

1 b. The *Anne Campbell-Washington for Oakland City Council 2014* committee will
2 voluntarily remit payment to the “City of Oakland” in the form of a cashier’s
3 check in the amount of \$200.

4 c. The payments by Respondent and the *Anne Campbell-Washington for Oakland*
5 *City Council 2014* committee will be held by the Commission staff until the
6 Commission members issue a decision and order in this matter.

7 3. This stipulation will be submitted to the Commission members for consideration and will
8 be subject to approval by the Commission at the Commission’s next meeting.

9 4. If approved by the Commission members, this stipulation and the accompanying decision
10 and order will resolve all factual and legal issues raised in this matter and will be the final
11 disposition of this matter by the Commission.

12 5. If the Commission refuses to approve the proposed stipulation, it shall become null and
13 void, and Commission staff will return all payments tendered by the Respondent in this
14 matter within ten days of the Commission’s rejection of the stipulation.

15 6. If the Commission rejects the proposed stipulation and a full evidentiary hearing before
16 the Commission becomes necessary, no member of the Commission or its staff shall be
17 disqualified because of prior consideration of the stipulation.

18 7. Respondent understands and knowingly and voluntarily waives all procedural rights
19 under the law, Oakland City Charter, Oakland Municipal Code, and Public Ethics
20 Commission Complaint Procedures which include but are not limited to receiving a
21 finding of probable cause, having the Commission or independent hearing examiner hear
22 the matter, personally appearing at an administrative hearing, confronting and cross-
23 examining witnesses, and subpoenaing witnesses to testify at a hearing.

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

DATED: _____
_____ WHITNEY BARAZOTO, Petitioner

DATED: _____
_____ SUSAN PIPER, Respondent

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DECISION AND ORDER

The Public Ethics Commission considered the above STIPULATION at its meeting on _____ . The Commission hereby approves the STIPULATION and orders that, in accordance with the STIPULATION, Respondent pays a fine in the amount of \$200.

DATED: _____
BENJAMIN KIMBERLEY, Chairman
CITY OF OAKLAND
PUBLIC ETHICS COMMISSION

**Exhibit
PEC Case # 14-24**

I. SUMMARY OF COMPLAINT

On October 20, 2014, the Public Ethics Commission (PEC) received a complainant alleging that Susan Piper, an Oakland Unified School District (OUSD) contractor, had contributed to the *Anne Campbell Washington for Oakland City Council 2014* committee during the contractor “blackout” period in which contractors with OUSD are prohibited from making contributions to candidates for elective office under the Oakland Campaign Reform Act (OCRA).

II. FACTUAL SUMMARY

The Oakland Unified School Board of Directors voted to approve 7-0 a contract with Susan Piper on November 20, 2013. The approved consultant agreement was signed by OUSD Superintendent, Gary Yee, the OUSD Board President, and contractor Susan Piper on November 21, 2013. The contract states that Susan Piper will serve as a Communications and Public Relations consultant for OUSD for the term beginning October 8, 2013 until January 30, 2014. As an OUSD consultant, Susan Piper would provide OUSD services for the term of the agreement for eight hours per week at a billable rate of \$150 per hour, and the cumulative total of fees shall not exceed \$12,000.

During the time of the alleged violation, Anne Campbell Washington was the OUSD District 4 School Board Director and a candidate for City Council District 4. On March 17, 2014, Ms. Campbell Washington announced that she would be running for Oakland City Council District 4 seat in the November 2014 election by filing the Fair Political Practices Commission (FPPC) Candidate Intention Statement Form 501 to formally declare her candidacy. Ms. Campbell Washington formed the candidate-controlled committee *Anne Campbell Washington for Oakland City Council 2014* on March 25, 2014 by filing the FPPC Statement of Organization Form 410.

On September 19, 2014, the Public Ethics Commission received a complaint alleging that Susan Piper made two (2) \$100 contributions to the *Anne Campbell Washington for Oakland City Council 2014* in April and May 2014, within 180 days of the OUSD contract agreement being approved and while Ms. Campbell was still serving as a School Board Director. The contributions were made as follows:

| Contributions to <i>Anne Campbell Washington for Oakland City Council 2014</i> Committee | | |
|--|---------------------|----------------------|
| Contributor | Contribution Amount | Date of Contribution |
| Susan Piper | \$100 | 4/3/2014 |
| Susan Piper | \$100 | 5/18/2014 |

III. LEGAL SUMMARY

The Oakland Campaign Reform Act (OCRA) places various limitations on contributions from contractors with the City of Oakland, the Oakland Redevelopment Agency, and the Oakland Unified School District (O.M.C. 3.12.140). These provisions prohibit those who contract or propose to contract with these agencies from making campaign contributions to committees controlled by officeholders and candidates for elective City office during specified periods.

