

City of Oakland
Public Ethics Commission
February 5, 2001

In The Matter of) Complaint No. 00-0021
)
Complaint Filed By Mari Lee) **[Proposed]** Stipulation,
On August 10, 2000) Decision and Order

It is hereby stipulated by and between the City of Oakland Public Ethics Commission ("Commission") and Rebecca Kaplan, individually and on behalf of The Committee To Elect Rebecca Kaplan ("Committee"):

1. During the course of her 2000 campaign for the At-Large seat on the Oakland City Council, Ms. Kaplan caused the distribution of two pieces of campaign literature, identified as Attachments 5A and 5B in the November 6, 2000, Commission staff report to Complaint 00-0021, which report is incorporated herein by reference.

2. During the course of said campaign, Ms. Kaplan also posted instructions on her campaign Website on how to make a contribution to her campaign. A print-out of the Website page is identified as Attachment 5C to the above-referenced Commission staff report.

3. During the course of said campaign, Ms. Kaplan filed a Schedule A to her Committee's FPPC Form 460, in which information pertaining to the occupation and/or the employer of approximately contributors was omitted. A copy of the Schedule A demonstrating the omitted information is identified as Attachment 6 to the above-referenced Commission staff report. After Complaint 00-0021 was filed, Ms. Kaplan provided the omitted information to the Commission and verbally advised the Commission that her campaign possessed the omitted information as to approximately one-half of the contributors at the time the contributions were deposited into her campaign bank account. She was unable to verify whether her campaign possessed the omitted information as to the other contributors at the time those contributions were deposited.

4. Commission staff contends that Attachments 5A, 5B and 5C constitute "campaign fundraising materials" and, as such, failed to provide the required disclosure language under Section 3.12.140.P of the Oakland Campaign Reform Act (OCRA). Ms. Kaplan contends that OCRA does not define what constitutes "campaign fundraising material" and that the disclosures were not required in Attachments 5A, 5B and 5C where the primary intent of these materials was to provide information about the candidate.

5. Commission staff contends that Ms. Kaplan's inability to verify whether her campaign possessed the omitted occupation and/or employment information as to some of her contributors at the time their contributions were deposited into her campaign checking account violated OCRA Section 3.12.130 [Identification of Contributor Required].

6. At its regular meeting of November 6, 2000, the Commission voted to adopt the recommendation of Commission staff to schedule an administrative hearing on the issues presented in paragraphs 4 and 5 above, conditioned on a prior attempt by Commission staff "to obtain a mediated settlement or stipulated judgment among the appropriate parties."

7. On November 21, 2000, Commission staff contacted the complainant, Mari Lee, regarding her desire to participate in a mediated resolution of the outstanding issues in her complaint. She stated she was not interested in pursuing mediation. Commission staff then contacted Ms. Kaplan for the purpose of developing this proposed Stipulation, Judgment and Order. After conferring with Ms. Kaplan and pursuant to Commission General Complaint Procedures Section XII(F), Commission staff recommends that the contentions stated in paragraphs 4 and 5 be resolved as follows:

A) Within ten (10) business days after this Stipulation, Decision and Order ("Stipulation") is approved by the Commission, Rebecca Kaplan shall make a settlement payment of \$ in a check made payable to "The City of Oakland."

B) Nothing in this Stipulation is to be interpreted as an admission of wrongdoing by Rebecca Kaplan or her Committee. The Commission and Ms. Kaplan have entered into this Stipulation to avoid any further proceedings or litigation.

C) Ms. Kaplan knowingly and voluntarily waives all rights to a hearing before the Commission on the merits of the contentions contained in paragraphs 4 and 5, above.

D) Ms. Kaplan understands and acknowledges that this Stipulation 1) will not be effective until it is approved by the Commission; 2) 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 3) 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.

E) The terms of this Stipulation pertain only to the matters set forth herein.

7) Rebecca Kaplan, individually and on behalf of her Committee, hereby agrees to the terms set forth in paragraph 6 above.

Dated: _____, 2001

Rebecca Kaplan, individually and on
behalf of The Committee To Elect
Rebecca Kaplan

**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 _____, 2001. 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: _____, 2001

Daniel D. Purnell, Executive Director
Oakland Public Ethics Commission