



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

4 5. Respondent understands and hereby knowingly and voluntarily waives any and all  
5 procedural rights under Section C3.699-13 of the San Francisco Charter and the Commission’s  
6 Regulations for Investigations and Enforcement Proceedings with respect to this matter.

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

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

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

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

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

### 22 **Procedural History**

23 11. Respondent Andrew Lee for Supervisor (ID No. 1243359, “Committee”) was formed in  
24 March 2002 to support the election of Andrew Lee to the District 4 Board of Supervisors seat in the  
25 November 5, 2002 general election. The Committee was the subject of a random audit by the

1 Commission. The audit covered the period from January 1, 2002 through December 31, 2002 and  
2 was conducted to determine whether the Committee materially complied with the requirements of  
3 the Political Reform Act (California Government Code section 8100, *et seq.*, “PRA”) and the San  
4 Francisco Campaign Finance Reform Ordinance (“CFRO”) and the Electronic Filing Ordinance  
5 (San Francisco Campaign and Governmental Conduct Code Sections 1.100, *et seq.*, and 1.300, *et*  
6 *seq.*, respectively). The audit concluded that the Committee had committed five material violations,  
7 all of which are discussed below.

### 8 **Summary of Relevant Law and Respondent’s Reporting Requirements**

9 12. Committees active in San Francisco elections must file campaign disclosure reports with the  
10 Ethics Commission. S.F. Campaign & Governmental Conduct Code (“S.F. C&GCC”) § 1.106;  
11 California Government Code (“Cal. Gov. Code”) § 84200, *et seq.*

12 13. Candidates and treasurers are responsible for complying with the above reporting  
13 requirements and may be held jointly and severally liable for violations by their committees.  
14 S.F. C&GCC § 1.106, 1.170(g); Cal. Gov. Code § 91006.

15 14. Any person who intentionally or negligently violates campaign disclosure laws is liable in  
16 an administrative proceeding before the Commission for penalties in an amount of up to five  
17 thousand dollars (\$5,000) for each violation or three times the amount not reported, whichever is  
18 greater. S.F. C&GCC § 1.170; S.F. Charter § C3.699-13.

### 19 **COUNT I – Failure to File Late Contribution Reports**

20 15. Late contributions are defined as any contribution, including a loan, which totals in the  
21 aggregate \$1,000 or more that is made or received by a candidate, controlled committee, or a  
22 committee formed or existing primarily to support or oppose a candidate or measure before the date  
23 of the election but after the closing date of the last campaign statement required to be filed before  
24 the election. For the 2002 election, this period was after 10/21/02 but before 11/5/02. S.F. C&GCC  
25 § 1.106; Cal. Govt. Code § 82036.

1 Late contributions must be reported within 24 hours of receipt by fax, telegram, overnight U.S.  
2 Postal Service or personal delivery. Late contribution reports (“LCRs”) must include: 1) the full  
3 name and street address of the committee; 2) the date and amount of the late contribution; and 3)  
4 the contributor’s names, street address, occupation and employer. S.F. C&GCC § 1.106; Cal. Gov.  
5 Code § 84203(a).

6 16. During the late reporting period for the November 5, 2002 election, the Committee received  
7 six contributions totaling \$58,000. These contributions were all loans from the candidate. The  
8 Committee was required to file LCRs for each of these six contributions within 24 hours of receipt  
9 of each contribution. The Committee did not file these LCRs until August 1, 2005.

10 **COUNT II – Failure to Obtain and Disclose Contributor Information**

11 17. For contributions of \$100 or more, the committee’s treasurer may not deposit the  
12 contribution unless the committee treasurer has the following information: contributor’s full name;  
13 street address; occupation; and name of employer, or if self-employed the name of the business.

14 S.F. C&GCC § 1.114(e). Contributions that are deposited without the required contributor  
15 information must be forfeited to the City, in addition to any other penalties. The amount subject to  
16 forfeiture is the amount that exceeds \$99.99 of a contribution. S.F. C&GCC § 1.114(e).

17 18. The Committee reported 241 itemized contributions totaling \$257,244. Out of these 241  
18 contributions, contributor information was incomplete for 18 contributions totaling \$6,600.

19 **COUNT III – Failure to Abide by Contribution Limits**

20 19. Candidates may not solicit or accept any contribution that will cause the total amount  
21 contributed by any one person to exceed \$500 in the general election. S.F. C&GCC § 1.114(a).  
22 Contributions received in excess of the allowable contribution limit must be forfeited to the City, in  
23 addition to any other penalties. SF C&GCC § 1.114(e). The term “contribution” includes loans of  
24 any kind or nature. SF C&GCC § 1.104(e). Because loans are considered to be contributions they  
25 are subject to the contribution limit.

1 20. The Committee received two loans from Hao Hai Gong, one for \$500 on April 2, 2002 and  
2 one for \$50 on June 27, 2002, for a total of \$550. This exceeded the \$500 contribution limit by  
3 \$50. The Committee also reported receiving \$3,092 in loans from First Financial Services. The  
4 loan from First Financial exceeded the \$500 contribution limit by \$2,592.

