

1 4. A Statement to Respondent; and

2 5. Copies of Sections 11506, 11507.5, 11507.6 and 11507.7 of the Government Code.

3 Government Code Section 11506 provides that failure of a respondent to file a Notice of Defense
4 within 15 days after being served with an Accusation shall constitute a waiver of respondent's right to a
5 hearing on the merits of the Accusation. The Statement to Respondent, served on Respondents Mike
6 Briggs and Mike Briggs For City Council 2010, explicitly stated that a Notice of Defense must be filed
7 in order to request a hearing. Respondents failed to file a Notice of Defense within fifteen days of being
8 served with the Accusation.

9 Government Code Section 11520 provides that, if the respondent fails to file a Notice of
10 Defense, the Commission may take action, by way of a default, based upon the respondent's express
11 admissions or upon other evidence, and that affidavits may be used as evidence without any notice to the
12 respondent.

13 Respondents Mike Briggs and Mike Briggs For City Council 2010, violated the Political Reform
14 Act as described in Exhibit 1, and accompanying declarations, which are attached hereto and
15 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
16 the law and evidence in this matter. This Default Decision and Order is submitted to the Commission to
17 obtain a final disposition of this matter.

18 Dated: _____

Roman G. Porter
Executive Director
Fair Political Practices Commission

ORDER

The Commission issues this Default Decision and Order and imposes an administrative penalty of Nine Thousand Five Hundred Dollars (\$9,500) upon Respondents Mike Briggs and Mike Briggs For City Council 2010, payable to the “General Fund of the State of California.”

IT IS SO ORDERED, effective upon execution below by the Chairman of the Fair Political Practices Commission at Sacramento, California.

Dated: _____

Chairman
Fair Political Practices Commission



**DECLARATION OF CUSTODIAN OF RECORDS
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
Enforcement Division**

CERTIFICATION OF RECORDS

The undersigned declares and certifies as follows:

1. I am employed by the California Fair Political Practices Commission (hereafter the "Commission"). My business address is: California Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814.

2. I am a duly authorized custodian of the records maintained by the Commission in the Enforcement Division. I am authorized to certify copies of those records as being true and correct copies of the original records of the case which is in the custody of the Commission.

3. I have reviewed documents maintained in *FPPC Case No. 10/494, Mike Briggs, and Mike Briggs for City Council 2010*, and have caused copies to be made of documents contained therein. I certify that the copies attached hereto are true and correct copies of the documents maintained by the FPPC in that file in the normal course of agency business. The attached documents are as follows:

- A copy of the Proof of Service dated August 18, 2010, and a copy of the return receipts dated August 20, 2010, for the Report in Support of a Finding of Probable Cause and accompanying documents dated August 18, 2010 (Exhibit A-1).
- Cover letter to Respondents dated August 18, 2010, and a memorandum describing Probable Cause Proceedings (Exhibit A-2).
- Ex Parte Request for a Finding of Probable Cause dated September 13, 2010 (Exhibit A-3).
- Copies of the cover letters for the Ex Parte Request for a Finding of Probable Cause sent to Respondents dated September 13, 2010 (Exhibit A-4).
- Finding of Probable Cause and Order to Prepare and Serve an Accusation and Proof of Service dated September 23, 2010 (Exhibit A-5).
- Proofs of Service for the Accusation and accompanying documents dated December 27, 2010 and December 29, 2010. (Exhibit A-6).

