

**BEFORE THE
FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA**

In the Matter of:

FRIENDS OF CHRIS STAMPOLIS,

FRIENDS OF CHRIS STAMPOLIS FOR SANTA CLARA SCHOOL

BOARD 2012, and

CHRIS STAMPOLIS,

Respondents.

Agency Case No. 15/1045

OAH No. 2019010677

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on October 1, 2019, in Oakland, California.

Commission Counsel Ruth Yang represented complainant Galena West, Chief of Enforcement for the Enforcement Division of the Fair Political Practices Commission.

Respondent Chris Stampolis was present for the hearing, representing himself.

The record was held open for complainant to submit additional evidentiary documents and for respondent to submit any objections to those documents that he had not made already on the record at the hearing. Complainant submitted the documents, which were marked for identification as Exhibits 30, 31, and 32. Respondent made no additional objections to Exhibits 30, 31, and 32. Respondent's objections are overruled and Exhibits 30, 31, and 32 are admitted into evidence. The record closed and the matter was submitted for decision on October 9, 2019.

FACTUAL FINDINGS

1. Respondent Chris Stampolis was a candidate in several local government elections, and was a local government elected official for many years. He organized two campaign committees that are relevant to this matter: Friends of Chris Stampolis, Committee Number 981175 (Friends Committee); and Friends of Chris Stampolis for Santa Clara School Board 2012, Committee Number 1354244 (2012 Committee). At all times relevant to this matter, respondent served personally as the treasurer for both the Friends Committee and the 2012 Committee.

2. On March 19, 2019, respondent received service of a report arguing for a finding of probable cause that he had violated the Political Reform Act.

3. On July 16, 2019, a Fair Political Practices Commission (Commission) hearing officer found probable cause that respondent had violated the Political Reform Act.

4. Acting in her official capacity as Chief of Enforcement for the Enforcement Division of the Commission, complainant Galena West signed an accusation against respondent on August 8, 2019.

a. The accusation alleges that the Friends Committee and the 2012 Committee both have failed for five years (2015 through 2019, inclusive) to pay annual committee fees to the California Secretary of State. Complainant seeks an order directing the committees to pay these fees, with penalties for late payment.

b. The accusation alleges further that the 2012 Committee failed to file a timely semi-annual financial disclosure statement for the period between July 1 and December 31, 2014; that both the 2012 Committee and the Friends Committee failed to file timely semi-annual financial disclosure statements for the period between July 1 and December 31, 2015; and that although respondent was a candidate for elective office in November 2016, both the 2012 Committee and the Friends Committee failed to file timely pre-election and semi-annual financial disclosure statements for the period between July 1 and December 31, 2016. Complainant acknowledges that respondent caused the 2012 Committee and the Friends Committee to file the overdue financial disclosure statements, but seeks fines for the late filings.

5. On August 9, 2019, respondent received service of the accusation. After receiving the accusation, respondent requested a probable cause conference.

6. A probable cause conference before Commission hearing officer Jack Woodside occurred on September 18, 2019. At that conference, respondent asked for an administrative law judge, rather than Woodside, to conduct the conference. The conference proceeded despite respondent's request, and Woodside affirmed the July

16, 2019, order finding probable cause that respondent had violated the Political Reform Act.

7. Complainant had brought an earlier accusation against respondent making allegations substantially identical to those summarized above in Finding 4, and respondent had requested an administrative hearing on these allegations. Complainant withdrew the earlier accusation before serving the probable cause report described in Finding 2. Complainant treated respondent's earlier hearing request as one for a hearing on the accusation described above in Finding 4.

Semi-Annual Statement for July 1 to December 31, 2014

8. On February 9, 2015, a representative from the County of Santa Clara Registrar of Voters notified respondent by letter that the 2012 Committee had not filed a semi-annual financial disclosure statement for the period between July 1 and December 31, 2014.

9. Respondent filed the semi-annual financial disclosure statement for the 2012 Committee for the period between July 1 and December 31, 2014, on July 31, 2015.

Semi-Annual Statements for July 1 to December 31, 2015

10. On February 2, 2016, a representative from the County of Santa Clara Registrar of Voters notified respondent by letter that the 2012 Committee had not filed a semi-annual financial disclosure statement for the period between July 1 and December 31, 2015.

11. Respondent filed the semi-annual financial disclosure statement for the 2012 Committee for the period between July 1 and December 31, 2015, on March 20, 2016.

