

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  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BEFORE THE SAN FRANCISCO  
ETHICS COMMISSION

In the Matter of )  
COLEMAN ADVOCATES FOR CHILDREN )  
AND YOUTH, )  
Respondents. )  
)  
)  
)  
)  
)

Ethics Complaint No. 31-031004

**STIPULATION, DECISION  
AND ORDER**

THE PARTIES STIPULATE AS FOLLOWS:

1. This Stipulation, Decision and Order (“Stipulation”) is made and entered into by and between Coleman Advocates for Children and Youth (“Respondents”) and the San Francisco Ethics Commission (“the Ethics Commission”).
2. Respondents and the Ethics Commission deem it in their best mutual interest and advantage to settle and resolve all factual and legal issues in this matter and to reach a final disposition without the necessity of holding an administrative hearing to determine Respondents’ liability.
3. Respondents agree to pay a settlement in the amount of fifteen thousand eight hundred and forty dollars (\$15,840). One thousand dollars (\$1,000) of the above amount represents an administrative penalty for violations of California Government Code Sections 84200(b) and 84203.5 as incorporated into the San Francisco Campaign Finance Reform Ordinance by San

1 Francisco Campaign & Governmental Conduct Code Section 1.106 and as set forth below in  
2 Counts 1 and 2. The remaining fourteen thousand eight hundred and forty dollars (\$14,840)  
3 represents the full payment of an outstanding late filing fee for a Major Donor Campaign Statement  
4 for the period July 1, 2000 to December 31, 2000, as described in paragraphs 30 and 31 below.

5 4. Within ten (10) business days after the Ethics Commission approves this Stipulation,  
6 Respondents shall deliver fifteen thousand eight hundred and forty dollars (\$15,840), made payable  
7 as set forth below in paragraph 7, to the Ethics Commission.

8 5. Within ten (10) business days after the Ethics Commission approves this Stipulation,  
9 Respondents will also file an Independent Expenditure Committee Campaign Statement (Form 461)  
10 and four Supplemental Independent Expenditure Statements (Form 465) with the Ethics  
11 Commission as required by the Campaign Finance Reform Act and California Political Reform Act  
12 and as set forth in Counts 1 and 2 below.

13 6. On condition of timely filing of these reports as set forth in paragraph 5 above and Counts 1  
14 and 2 below, the Ethics Commission agrees to waive all late filing fees for these Independent  
15 Expenditure Committee Campaign Statement and four Supplemental Independent Expenditure  
16 Statements.

17 7. The settlement amount set forth in paragraph 3 above, shall be paid by check or money  
18 order made payable to "the City and County of San Francisco." The check or money order shall be  
19 deposited in the General Fund of the City and County of San Francisco and delivered to the  
20 following address:  
21

22 San Francisco Ethics Commission  
23 30 Van Ness Avenue, Suite 3900  
24 San Francisco, CA 94102

25 8. Respondents understand, and hereby knowingly and voluntarily waive, any and all

1 procedural rights under Section C3.699-13 of the San Francisco Charter and the Ethics  
2 Commission's Regulations for Investigations and Enforcement Proceedings with respect to this  
3 matter. This includes, but is not limited to, the right to appear personally at any administrative  
4 hearing held in this matter, to be represented by an attorney at Respondents' expense, to confront  
5 and cross-examine all witnesses testifying at the hearing and to subpoena witnesses to testify at the  
6 hearing.

7 9. Respondents understand and acknowledge that this Stipulation is not binding on any other  
8 law enforcement agency, and does not preclude the Ethics Commission or its staff from cooperating  
9 with or assisting any other government agency with regard to the complaint, or any other matter  
10 related to it.

11 10. This Stipulation is subject to approval by the Ethics Commission. Respondents agree that in  
12 the event the Ethics Commission refuses to approve this Stipulation, it shall become null and void.

13 11. In the event the Ethics Commission rejects the Stipulation and a full evidentiary hearing  
14 before the Commission becomes necessary, no member of the Ethics Commission shall be  
15 disqualified because of his or her prior consideration of this Stipulation.

16 12. This Stipulation reflects the entire agreement between the parties hereto and supersedes any  
17 and all prior negotiations, understandings, and agreements with respect to the transactions  
18 contemplated herein. This Stipulation may not be amended orally. Any amendment or  
19 modification to this Stipulation must be in writing duly executed by all parties.  
20

21 13. This Stipulation shall be construed under, and interpreted in accordance with, the laws of the  
22 State of California. If any provision of the Stipulation is found to be unenforceable, the remaining  
23 provisions shall remain valid and enforceable.