- Letter from Senior Commission Counsel Angela J. Brereton dated January 19, 2011, to Respondents advising that this matter would be submitted for a Default Decision and Order (Exhibit A-7).
- A copy of a candidate intention statement filed by Respondent Briggs on March 10, 2010, and a copy of a statement of organization filed by Respondent Briggs on behalf of Respondent Committee on April 5, 2010 (Exhibit A-8).
- A copy of a pre-election campaign statement filed on August 26, 2010, by Respondents for the reporting period ending March 17, 2010 (Exhibit A-9).
- A copy of a pre-election campaign statement filed on May 27, 2010, by Respondents for the reporting period ending May 22, 2010 (Exhibit A-10).
- A copy of an amended pre-election campaign statement filed on August 26, 2010, by Respondents for the reporting period ending May 22, 2010 (Exhibit A-11).
- A copy of a semi-annual campaign statement filed by Respondents for the reporting period ending June 30, 2010 (Exhibit A-12).
- Copies of two late contribution reports on May 28, 2010, and June 3, 2010, filed by Respondents disclosing late contributions totaling \$1,500 and \$1,000, respectively (Exhibit A-13).
- A copy of email correspondence from Becky Klisch, CMC, City Clerk, City of Fresno, on August 16, 2010 (Exhibit A-14).
- A copy of the Default Decision and Order (with Exhibit 1) in FPPC Case No. 05/771, effective December 10, 2009, against Respondent Briggs, et al. (Exhibit A-15).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 19, 2011 at Sacramento, California.

Linda Studer

EXHIBIT 1

INTRODUCTION

Respondents are Mike Briggs, and his controlled committee, Mike Briggs for City Council 2010 (Respondent Committee). At all relevant times, Respondent Briggs was the treasurer of Respondent Committee. In the June 8, 2010 primary election, Respondent Briggs was one of two qualifying candidates for the Fresno City Council, District 3, and he was the unsuccessful candidate in the run-off election in the November 2, 2010 general election for the same seat.

This matter arose out of a complaint which alleged that Respondents failed to file campaign statements in connection with the June 8, 2010 election.

Under the Political Reform Act (the "Act")¹, Respondents were required to file, and did file, a statement of intention, a statement of organization, and a pre-election campaign statement for the second pre-election reporting period ending May 22, 2010.

However, Respondents were also required to file a pre-election campaign statement for the first pre-election reporting period ending March 17, 2010. Additionally, in both pre-election campaign statements, Respondents were required to disclose the street address, occupation and employer for each individual who made a contribution of \$100 or more. Lastly, Respondents were required to report all late contributions within 24 hours of receipt. In this matter, Respondents failed to comply with these requirements. Additionally, Respondent Briggs has prior enforcement action against him in the form of the Default Decision effective December 10, 2009, in which he was prosecuted for failing to file pre-election campaign statements, failing to disclose contributor information, and failure to file late contribution reports.

For the purposes of this Default Decision and Order, Respondents' violations of the Political Reform Act are stated as follows:

COUNT 1: Respondent Mike Briggs failed to file a pre-election campaign statement by the March 22, 2010 due date, for the reporting period of January 1 to March 17, 2010, in violation of Government Code Sections 84200.5, subdivision (b), and 84200.7, subdivision (a)(1).

COUNT 2: Respondents Mike Briggs, and Mike Briggs for City Council 2010, failed to disclose the street address, occupation and/or employer information for 11 contributors who contributed \$100 or more, as

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

reported in Respondents' pre-election campaign statement for the reporting period ending May 22, 2010, in violation of Government Code Section 84211, subdivision (f).

COUNT 3: Respondents Mike Briggs, and Mike Briggs for City Council 2010, failed to file a late contribution report within 24 hours of receiving a late contribution on May 26, 2010, totaling \$1,000, by the applicable due date, in violation of Government Code Section 84203, subdivision (a).

THE RESPONDENTS

This matter involves two respondents: Respondent Mike Briggs ("Respondent Briggs") was, at all times relevant to this Default Decision and Order, one of two qualifying candidates for the Fresno City Council, District 3, and he was the unsuccessful candidate in the run-off election in the November 2, 2010 general election for the same seat.

Respondent Mike Briggs for City Council 2010 ("Respondent Committee") was, at all times relevant to this Default Decision and Order, Respondent Briggs' controlled committee. At all times relevant to this Default Decision and Order, Respondent Briggs was the treasurer of Respondent Committee.