12. On February 2, 2016, a representative from the County of Santa Clara Registrar of Voters notified respondent by letter that the Friends Committee also had not filed a semi-annual financial disclosure statement for the period between July 1 and December 31, 2015.

13. Respondent filed the semi-annual financial disclosure statement for the Friends Committee for the period between July 1 and December 31, 2015, on March 20, 2016.

14. On May 3, 2016, complainant notified the County of Santa Clara by letter, with a copy to respondent, that the Fair Political Practices Commission's Enforcement Division would be taking "no further action" with respect to the late statements described in Findings 11 and 13.

Pre-Election and Semi-Annual Statements for July 1 to December 31, 2016

15. On August 12, 2016, respondent filed a candidate intention statement (Commission Form 501) with the County of Santa Clara Registrar of Voters, declaring his intention to be a candidate for election to the governing board of the West Valley-Mission Community College District. The election for this position was scheduled for November 8, 2016.

16. On August 12, 2016, respondent also filed a short form officeholder and candidate campaign statement (Commission Form 470) with the County of Santa Clara

Registrar of Voters, stating his intention to raise and to spend less than \$2,000 during calendar year 2016.

17. On October 3, 2016, a representative from the County of Santa Clara Registrar of Voters notified respondent by letter that neither the Friends Committee nor the 2012 Committee had filed a pre-election financial disclosure statement for the period between July 1 and September 24, 2016.

18. On October 30, 2016, a representative from the County of Santa Clara Registrar of Voters notified respondent by letter that neither the Friends Committee nor the 2012 Committee had filed a pre-election financial disclosure statement for the period between September 25 and October 22, 2016.

19. On February 2, 2017, a representative from the County of Santa Clara Registrar of Voters notified respondent by letter that neither the Friends Committee nor the 2012 Committee had filed a semi-annual financial disclosure statement for the period between October 23 and December 31, 2016.

20. The evidence did not establish what action, if any, respondent took with respect to the notices described in Findings 17 through 19 before June 9, 2017.

21. Respondent filed pre-election financial disclosure statements for the Friends Committee and the 2012 Committee for the period between July 1 and September 24, 2016, on June 9, 2017.

22. Respondent filed pre-election financial disclosure statements for the Friends Committee and the 2012 Committee for the period between September 25 and October 22, 2016, on June 9, 2017.

23. Respondent filed semi-annual financial disclosure statements for the Friends Committee and the 2012 Committee for the period between October 23 and December 31, 2016, on June 9, 2017.

24. Taken all together, the financial disclosure statements described in Findings 21 through 23 stated that the 2012 Committee and the Friends Committee had raised and spent less than \$2,000 during calendar 2016.

Annual Fees to the Secretary of State

25. On November 20, 2014, a representative from the Political Reform Division of the office of the Secretary of State notified respondent by letter that the Friends Committee would need to pay a \$50 fee to the Secretary of State for calendar year 2015, unless the committee had ceased activity before December 31, 2014, and filed a terminating statement with the office of the Secretary of State.

26. In late 2015, late 2016, late 2017, and late 2018, representatives from the Political Reform Division of the office of the Secretary of State sent notices substantially similar to the notice described above in Finding 25 to respondent, reminding him that the Friends Committee would owe a \$50 annual fee for the following calendar year.

27. Respondent has never caused the Friends Committee to pay a \$50 annual fee to the Secretary of State.

28. On October 1, 2015, a representative from the Political Reform Division of the office of the Secretary of State notified respondent by letter that the Secretary of State had not received the \$50 annual fee for 2015, referenced in Finding 25, from the Friends Committee. This letter notified respondent further that the Friends

Committee owed a \$150 penalty for nonpayment in addition to the \$50 fee, and would owe the fee again "for 2016 and in future years until the committee is terminated."

29. In mid-2016, mid-2017, mid-2018, and mid-2019, representatives from the Political Reform Division of the office of the Secretary of State sent notices substantially similar to the notice described above in Finding 28 to respondent, alerting him that the Friends Committee had not paid the \$50 annual fee for that calendar year and owed a \$150 late payment penalty.

30. Respondent has never caused the Friends Committee to pay a \$150 late payment penalty.

31. A representative from the Political Reform Division of the office of the Secretary of State sent respondent notices substantially identical to the notices described in Findings 25 and 26 with respect to the 2012 Committee.

32. Respondent has never caused the 2012 Committee to pay a \$50 annual fee to the Secretary of State.

33. A representative from the Political Reform Division of the office of the Secretary of State sent respondent notices substantially identical to the notices described in Findings 28 and 29 with respect to the 2012 Committee.