24 ///

**Summary of Relevant Law**

1  
2 14. San Francisco Campaign & Governmental Code Section 1.106 incorporates into the San  
3 Francisco Campaign Finance Reform Ordinance all provisions of the Government Code of the State  
4 of California (commencing at Section 81000) relating to local elections.

5 15. An independent expenditure is an expenditure made “in connection with a communication  
6 which expressly advocates . . . the passage or defeat of a clearly identified measure . . . but which is  
7 not made to or at the behest of the affected candidate or committee.” Cal. Gov. Code § 82031, SF  
8 C&GCC § 1.106.

9 16. An independent expenditure committee is any person or group of persons who make  
10 independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year. Cal.  
11 Gov. Code § 82013(b), SF C&GCC § 1.106.

12 17. An independent expenditure committee must file a semi-annual Independent Expenditure  
13 Committee Campaign Statement (Form 461) with the Ethics Commission if it has made  
14 independent expenditures relating to ballot measures appearing on the San Francisco ballot during  
15 the six-month period before the closing date of the statements. Cal. Gov. Code §§ 84200(b), 84215;  
16 SF C&GCC § 1.106.

17 18. In addition, an independent expenditure committee must file a Supplemental Independent  
18 Expenditure Statement (Form 465) with the Ethics Commission for each ballot measure identified  
19 in the communication, if one thousand dollars (\$1,000) or more was spent to support or oppose that  
20 particular measure. Cal. Gov. Code §§ 84203.5, 84215; SF C&GCC § 1.106; see Form 465  
21 Instructions.

22 19. A major donor committee is any person or combination of persons who makes contributions  
23 totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates  
24 or committees. Cal. Gov. Code § 82013(c); SF C&GCC § 1.106.

25 20. A major donor committee shall file a semi-annual Major Donor Campaign Statement (Form

1 461) with the Ethics Commission if it has made contributions during the six-month period before  
2 the closing date of the statements. Cal. Gov. Code § 84200(b); SF C&GCC § 1.106.

3 21. If any person files a campaign statement after any deadline imposed by the California  
4 Political Reform Act as incorporated by the San Francisco Campaign Finance Reform Ordinance,  
5 he or she shall be liable in the amount of ten dollars (\$10) per day after the deadline until the  
6 statement is filed with the Ethics Commission. Cal. Gov. Code § 91013.5(a); SF C&GCC § 1.106.

7 22. The Ethics Commission is precluded from waiving any late filing fee for a semi-annual  
8 campaign statement filed ten (10) days after the Ethics Commission has sent specific written notice  
9 of the filing requirement. Cal. Gov. Code § 91013.5(a); SF C&GCC § 1.106.

#### 10 **Summary of Facts**

11 23. On October 3, 2003, Respondents paid thirty thousand dollars (\$30,000) to produce and  
12 mail an eight-page printed communication piece. The four center pages of the mailing featured  
13 comments by the mayoral candidates about issues concerning children and youth, and much of the  
14 remaining space contained photographs, statistics and general information. A portion of the back  
15 page contained the following text:

16 “Coleman Recommendations on local ballot measures:\*

17 Yes on A – School Bond

18 Yes on H – Police Reform

19 Yes on I – Expanded Preschool

20 Yes on L – Minimum Wage.”

21 24. Respondents’ mailing also read:

22 “\* Coleman Advocates for Children is a non-profit, non-partisan organization. We take no  
23 positions on candidates, and work to share objective information with the public. We do  
24 take positions on ballot measures related to children and families.”

25 25. Measures A, H, I and L were local ballot measures in San Francisco’s November 2003

1 election.

2 26. The filing deadline for semi-annual campaign statements and supplemental independent  
3 expenditure statements for the period July 1, 2003 to December 31, 2003 was February 2, 2004.

4 27. On May 27, 2005, Ethics Commission staff contacted NTanya Lee, Respondents' current  
5 executive director, to request information about the cost of the mailing and its intended audience.

6 28. On June 21, 2005, Ms. Lee told staff that she had located an invoice for the mailing, which  
7 Respondents provided to the Ethics Commission on July 26, 2005. The invoice confirmed  
8 expenditures of thirty thousand dollars (\$30,000) for the mailing.

9 29. To date, Respondents have not filed a semi-annual Independent Expenditure Committee  
10 Campaign Statement or any Supplemental Independent Expenditure Statements with the Ethics  
11 Commission related to these expenditures.

12 30. On February 23, 2005, Respondents incurred a late filing fine of fourteen thousand eight  
13 hundred and forty dollars (\$14,840) for late filing of an unrelated Major Donor Campaign  
14 Statement that reported thirty two thousand nine hundred and fifteen dollars (\$32,915) in  
15 contributions made between September 14, 2000 and November 25, 2000 to the Committee to  
16 Renew the Children's Amendment, a primarily formed ballot measure committee.

17 31. Respondents are ineligible for waiver of the late filing fee related to the Major Donor  
18 Campaign Statement described in paragraph 30 because Respondents failed to file the report within  
19 ten (10) days of specific written notice, mailed by the Ethics Commission on February 10, 2005.

20 **Count I**

21 32. Respondents violated the Campaign Finance Reform Ordinance and California Government  
22 Code Section 84200(b) by failing to file a semi-annual Independent Expenditure Committee  
23 Campaign Statement (Form 461) with the Ethics Commission when it made independent  
24 expenditures in excess of one thousand dollars (\$1,000) in support of local ballot measures in the  
25 November 2003 election.

1 **Count II**

2 33. Respondents violated the Campaign Finance Reform Ordinance and California Government  
3 Code Section 84203.5 by failing to file four Supplemental Independent Expenditure Statements  
4 (Form 465) with the Ethics Commission for each ballot measure identified in the mailing for which  
5 Respondents spent one thousand dollars (\$1,000) to support that measure.

6 **Factors in Mitigation**

7 34. These violations do not appear to be willful. NTanya Lee, who was not the Executive  
8 Director of Coleman Advocates at the time of the violations, told Ethics Commission staff that she  
9 did not know about the filing requirements described above until she was contacted by staff.  
10 Furthermore, although Respondents have occasionally engaged in political activity, Respondents'  
11 primarily focus is not political, but nonprofit advocacy for local children and families in San  
12 Francisco.

13 35. Respondents told Ethics Commission staff that they did not believe they were required to  
14 file the above independent expenditure reports because, space-wise, only a small portion of the  
15 mailing (one-fifth of one page of an eight-page mailer) contained the text which expressly  
16 advocated for the four ballot measures. Respondents therefore did not believe they had reached the  
17 monetary threshold that required them to report the independent expenditures to the Ethics  
18 Commission.

19 **Factors in Aggravation**

20 36. Respondents did not provide the invoice requested by Ethics Commission staff until a  
21 month after Ms. Lee told Ethics Commission staff she had located it.

22 37. Notwithstanding Respondents' claim that they did not believe they were required to file  
23 independent expenditure reports related to the above mailing, Ethics Commission staff informed  
24 Ms. Lee of the filing obligation on June 21, 2005, yet Respondents have not filed a semi-annual  
25 Independent Expenditure Committee Campaign Statement or any Supplemental Independent

1 Expenditure Statements with the Ethics Commission related to the above mailing to date.

2 38. Although Ms. Lee did not become Executive Director until January 2005, Respondents are  
3 an organization that engaged in political activity before that time, and the organization has failed to  
4 file other campaign finance disclosure statements, as evidenced by the late filing fee incurred for  
5 the Major Donor Campaign Statement described in paragraphs 30 and 31 above. Once Ms. Lee  
6 became aware of Respondents' major donor reporting obligations, however, Respondents filed the  
7 report requested by Ethics Commission staff and a report for a previous period not requested.

8 **Conclusion**

9 39. For the reasons set forth above, the parties agree that fifteen thousand eight hundred and  
10 forty dollars (\$15,840) is an appropriate settlement amount for Respondents' violation of California  
11 Government Code Sections 84200(b) and 84203.5, as incorporated into the San Francisco  
12 Campaign Finance Reform Ordinance by San Francisco Campaign & Governmental Conduct Code  
13 Section 1.106, and represents payment in full of Respondents' outstanding late filing fee as  
14 described in paragraphs 30 and 31 above.

15 40. Additionally, for the reasons stated above, the parties agree that Respondents will file a  
16 semi-annual Independent Expenditure Committee Campaign Statement and four Supplemental  
17 Independent Expenditure Statements related to the above-mentioned mailing with the Ethics  
18 Commission within ten (10) days after the Ethics Commission approves this Stipulation.

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

21 Dated: \_\_\_\_\_

\_\_\_\_\_  
JOHN ST. CROIX, Executive Director  
San Francisco Ethics Commission  
Complainant

24 Dated: \_\_\_\_\_

\_\_\_\_\_  
NTANYA LEE, Executive Director  
Coleman Advocates for Children  
Respondents

**DECISION AND ORDER**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

The foregoing Stipulation of the parties "In the Matter of Coleman Advocates for Children and Youth," Ethics Complaint Number 31-031004, including all attached exhibits, is hereby accepted as the final decision and order of the San Francisco Ethics Commission, effective upon execution below by the Chairperson.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
EMI GUSUKUMA  
Chairperson  
San Francisco Ethics Commission