DEFAULT PROCEEDINGS UNDER THE ADMINISTRATIVE PROCEDURE ACT

When the Fair Political Practices Commission (the "Commission") determines that there is probable cause for believing that the Act has been violated, it may hold a hearing to determine if a violation has occurred. (Section 83116.) Notice of the hearing, and the hearing itself, must be conducted in accordance with the Administrative Procedure Act (the "APA").² (Section 83116.) A hearing to determine whether the Act has been violated is initiated by the filing of an accusation, which shall be a concise written statement of the charges specifying the statutes and rules which the respondent is alleged to have violated. (Section 11503.)

Included among the rights afforded a respondent under the APA, is the right to file the Notice of Defense with the Commission within 15 days after service of the accusation, by which the respondent may (1) request a hearing, (2) object to the accusation's form or substance or to the adverse effects of complying with the accusation, (3) admit the accusation in whole or in part, or (4) present new matter by way of a defense. (Section 11506, subd. (a)(1)-(6).)

The APA provides that a respondent's failure to file a Notice of Defense within 15 days after service of an accusation constitutes a waiver of the respondent's right to a hearing. (Section 11506, subd. (c).) Moreover, when a respondent fails to file a Notice of Defense, the Commission may take action based on the respondent's express admissions or upon other

² The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code.

evidence, and affidavits may be used as evidence without any notice to the respondent. (Section 11520, subd. (a).)

PROCEDURAL REQUIREMENTS AND HISTORY

A. Initiation of the Administrative Action

Section 91000.5 provides that “[t]he service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action.” (Section 91000.5, subd. (a).)

Section 83115.5 prohibits a finding of probable cause by the Commission unless the person alleged to have violated the Act is 1) notified of the violation by service of process or registered mail with return receipt requested; 2) provided with a summary of the evidence; and 3) informed of his right to be present in person and represented by counsel at any proceeding of the Commission held for the purpose of considering whether probable cause exists for believing the person violated the Act. Additionally, Section 83115.5 states that the required notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office.

Section 91000.5 provides that no administrative action pursuant to Chapter 3 of the Act, alleging a violation of any of the provisions of Act, shall be commenced more than five years after the date on which the violation occurred.

Documents supporting the procedural history are included in the attached Certification of Records (“Certification”) filed herewith at Exhibit A, A–1 through A–7, and incorporated herein by reference.

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against Respondents in this matter by serving them with a Report in Support of a Finding of Probable Cause (the “Report”) by certified mail, return receipt requested,³ on August 20, 2010. (Certification, Exhibit A–1.) Therefore, the administrative action commenced on August 20, 2010, the date Respondents were served the Report, and the five year statute of limitations was effectively tolled on this date.

As required by Section 83115.5, the packet served on Respondents contained a cover letter and a memorandum describing Probable Cause Proceedings, advising that Respondents had 21 days in which to request a probable cause conference and/or to file a written response to the Report. (Certification, Exhibit A–2.) Respondents neither requested a probable cause conference nor submitted a written response to the Report.

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³ Where any communication is required by law to be mailed by registered mail to or by the state, or any officer or agency thereof, the mailing of such communication by certified mail is sufficient compliance with the requirements of the law. (Section 8311.)

B. Ex Parte Request for a Finding of Probable Cause

Since Respondents failed to request a probable cause conference or submit a written response to the Report by the statutory deadline, the Enforcement Division submitted an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation be Prepared and Served to Executive Director Roman G. Porter, on September 13, 2010. (Certification, Exhibit A-3.) Respondents were sent copies of these documents. (Certification, Exhibit A-4.)

On September 23, 2010, Executive Director Roman G. Porter issued a Finding of Probable Cause and Order to Prepare and Serve an Accusation. (Certification, Exhibit A-5.)