34. Respondent has never caused the 2012 Committee to pay a \$150 late payment penalty.

LEGAL CONCLUSIONS

1. The Commission is responsible for enforcing the Political Reform Act, Government Code section 81000 et seq. (Gov. Code, § 83111.) Following an administrative proceeding, the Commission may assess a fine of up to \$5,000 for any violation of the Political Reform Act. (*Id.*, § 83116, subd. (d).)

Pre-Hearing Probable Cause Conference

2. The Commission may hold an administrative hearing to consider a possible Political Reform Act violation only after giving the alleged violator notice of the alleged violations and an opportunity to contest the allegations informally and privately at a probable cause conference. (Gov. Code, § 83115.5.)

3. Respondent contends that the Commission lacks jurisdiction to make an order in this matter, because the pre-hearing probable cause conference described in Finding 6 did not occur before an administrative law judge. No statute or regulation requires, however, that an administrative law judge act as hearing officer for a probable cause conference, either in every case or upon an alleged violator's request at the conference.

4. The matters stated in Findings 2 through 7 establish the Commission's jurisdiction to consider the allegations in the accusation and to make orders respecting those allegations.

Financial Disclosure Statements

5. A "committee," under the Political Reform Act, is "any person or combination of persons" who raises or spends more than a statutory threshold sum

during a calendar year. (Gov. Code, § 82103.) A person or combination of persons who reach the statutory threshold must organize a distinct committee and must identify the committee to the Secretary of State. (*Id.*, § 84101.) If the committee initially qualified by receiving donations in excess of the statutory minimum, the committee continues in existence until its treasurer notifies the Secretary of State that the committee has terminated. (*Id.*, §§ 82103, 84214.)

6. With certain statutory exceptions, candidates, elected officials, and committees must file semi-annual financial disclosure statements. (Gov. Code, § 84200.)

7. In addition, candidates, elected officials, and committees must file pre-election financial disclosure statements. (Gov. Code, § 84200.5.) In particular, “[a]ll candidates appearing on the ballot to be voted on at the next election [and] their controlled committees” must file pre-election financial disclosures (*id.*, § 84200.5, subd. (a)), at statutorily specified intervals (*id.*, § 84200.8).

8. A candidate may indicate his or her intent to raise and spend less than \$2,000 in a calendar year by filing Commission Form 470. (Gov. Code, § 84206; Cal. Code Regs., tit. 2, § 18406.) A candidate who has filed Form 470 need not file a semi-annual financial disclosure statement for the six-month period during which the candidate filed Form 470. (Gov. Code, § 84200, subd. (a)(1).) In addition, by regulation, the Commission has excused such a candidate from filing pre-election financial disclosure statements. (Cal. Code Regs., tit. 2, § 18406, subd. (a).)

9. Respondent contends that because of the matters stated in Findings 15 and 16, neither the Friends Committee nor the 2012 Committee needed to file a pre-election financial disclosure statement or a semi-annual financial disclosure

statement for the period between July 1 and December 31, 2016. The statutes and regulation on which respondent relies, however, excuse only a candidate or officeholder from filing financial disclosure statements after having declared his or her intention to keep annual receipts and expenditures below \$2,000; they do not state that they excuse a committee that had a disclosure obligation before the candidate or officeholder filed Form 470 from continuing its disclosure obligation, if the committee's treasurer has not terminated the committee. Respondent's position is not frivolous, but it also is not persuasive.

10. The matters stated in Finding 1 establish respondent's personal responsibility for preparing and for timely filing financial disclosure statements for the Friends Committee and for the 2012 Committee.

COUNT 1: FRIENDS COMMITTEE SEMI-ANNUAL STATEMENT FOR JULY 1 TO DECEMBER 31, 2015

11. The matters stated in Findings 12 and 13 constitute cause for the Commission to fine the Friends Committee and respondent for failing to file a timely semi-annual financial disclosure statement for the Friends Committee for July 1 to December 31, 2015.

COUNT 2: FRIENDS COMMITTEE PRE-ELECTION STATEMENT FOR JULY 1 TO SEPTEMBER 24, 2016

12. The matters stated in Findings 15, 17, and 21 constitute cause for the Commission to fine the Friends Committee and respondent for failing to file a timely pre-election financial disclosure statement for the Friends Committee for July 1 to September 24, 2016.

