

1 John St. Croix
2 Executive Director
3 SAN FRANCISCO ETHICS COMMISSION
4 30 Van Ness Avenue, Suite 3900
5 San Francisco, CA 94102
6 415-581-2300

7 Complainant

8 BEFORE THE SAN FRANCISCO
9 ETHICS COMMISSION

| | | |
|-------------------------|---|--------------------------------|
| 10 In the Matter of |) | Ethics Complaint No. 13-050811 |
| |) | |
| 11 SKS INVESTMENTS, LLC |) | |
| |) | STIPULATION, DECISION |
| |) | AND ORDER |
| 12 |) | |
| 13 Respondent. |) | |
| |) | |
| 14 |) | |

15 THE PARTIES STIPULATE AS FOLLOWS:

- 16 1. This Stipulation, Decision and Order (“Stipulation”) is made and entered into by and
17 between SKS Investments, LLC (“Respondent”) and the San Francisco Ethics Commission.
- 18 2. Respondent and the Ethics Commission deem it in their best mutual interest and
19 advantage to settle and resolve all factual and legal issues in this matter and to reach a final
20 disposition without the necessity of holding an administrative hearing to determine Respondent’s
21 liability.
- 22 3. Respondent agrees to pay a settlement in the amount of \$400 for failing to disclose four
23 contributions pursuant to San Francisco Campaign and Governmental Conduct Code (“S.F.
24 C&GCC”) Section 1.106 and Government Code Section 84200 as set forth below in Count 1.

1 Within five business days after the Ethics Commission approves this Stipulation, Respondent
2 shall deliver \$400, made payable as set forth below in paragraph 4, to the Ethics Commission.

3 4. The settlement set forth in paragraph 3, above, shall be paid by check or money order
4 made payable to “the City and County of San Francisco.” The check or money order shall be
5 deposited in the General Fund of the City and County of San Francisco.

6 5. Respondent understands and hereby knowingly and voluntarily waives any and all
7 procedural rights under Section C3.699-13 of the San Francisco Charter and the Ethics
8 Commission’s Regulations for Investigations and Enforcement Proceedings with respect to this
9 matter, unless the Ethics Commission refuses to approve this Stipulation.

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

14 7. This Stipulation is subject to approval by the Ethics Commission. Respondent agrees that
15 in the event the Ethics Commission refuses to approve this Stipulation, it shall become null and
16 void.

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

20 9. This Stipulation reflects the entire agreement between the parties hereto and supersedes
21 any and all prior negotiations, understandings, and agreements with respect to the transactions
22 contemplated herein. This Stipulation may not be amended orally. Any amendment or
23 modification to this Stipulation must be in writing duly executed by all parties.
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1 10. This Stipulation shall be construed under, and interpreted in accordance with, the laws of
2 the State of California. If any provision of the Stipulation is found to be unenforceable, the
3 remaining provisions shall remain valid and enforceable.

4 **Summary of Relevant Law**

5 11. Government Code Section 84200, incorporated into local law by S.F. C&GCC Section
6 1.106 requires major donor committees to disclose contributions made by the filer each year no
7 later than July 31 for the period ending June 30, and no later than January 31 for the period
8 ending December 31.

9 12. Violations of Section 1.106 may result in a person being required by the Ethics
10 Commission to (1) cease and desist the violation, (2) file any reports, statements or other
11 documents required by law; and/or (3) pay a monetary penalty of up to \$5,000 for each violation,
12 or three times the amount not properly reported or unlawfully contributed, expended, given or
13 received, whichever is greater. San Francisco Charter Section C.3.669-13 (c).

14 **Summary of Facts**

15 13. Affiliates of Respondent made four contributions totaling \$40,000 in 2000 to San
16 Francisco campaign committees, thereby qualifying Respondent and its affiliates as a major
17 donor.

18 14. On January 26, 2001, Respondent filed a Form 461 Major Donor and Independent
19 Expenditure Committee Campaign Statement ("Form 461") for the period July 1, 2000 through
20 December 31, 2000, disclosing contributions totaling \$10,500, but failed to disclose the four
21 contributions listed in paragraph 13.

22 15. On November 15, 2004, Ethics Commission staff notified the affiliates of Respondent
23 that based on Commission records, the affiliates had made contributions totaling \$10,000 or
24 more and had failed to file Form 461 disclosing the contributions.

1 16. On December 6, 2004, Respondent and its affiliates filed an amended Form 461,
2 disclosing the four additional contributions totaling \$40,000.

3 **Count I**

4 17. Pursuant to Government Code Section 84200, as a major donor committee, Respondent
5 and its affiliates were required to file a report disclosing all contributions made during the
6 reporting period. Respondents and its affiliates failed to report on a timely basis four
7 contributions totaling \$40,000.

8 **Factors in Mitigation**

9 18. Respondent has no prior enforcement history and has always filed its major donor reports
10 in a timely manner. Furthermore, the violation did not appear to be willful, as Respondent
11 indicated that its failure to file was inadvertent.

12 19. Affiliates of Respondent were part of the pool of major donor committees that the Ethics
13 Commission notified regarding their failure to file during its major donor canvass in 2004. The
14 settlement amount of \$400 is consistent with the late filing penalties that the Ethics Commission
15 imposed on late filers during this time.

16 20. Respondent was cooperative and voluntarily filed an amended major donor statement.

17 21. Although Respondent and its affiliates did not timely disclose the four contributions, the
18 public was not deprived of the information since the recipients of the four contributions disclosed
19 receipt of the contributions.

20 **Factors in Aggravation**

21 22. Government Code Section 84200, which required Respondent and its affiliates to timely
22 disclose all contributions made during the reporting period, was enacted by the voters
23 specifically to prevent corruption or the appearance of corruption.
24
25

Conclusion

23. For the reasons set forth above, the parties agree that \$400 is an appropriate settlement amount for the failure of Respondent and its affiliates to timely disclose the four contributions. Accordingly, Respondent agrees to pay \$400 as set forth in the payment schedule described in paragraph 3.

24. The parties hereto may sign different copies of this Stipulation, which will be deemed to have the same effect as though all parties had signed the same document.

25. Counterparts. This Stipulation may be executed in one or more counterparts, including without limitation a counterpart bearing a facsimile signature, each of which shall be deemed to be an original and all of which together shall constitute a single instrument.

Dated: _____

SKS INVESTMENTS, LLC
Respondent

Dated: _____

JOHN ST. CROIX, Executive Director
SAN FRANCISCO ETHICS COMMISSION
Complainant

Dated: _____

EMI GUSUKUMA, Chairperson
SAN FRANCISCO ETHICS COMMISSION
Complainant