5 **COUNT IV – Failure to File Supplemental Reports for Candidates Who Do Not Receive**  
6 **Public Funds in Elections for Board of Supervisors**

7 21. During the November 2002 election, candidates who declined to participate in the public  
8 financing program or who received notice of ineligibility to participate in the public financing  
9 program were required to notify the Commission within 24 hours of receiving contributions,  
10 making expenditures or having funds in their campaign trust account that exceeded 75 percent of  
11 the applicable expenditure ceiling. Thereafter, candidates were also required to file a supplemental  
12 statement within 24 hours of receiving contributions, making expenditures or having funds in their  
13 campaign trust account that equaled or exceeded 100 percent of the applicable expenditure ceiling.  
14 Former S.F. C&GCC § 1.152(a)(3).

15 22. Respondent declined to participate in the public financing program on his Statement of  
16 Participation/Non-Participation in the Public Financing Program, which he filed with the  
17 Department of Elections on August 9, 2002. Respondent agreed to accept the voluntary  
18 expenditure ceiling on his Campaign Expenditure Ceiling/Voluntary Expenditure Ceiling  
19 Statement, which he filed with the Department of Elections on August 9, 2002. Because  
20 Respondent was a “nonparticipating candidate,” he was required to notify the Commission within  
21 24 hours of reaching the 75 percent threshold by filing a Reporting Notice B, as well as within 24  
22 hours of reaching the 100 percent threshold. Respondent failed to file both reports.

23 23. During the November 2002 election, if a candidate who did not participate in the public  
24 financing program received contributions or made qualified campaign expenditures in excess of 100  
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1 percent of the applicable expenditure ceiling, the applicable expenditure ceiling would no longer be  
2 binding on any candidate running in the same supervisorial district. Former S.F. C&GCC  
3 § 1.146(a)(1).

4 **COUNT V – Failure to Report Accrued Expenses**

5 24. Costs incurred by a committee, but not paid during the reporting period, must be reported as  
6 “accrued expenditures.” Committees must report the name/address of each creditor owed \$100 or  
7 more, a description of the goods/services purchased, and the amount owed. In addition, for reduced  
8 or forgiven expenses, committees must report the amount reduced or forgiven as a non-monetary  
9 contribution. S.F. C&GCC § 1.106 and Govt. Code § 84211(k).

10 25. The Committee incurred \$67,152 in expenditures that were not paid during the reporting  
11 periods during which they were incurred. The Committee reported these \$67,152 in expenses on  
12 the campaign statements during the period which they were paid, not the period in which they were  
13 incurred. Of the \$67,152 in expenses that the committee failed to report, \$23,562 was required to  
14 be reported as accrued expenses on the campaign statements that were due prior to the date of the  
15 election.

16 **Factors in Mitigation**

17 26. Respondent was a first-time candidate and has no prior enforcement history.

18 27. Respondent was cooperative and voluntarily filed amended campaign statements.

19 28. Respondent’s violations arguably did not have a significant effect on the outcome of the  
20 election, as Respondent placed fourth in a field of eight candidates.

21 29. After a thorough investigation, Commission staff did not discover any evidence to suggest  
22 that any of the material findings were committed intentionally or with the intent to deceive or  
23 defraud the public.

1 **Factors in Aggravation**

2 30. The total amount of late contributions not reported timely, \$58,000, was substantial. For the  
3 period covered by the audit, the Committee received \$263,352 in contributions, so the amount not  
4 timely reported represented 22% of the Committee's total contributions. The failure to report the  
5 contributions in a timely manner deprived the voters of important information regarding the  
6 Committee's activity prior to the election, thereby eroding public confidence in the electoral  
7 process.

8 31. The failure to obtain complete contributor information, while representing only 18 out of  
9 241 contributions, is also significant, because it deprived the public of full disclosure as to the  
10 sources of contributions to the Committee.

11 32. The failure to adhere to the contribution limits, although representing only a fraction of the  
12 overall contributions, is also significant, because contribution limits eliminate or reduce the  
13 appearance or reality that large contributors may exert undue influence over elected officials, and  
14 the governing laws are also intended to prevent corruption or the appearance of corruption.

15 33. The failure to file supplemental statements was also substantial, as it precluded the  
16 Commission from being able to administer the voluntary expenditure program, which in turn  
17 undermined the public's and other candidates' confidence in the voluntary expenditure program.

18 34. The failure to report accrued expenditures was also substantial, as it represented 35 percent  
19 of the expenditures which were not paid during the periods in which they were incurred.

20 **Conclusion**

21 35. The parties agree that \$17,000 is an appropriate settlement amount for Respondent's  
22 violations of the San Francisco Campaign and Governmental Conduct Code, including any late fees  
23 and forfeiture amounts that are due. Accordingly, Respondent agrees to pay \$17,000 as set forth in  
24 the payment schedule described in paragraph 3.

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

3  
4 Dated: \_\_\_\_\_

\_\_\_\_\_  
ANDREW LEE  
Respondent

5  
6 Dated: \_\_\_\_\_

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

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1 DECISION AND ORDER

2 The foregoing Stipulation of the parties "In the Matter of," Ethics Complaint No. 16-050906  
3 is hereby accepted as the final decision and order of the San Francisco Ethics Commission,  
4 effective upon execution below by the Chairperson.

5  
6 IT IS SO ORDERED.

7  
8 Dated: \_\_\_\_\_

\_\_\_\_\_   
Emi Gusukuma, Chairperson  
San Francisco Ethics Commission