COUNT 3: FRIENDS COMMITTEE PRE-ELECTION STATEMENT FOR SEPTEMBER 25 TO OCTOBER 22, 2016

13. The matters stated in Findings 15, 18, and 22 constitute cause for the Commission to fine the Friends Committee and respondent for failing to file a timely pre-election financial disclosure statement for the Friends Committee for September 25 to October 22, 2016.

COUNT 4: FRIENDS COMMITTEE SEMI-ANNUAL STATEMENT FOR OCTOBER 23 TO DECEMBER 31, 2016

14. The matters stated in Findings 15, 19, and 23 constitute cause for the Commission to fine the Friends Committee and respondent for failing to file a timely semi-annual financial disclosure statement for the Friends Committee for October 23 to December 31, 2016.

COUNT 10: 2012 COMMITTEE SEMI-ANNUAL STATEMENT FOR JULY 1 TO DECEMBER 31, 2014

15. The matters stated in Findings 8 and 9 constitute cause for the Commission to fine the 2012 Committee and respondent for failing to file a timely semi-annual financial disclosure statement for the 2012 Committee for July 1 to December 31, 2014.

COUNT 11: 2012 COMMITTEE SEMI-ANNUAL STATEMENT FOR JULY 1 TO DECEMBER 31, 2015

16. The matters stated in Findings 10 and 11 constitute cause for the Commission to fine the 2012 Committee and respondent for failing to file a timely

semi-annual financial disclosure statement for the 2012 Committee for July 1 to December 31, 2015.

COUNT 12: 2012 COMMITTEE PRE-ELECTION STATEMENT FOR JULY 1 TO SEPTEMBER 24, 2016

17. The matters stated in Findings 15, 17, and 21 constitute cause for the Commission to fine the 2012 Committee and respondent for failing to file a timely pre-election financial disclosure statement for the 2012 Committee for July 1 to September 24, 2016.

COUNT 13: 2012 COMMITTEE PRE-ELECTION STATEMENT FOR SEPTEMBER 25 TO OCTOBER 22, 2016

18. The matters stated in Findings 15, 18, and 22 constitute cause for the Commission to fine the 2012 Committee and respondent for failing to file a timely pre-election financial disclosure statement for the 2012 Committee for September 25 to October 22, 2016.

COUNT 14: 2012 COMMITTEE SEMI-ANNUAL STATEMENT FOR OCTOBER 23 TO DECEMBER 31, 2016

19. The matters stated in Findings 15, 19, and 23 constitute cause for the Commission to fine the 2012 Committee and respondent for failing to file a timely semi-annual financial disclosure statement for the 2012 Committee for October 23 to December 31, 2016.

Annual Committee Fees

20. A committee that continues in existence from year to year must pay a \$50 fee each year to the Secretary of State. (Gov. Code, § 84101.5, subd. (c)(1).) The penalty for late payment (after April 30) is \$150. (*Id.*, subds. (c)(1), (d)(1).) Although the fee is due to the Secretary of State, the Commission must enforce this requirement. (*Id.*, subd. (d)(2).)

COUNT 5: FRIENDS COMMITTEE 2015 ANNUAL FEE

21. The matters stated in Findings 25, 27, 28, and 30 constitute cause to assess a total fee and penalty of \$200 to the Friends Committee for the 2015 annual fee.

COUNTS 6, 7, 8, AND 9: FRIENDS COMMITTEE 2016, 2017, 2018, AND 2019 ANNUAL FEES

22. The matters stated in Findings 26, 27, 29, and 30 constitute cause to assess a total fee and penalty of \$800 to the Friends Committee for the 2016, 2017, 2018, and 2019 annual fees.

COUNT 15: 2012 COMMITTEE 2015 ANNUAL FEE

23. The matters stated in Findings 25 and 31 through 34 constitute cause to assess a total fee and penalty of \$200 to the 2012 Committee for the 2015 annual fee.

COUNTS 16, 17, 18, AND 19: 2012 COMMITTEE 2016, 2017, 2018, AND 2019 ANNUAL FEES

24. The matters stated in Findings 26 and 31 through 34 constitute cause to assess a total fee and penalty of \$800 to the 2012 Committee for the 2016, 2017, 2018, and 2019 annual fees.

Disciplinary Considerations

25. Respondent contends that because the annual fee described in Legal Conclusion 20 effectively charges people for political speech, it violates the California and federal constitutions. Like the contention described in Legal Conclusion 9, this contention is not frivolous; but unlike the contention described in Legal Conclusion 9, this contention is beyond the scope of this administrative proceeding. (Cal. Const., art. III, § 3.5.) Complainant does not seek any penalty beyond the statutory penalty of \$150 for each untimely \$50 annual fee, however; and no such additional penalty is necessary in this matter.

