

City of Oakland
Public Ethics Commission
February 7, 2011

In The Matter of

) Complaint No. 10-17
)
) **[Proposed]** Stipulation,
) Decision and Order

It is hereby stipulated by and among the City of Oakland Public Ethics Commission, Nancy Nadel and Sele Nadel-Hayes.

A. Oakland City Councilmember Nancy Nadel was a candidate for office in the June 2008 municipal election for City Council District Three. At all times relevant to this complaint and stipulation, Ms. Nadel-Hayes served as Ms. Nadel's campaign treasurer. On or about May 7, 2008, Ms. Nadel qualified to participate in the City of Oakland's program to provide public matching funds pursuant to the Limited Public Financing Act (LPFA), O.M.C. Chapter 3.13. During the course of the campaign, Ms. Nadel received a total of \$15,643 in public matching funds.

B. On June 30, 2010, the Office of the City Auditor released its mandatory audit of Ms. Nadel's campaign account pursuant to the LPFA. Among the relevant published findings were 1) "The campaign failed to report \$11,376 in contributions on its Form 460s;" 2) "The campaign failed to report \$2,050 in online 'Click & Pledge' contributions on its Form 460s;" 3) "The campaign failed to report \$1,667 in expenditures on its Form 460s;" 4) "The campaign returned, on October 22, 2008, \$11,430 of \$15,551 in unencumbered funds but failed to do so within the 31-day allocated time period;" and 5) "The campaign returned, on March 2, 2010, all remaining public matching funds received of \$4,213, thereby returning all unencumbered funds identified by the audit, however, it had failed to do so within the 31-day allotted time period." A copy of the City Auditor' Report of June 30, 2010 is incorporated into this Stipulation by reference.

C. Commission staff contends that Ms. Nadel and/or Ms. Nadel-Hayes failed to: 1) completely and accurately execute all pre-election and post-election campaign statements in connection with the election for which Ms. Nadel received public matching funds, thus potentially violating LPFA Section 3.13.080(G) [Qualification Procedures]; and, 2) return to the Election Campaign Fund all unencumbered matching funds no later than 31 days from the last day of the semi-annual reporting period following the election, thus potentially violating LPFA Section 3.13.150(B) [Return Of Matching Funds].

D. Ms. Nadel and Ms. Nadel-Hayes contend: 1) of the so-called "Click and Pledge" contributions that were not recorded on the campaign statements, all were within the legal contribution limits and contained all required contributor information; 2)

unsuccessful efforts to contact a former campaign treasurer and to obtain records from a financial institution have frustrated attempts to reconcile and re-state past campaign statements; 3) the reported \$1,667 in unreported expenditures resulted from an omission of one staff payroll expense; 4) with the exception of one returned check in the amount of \$100, all of the contributions for which matching funds were provided were valid; 5) all campaign expenditures were below the voluntary expenditure ceiling in effect during the June 2008 election; and 6) the campaign has returned to the Election Campaign Fund an amount equal to all public financing receiving during the June 2008 election.

E. Pursuant to Commission General Complaint Procedures Section XII(F), Commission staff recommends that the contentions stated in paragraphs C and D be resolved as follows:

1) Within ten (10) business days after this Stipulation, Decision and Order ("Stipulation") is approved by the Commission, Ms. Nadel shall make a settlement payment of \$1,000.00 on behalf of her and Ms. Nadel Hayes in a check made payable to "The City of Oakland" and mail or deliver the check to the offices of the Public Ethics Commission.

2) Nothing in this Stipulation shall be interpreted as an admission of wrongdoing by Ms. Nadel or Ms. Nadel-Hayes; both have entered into this Stipulation to avoid any further proceedings before the Commission.

3) Ms. Nadel and Ms. Nadel-Hayes knowingly and voluntarily waive all rights to a hearing before the Commission on the merits of the contentions contained in paragraph C.

4) Ms. Nadel and Ms. Nadel-Hayes understand and acknowledge that this Stipulation a) will not be effective until it is approved by the Commission; b) is not binding on any other law enforcement agency and does not preclude the Commission or Commission staff from referring the matter to, cooperating with, or assisting any other government agency with regard to the subject matter of this Stipulation; and c) will become null and void if the Commission refuses to approve it. If the Commission refuses to approve this Stipulation and a full evidentiary hearing before the Commission becomes necessary, the Commission's prior consideration of this Stipulation will not constitute grounds for the disqualification of any member of the Commission or Commission staff.

F) Ms. Nadel and Ms. Nadel-Hayes hereby agree to the terms set forth in paragraph E above.

Dated: _____, 2011

Nancy Nadel

Dated: _____, 2011

Sele Nadel-Hayes

**CERTIFICATION RE: APPROVAL OF STIPULATION
DECISION AND ORDER**

The foregoing Stipulation, Decision and Order ("Stipulation") was presented for approval at a duly noticed meeting of the City of Oakland Public Ethics Commission ("Commission") held on _____, 2011. A quorum of the membership of the Commission was present at the meeting. A motion approving the Stipulation was duly made and seconded, and the motion was adopted by a majority of said quorum.

I hereby certify that the foregoing is true and correct.

Dated: _____, 2011

Daniel D. Purnell, Executive Director
Oakland Public Ethics Commission