Whenever a contract transaction would require School Board approval, a person who contracts or proposes to contract with the School Board is prohibited from making any contribution to any campaign committee controlled by School Board members or candidates for School Board between the commencement of negotiations and for 180 days after the completion or termination of negotiations regarding the contract (O.M.C. 3.12.140(C)). For the purposes of this case analysis we will refer to the period in which contributions by contractors are prohibited as the “blackout period.”

This blackout period begins with the “commencement of negotiations,” which OCRA defines as occurring when “a contractor or contractor’s agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed city officer or employee or when any elected or appointed city officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor’s agent” (O.M.C. 3.12.140(G)). The blackout period concludes 180 days after the completion or termination of negotiations regarding the contract (O.M.C. 3.12.140(K),(L)).

The types of contracts implicated by this section include those “for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the School District or for selling any land or building to the School District or for purchasing any land or building from the School District whenever the value of such a transaction would require approval by the School Board.” (O.M.C. 3.12.140(C)).

According to OCRA (O.M.C. 3.12.140(F)), transactions that require approval by the School Board include but are not limited to the following:

1. Professional services and consulting contracts exceeding twenty-five thousand dollars (\$25,000.00), including personal service agreements.
2. Contracts requiring School Board approval under Public Contract Code Section 20111.
3. Construction contracts exceeding twenty-five thousand dollars (\$25,000.00) whether or not they are subject to the provisions of the Public Contract Code.
4. Contracts for the sale of any building or land to or from the School District.
5. Amendments to contracts described in subsections (F)(1), (2), (3), and (4) of this section.

In addition, OUSD Board Policy 3312, titled Business and Noninstructional Operations, Contracts and Delegation of Authority, delegates contract authority to the School Superintendent for contracts of up to \$50,000 but requires that all “contracts or amendments entered and

executed under the delegated authority” be “submitted to the Board for ratification within 60 calendar days.”

IV. ANALYSIS

On November 20, 2013, the Oakland School Board ratified 7-0 a professional services contract for Susan Piper to serve as Communications and Public Relations consultant for the district. The term of the service agreement was October 8, 2013 to January 30, 2014 with the option for a four month extension by written agreement of both parties. The approved contract states that “the total fees shall not exceed \$12,000” during the term of the agreement.

The total amount of Susan Piper’s contract is limited to \$12,000 and thus does not exceed the \$25,000 contract threshold expressly outlined in OCRA. However, OCRA states that no person who contracts shall make any campaign contribution to a School Board member “whenever the value of such transaction would require approval by the School Board” (O.M.C. 3.12.040). OUSD Board Policy 3312 requires all professional service contracts to obtain final approval by the School Board and therefore, the \$12,000 contract is subject to the contractor prohibition prescribed by OCRA.

The contribution blackout period for Susan Piper began upon the commencement of negotiations and continued until 180 days after the completion of negotiations, which is the date the contract was executed. Because the contract was signed and executed on November 21, 2013, the blackout period runs until May 20, 2014, which is 180 days after the completion of negotiations.

Susan Piper made two contributions of \$100 to the *Anne Campbell Washington for Oakland City Council 2014* committee on April 3, 2014 and May 18, 2014. Because these two campaign contributions totaling \$200 were made during the contractor blackout period, and because the contract required School Board approval, these contributions were in violation of OCRA.

Note: The contractor prohibition applies to contractors only; there is no prohibition on candidates receiving a prohibited contractor contribution. However, given that the *Anne Campbell-Washington for Oakland City Council 2014* committee received \$200 in prohibited contributions, staff requested that the candidate voluntarily remit payment to the City of Oakland in the amount of the prohibited contribution.

V. RECOMENDATION

To resolve this matter, staff recommends the respondent/contractor, Susan Piper, pay a fine of \$200, the amount that was contributed in violation of the Oakland Campaign Reform Act. Staff further recommends that the *Anne Campbell-Washington for Oakland City Council 2014* committee voluntarily remit payment to the City of Oakland in the amount of \$200.