26. The Commission has identified several factors to guide administrative penalty determinations for violations of the Political Reform Act. These factors are:

- (1) The seriousness of the violation;
- (2) The presence or absence of any intention to conceal, deceive or mislead;
- (3) Whether the violation was deliberate, negligent or inadvertent;

(4) Whether the violator demonstrated good faith by consulting the Commission staff or any other government agency in a manner not constituting a complete defense under Government Code section 83114(b);

(5) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and

(6) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

(Cal. Code Regs., tit. 2, § 18361.5, subd. (d).)

27. With respect to the 2012 Committee's semi-annual financial disclosure for July 1 through December 31, 2014, and with respect to both the Friends Committee's and the 2012 Committee's semi-annual financial disclosures for July 1 through December 31, 2015, respondent acknowledged his failure to file these disclosures on time and offered no explanation for his omissions. These omissions did not occur during an election cycle, however, and did not reflect any intent by respondent to conceal financial information from the public. Further, the matters stated in Findings 9, 11, and 13 show that respondent did file the statements after receiving reminders; and the matters stated in Finding 14 demonstrate that complainant did not consider respondent's omissions serious until respondent also omitted the disclosures described in Findings 15 through 24.

28. With respect to both the Friends Committee's and the 2012 Committee's pre-election and semi-annual financial disclosures for July 1 through December 31,

2016, the matters stated in Legal Conclusion 9 demonstrate that respondent misunderstood the relevant statutes and regulations. At the same time, the matters stated in Findings 15 through 24 do not demonstrate that respondent either intentionally concealed financial information from the public or failed at all to consider his financial disclosure responsibilities. The matters stated in Findings 15 do establish, however, that these omissions occurred during an election cycle; and the matters stated in Findings 17 through 20 establish that respondent failed to act promptly—either by filing the statements or by seeking advice about his obligations—after receiving information that should have caused him to re-evaluate his belief that neither committee needed to file a pre-election financial disclosure statement.

29. At the hearing, complainant urged a fine of \$3,000 for each semi-annual financial disclosure statement violation in 2014 and 2015, describing these violations as part of a pattern of disregard for disclosure obligations that became apparent in 2016. The matters stated in Legal Conclusion 9 show that respondent's disclosure errors in 2016 were not part of a pattern continuing from 2014 and 2015, however. In light of the matters stated in Finding 14, a minimal fine of \$500 for each untimely semi-annual statement for 2014 and 2015 is reasonable.

30. Complainant also urged a fine of \$3,000 for each 2016 violation, but complainant's argument gave no credit whatsoever to respondent's belief (summarized in Legal Conclusion 9) that he had fulfilled his disclosure obligations by filing Commission Form 470. In light of the matters stated in Findings 17 through 20, a fine of \$1,000 for each 2016 omission is reasonable.

ORDER

1. For failure to file semi-annual financial disclosure statements for the 2012 Committee for July 1 through December 31, 2014, and for July 1 through December 31, 2015, respondent and the 2012 Committee must pay a total of \$1,000 (\$500 for each untimely semi-annual financial disclosure statement).

2. For failure to file a semi-annual financial disclosure statement for the Friends Committee for July 1 through December 31, 2015, respondent and the Friends Committee must pay \$500.

3. For failure to file pre-election and semi-annual financial disclosure statements for the 2012 Committee for July 1 through December 31, 2016, respondent and the 2012 Committee must pay a total of \$3,000 (\$1,000 for each untimely financial disclosure statement).

4. For failure to file pre-election and semi-annual financial disclosure statements for the Friends Committee for July 1 through December 31, 2016, respondent and the 2012 Committee must pay a total of \$3,000 (\$1,000 for each untimely financial disclosure statement).

5. For failure to file annual fees for the Friends Committee for 2015, 2016, 2017, 2018, and 2019 (Counts 5 through 9), respondent and the Friends Committee must pay a total of \$1,000 (\$50 for each annual fee and \$150 for each annual penalty, for five years).

6. For failure to file annual fees for the 2012 Committee for 2015, 2016, 2017, 2018, and 2019 (Counts 15 through 19), respondent and the 2012 Committee

must pay a total of \$1,000 (\$50 for each annual fee and \$150 for each annual penalty for five years).

7. The total administrative penalty in this matter is \$9,500, payable to the "General Fund of the State of California."

DATE: October 23, 2019

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Juliet E. Cox
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JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings