

1 JOHN ST. CROIX
Executive Director
2 SAN FRANCISCO ETHICS COMMISSION
30 Van Ness Avenue, Suite 3900
3 San Francisco, CA 94102
415-581-2300

4 Complainant

6 BEFORE THE SAN FRANCISCO
7 ETHICS COMMISSION

9 In the Matter of) Ethics Complaint No. NRF-05-050927
10)
11 RADULOVICH FOR SUPERVISOR) **STIPULATION, DECISION**
(ID NUMBER 1244809),) **AND ORDER**
12 TOM RADULOVICH AND SUSAN)
13 STEPHENSON)
14 Respondents.)
15)
16)

17 Complainant, John St. Croix, Executive Director of the San Francisco Ethics Commission,
18 and Respondents Radulovich for Supervisor (ID Number 1244809), Tom Radulovich and Susan
19 Stephenson hereby agree that this Stipulation will be submitted for consideration by the Ethics
20 Commission at its next meeting. The parties agree to enter into this Stipulation to resolve all factual
21 and legal issues raised in the matter of Ethics Commission Complaint Number NRF-05-050927.

22 Respondents understand, and hereby knowingly and voluntarily waive, any and all
23 procedural rights under Section C3.699-13 of the San Francisco Charter and the Ethics
24 Commission's Regulations for Investigations and Enforcement Proceedings with respect to this
25 matter. This includes, but is not limited to, the right to appear personally at any administrative

1 hearing held in this matter, to be represented by an attorney at Respondents' expense, to confront
2 and cross-examine all witnesses testifying at the hearing and to subpoena witnesses to testify at the
3 hearing.

4 It is hereby stipulated and agreed that the Respondents committed one (1) violation of the
5 San Francisco Campaign Finance Reform Ordinance and one (1) violation of the Electronic Filing
6 Ordinance, as described below in the summary of facts, which is a true and accurate summary of the
7 facts in this matter.

8 **SUMMARY OF LAW**

9 Section 1.106 of the San Francisco Campaign and Governmental Conduct Code requires
10 committees active in local elections to file campaign finance disclosure reports with the Ethics
11 Commission. All active committees were required to file a semi-annual campaign finance report
12 for the period July 1, 2004 to December 31, 2004 by January 31, 2005. S.F. C&GCC § 1.106; Cal.
13 Gov. Code §§ 84200 *et seq.* Committees that received contributions or made independent
14 expenditures totaling five thousand dollars (\$5,000) or more in a calendar year were also required to
15 file this report in electronic form by the same deadline. SF C&GCC §§ 1.300 *et seq.*

16 It is the duty of a committee's treasurer to ensure that the committee complies with all of the
17 requirements of San Francisco's Campaign Finance Reform Ordinance and Electronic Filing
18 Ordinance and California's Political Reform Act concerning the receipt and expenditure of funds,
19 and the reporting of such funds. S.F. C&GCC § 1.106; Cal. Gov. Code §§ 81004(b) and 84100; 2
20 CCR § 18427(a). A candidate and a committee's treasurer may be held jointly and severally liable,
21 along with the committee, for any reporting violations committed by the committee. S.F. C&GCC
22 § 1.106 and 1.170(f); Cal. Gov. Code § 91006.

23 Any person who intentionally or negligently violates any provisions of the San Francisco
24 Campaign Finance Reform Ordinance or Electronic Filing Ordinance is liable in an administrative
25 proceeding before the Ethics Commission for penalties in an amount of up to five thousand dollars

1 (\$5,000) for each violation, or three times the amount not reported, whichever is greater. S.F.
2 C&GCC Code § 1.170; S.F. Charter § C3.699-13.

3 **SUMMARY OF FACTS**

4 Radulovich for Supervisor (“the Committee”) qualified as a committee, and, as such, the
5 Committee was required to file campaign finance reports with the Ethics Commission pursuant to
6 local and state law. Furthermore, the Committee received contributions and made independent
7 expenditures totaling more than five thousand dollars (\$5,000) in a calendar year, so the Committee
8 was required to file electronic as well as paper reports with the Ethics Commission.

9 As candidate and treasurer, Tom Radulovich and Susan Stephenson, respectively, were
10 responsible for ensuring that the Committee complied with the filing requirements and may be held
11 personally liable for violations by the Committee.

12 January 31, 2005 was the filing deadline for semi-annual campaign statements covering the
13 period from July 1, 2004 to December 31, 2004.

14 The Committee was required, but failed, to file paper and electronic semi-annual campaign
15 statements for this period by the January 31, 2005 deadline.

16 On February 10, 2005, the Ethics Commission sent the Committee written notice of its
17 failure to file the required reports.

18 On February 18, 2005, the Ethics Commission attempted to telephone the Committee to
19 notify it orally of its failure to file the required reports.

20 On or around February 18, 2005, Ethics Commission staff listed the Committee’s name on
21 the Ethics Commission’s website as a Non-Responsive Filer.

22 On February 23, 2005, the Committee had not yet filed the above reports, so the Ethics
23 Commission sent specific written notice to the Committee regarding its failure to file these reports.

24 On September 27, 2005, the Committee had still not filed the above reports, so the Ethics
25 Commission initiated an enforcement action regarding the Committee’s non-filing pursuant to the

1 Ethics Commission's Regulations for Investigations and Enforcement Proceedings § III-A. On the
2 same day, the Ethics Commission sent a notice to the Committee that an enforcement action had
3 been initiated and sent a copy of the enforcement notice to the District Attorney and the City
4 Attorney.

5 On October 12, 2005, the Committee had not filed the above reports, so Ethics Commission
6 staff attempted to telephone the Committee to inform the Committee that a Probable Cause Report
7 would be issued and Probable Cause Hearing scheduled if the Committee did not file the required
8 reports within ten (10) business days of the phone call.

9 On October 31, 2005, the Committee electronically filed a campaign finance disclosure
10 report for the period July 1, 2004 to December 31, 2004. This report was filed two hundred and
11 seventy three (273) days after the January 31, 2005 due date.

12 On November 1, 2005, assistant treasurer Stacey Owens attempted to file a paper campaign
13 finance disclosure report for the period July 1, 2004 to December 31, 2004, but the report did not
14 contain original signatures of the candidate and treasurer, so the Ethics Commission could not
15 accept it as filed. Ethics Commission staff left voice-mail messages for Ms. Owens informing her
16 that original signatures were required in order to deem the paper report filed.

17 On November 17, 2005, the Committee had still not filed a paper report with original
18 signatures, so Ethics Commission staff issued a Probable Cause Report to inform the Committee
19 that it would hold a Probable Cause Hearing on December 12, 2005 if the Committee did not file
20 the above-mentioned report by that date.

21 On November 23, 2005, the Committee finally filed a paper campaign finance disclosure
22 report with original signatures covering the period July 1, 2004 to December 31, 2004. This report
23 was filed two hundred and ninety six (296) days after the January 31, 2005 due date. The
24 contributions and expenditures reported by the Committee for that period did not equal or exceed
25 one hundred dollars (\$100.00).

1 On November 23, 2005, the Committee also filed a statement of organization to
2 retroactively terminate the Committee as of August 6, 2004.

3 **COUNT I**

4 Respondents failed to file a paper campaign finance disclosure report for the period covering
5 July 1, 2004 to December 31, 2004 by the January 31, 2005 due date.

6 **COUNT II**

7 Respondents failed to file an electronic campaign finance disclosure report for the period
8 covering July 1, 2004 to December 31, 2004 by the January 31, 2005 due date.

9 **APPLICATION OF LAW**

10 By failing to file the paper and electronic campaign finance disclosure reports described
11 above, Respondents violated San Francisco Campaign and Governmental Conduct Code Sections
12 1.106 and 1.300 *et seq.*

13 Respondents agree to the issuance of the attached Decision and Order. This Decision and
14 Order is part of a settlement by which Respondents agree to pay a total settlement amount of one
15 thousand three hundred and fifty dollars (\$1,350.00) to the Ethics Commission to resolve these two
16 violations by Respondents. This total amount includes a monetary penalty of one thousand dollars
17 (\$1,000.00) and a late filing fee of three hundred and fifty dollars (\$350.00).

18 The total amount of one thousand three hundred and fifty dollars (\$1,350.00) will be paid in
19 the form of a check or money order made out to the San Francisco Ethics Commission within ten
20 (10) business days after the Ethics Commission approves this Stipulation, Decision and Order.
21 Failure to submit the payment within ten (10) business days after the Ethics Commission approves
22 the Stipulation, Decision and Order shall render this agreement null and void.

23 Respondents understand and acknowledge that this Stipulation is not binding on any other
24 law enforcement agency, and does not preclude the Commission or its staff from referring the
25 matter to, cooperating with, or assisting any other government agency with regard to the matter, or

1 any other matter related to it.

2 The parties agree that in the event the Ethics Commission refuses to approve this
3 Stipulation, it shall become null and void. In that event, nothing in this Stipulation may be used for
4 any purpose, including in any court or other proceeding relating to this matter, and the parties are
5 free to take positions contrary to those stated herein. Respondents further stipulate and agree that in
6 the event the Commission rejects this Stipulation and a full evidentiary hearing before the
7 Commission becomes necessary, neither any member of the Commission, nor its staff, shall be
8 disqualified because of prior consideration of this Stipulation.

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

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

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

18 Dated: _____

19 _____
20 JOHN ST. CROIX, Executive Director
San Francisco Ethics Commission

21 Dated: _____

22 _____
23 Candidate/Treasurer
Radulovich for Supervisor

24 Dated: _____

25 _____
Candidate/Treasurer
Radulovich for Supervisor

DECISION AND ORDER

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The foregoing Stipulation of the parties "In the Matter of Radulovich for Supervisor (ID Number 1244809), Tom Radulovich and Susan Stephenson," Ethics Complaint Number NRF-05-050927, 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