. Enforcement
21 notified the Respondent by formal letter that a Non-compliance complaint was submitted for formal
22 investigation. Shortly thereafter, on June 6, 2019, PEC staff proposed that the Respondent agree to
23 an early resolution of her matter with a small fine. The Respondent did not respond to Enforcement.

24 **VIOLATION(S):**

25 Annie Campbell Washington violated the following Oakland Municipal Code sections:

26 **Count 1: Failure to File Campaign Statement/Report Non-Filer and Non-Reporter**

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1 On or about February 1, 2019, Respondent, Annie Campbell Washington, violated O.M.C. 3.12.340 (A)
2 of the Oakland Campaign Reform Act when she failed to file a Semi-Annual Campaign Statement for
3 the period of July 1, 2018 through December 31, 2018.

PENALTIES:

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6 Oakland Campaign Reform Act authorizes the Commission to impose maximum administrative
7 penalties of up to \$5,000, or three times the amount not properly reported (whichever is greater),
8 per violation of the Oakland Campaign Reform Act. The Base Level penalty for this violation is \$1,000
9 plus 1% of all financial activity not timely reported.

10
11 The PEC will consider all relevant mitigating and aggravating circumstances surrounding a violation
12 when deciding on a penalty, including, but not limited to, the following factors:

- 13 1. The seriousness of the violation, including, but not limited to, the extent of the public impact
14 or harm;
- 15 2. The presence or absence of any intention to conceal, deceive, or mislead;
- 16 3. Whether the violation was deliberate, negligent, or inadvertent;
- 17 4. Whether the violation was isolated or part of a pattern;
- 18 5. Whether the respondent has a prior record of violations and/or demonstrated knowledge of
19 the rule or requirement at issue;
- 20 6. The extent to which the respondent voluntarily and quickly took the steps necessary to cure
21 the violation (either independently or after contact from the PEC);
- 22 7. The degree to which the respondent cooperated with the PEC's enforcement activity in a
23 timely manner;
- 24 8. The relative experience of the respondent.

25
26 The PEC has broad discretion in evaluating a violation and determining the appropriate penalty based
27 on the totality of circumstances. This list of factors to consider is not an exhaustive list, but rather a
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1 sampling of factors that could be considered. There is no requirement or intention that each factor –
2 or any specific number of factors - be present in an enforcement action when determining a penalty.
3 As such, the ability or inability to prove or disprove any factor or group of factors shall in no way
4 restrict the PEC's power to bring an enforcement action or impose a penalty

Aggravating Factors

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7 Here, the circumstances of the Respondent's conduct establish aggravating factors that should
8 increase the severity of the penalty:

- 9 1. The Respondent was an experienced City Council Member.
- 10 2. The Respondent has demonstrated knowledge of the rule and was aware of the filing
11 obligations.

Mitigating Factors

- 14 1. Respondent submitted the outstanding campaign filing forms.

PROPOSED RESOLUTION

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17 Staff recommends the Commission approve the Stipulation and impose a \$1,000 penalty for a
18 violation of OCRA plus \$1,171 in late fees, for a total of \$2,171.