C. The Issuance and Service of the Accusation

Under the Act, if the Executive Director makes a finding of probable cause, he or she shall prepare an accusation pursuant to Section 11503 of the APA, and have it served on the persons who are the subject of the probable cause finding. (Regulation 18361.4, subd. (e).)

Section 11503 states:

A hearing to determine whether a right, authority, license or privilege should be revoked, suspended, limited or conditioned shall be initiated by filing an accusation. The accusation shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his defense. It shall specify the statutes and rules which the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such statutes and rules. The accusation shall be verified unless made by a public officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

Section 11505, subdivision (a) requires that, upon the filing of the accusation, the agency shall 1) serve a copy thereof on the respondent as provided in Section 11505, subdivision (c); 2) include a post card or other form entitled Notice of Defense which, when signed by or on behalf of the respondent and returned to the agency, will acknowledge service of the accusation and constitute a notice of defense under Section 11506; 3) include (i) a statement that respondent may request a hearing by filing a notice of defense as provided in Section 11506 within 15 days after service upon the respondent of the accusation, and that failure to do so will constitute a waiver of the respondent's right to a hearing, and (ii) copies of Sections 11507.5, 11507.6, and 11507.7.

Section 11505, subdivision (b) set forth the language required in the accompanying statement to the respondent.

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Section 11505, subdivision (c) provides that the Accusation and accompanying information may be sent to the respondent by any means selected by the agency, but that no order adversely affecting the rights of the respondent shall be made by the agency in any case unless the respondent has been served personally or by registered mail as set forth in Section 11505.

On September 23, 2010, the Commission's Executive Director, Roman G. Porter, issued an Accusation against Respondent in this matter. In accordance with Section 11505, the Accusation and accompanying information, consisting of a Statement to Respondent, two copies of a Notice of Defense Form, copies of Government Code Sections 11506, 11507.5, 11507.6 and 11507.7, and a cover letter dated December 27, 2010, were personally served on Laura "Doe", a person authorized to accept service of process on behalf of Respondents, on December 29, 2010. (Certification, Exhibit A-6.)

Along with the Accusation, the Enforcement Division served Respondents with a "Statement to Respondent" which notified them that they could request a hearing on the merits and warned that, unless a Notice of Defense was filed within 15 days of service of the Accusation, they would be deemed to have waived the right to a hearing. Respondents did not file a Notice of Defense within the statutory time period, which ended on January 13, 2011.

As a result, on January 19, 2011, Senior Commission Counsel Angela J. Brereton sent a letter to Respondents advising that this matter would be submitted for a Default Decision and Order at the Commission's public meeting scheduled for February 10, 2011. A copy of the Default Decision and Order, and this accompanying Exhibit 1 with attachments, was included with the letter. (Certification, Exhibit A-7.)

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. The Act therefore establishes a comprehensive campaign reporting system.

The following reflects the Act as it was in effect at the time of the relevant violations.

Duty to File Pre-Election Campaign Statements

Pursuant to Section 82007, candidate includes an individual who receives a contribution or makes an expenditure with a view to bringing about his election to any elective office, whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time. Additionally, an individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is terminated pursuant to Section 84214. (Section 82007.)

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During an even-numbered year, candidates for city office and their controlled committees who are being voted upon on the first Tuesday after the first Monday in June are required to file a pre-election campaign statement as specified in Section 84200.7. (Section 84200.5, subd. (b).)

Section 84200.7, subdivision (a) provides for the filing of two pre-election campaign statements covering two reporting periods prior to elections held in June of an even-numbered year. The reporting period for the first pre-election campaign statement ends March 17. This first pre-election campaign statement must be filed no later than March 22. (Section 84200.7, subd. (a)(1).) The reporting period for the second pre-election campaign statement runs from March 18 through 17 days before the election. This second pre-election campaign statement must be filed no later than 12 days before the election. (Section 84200.7, subd. (a)(2).)

Duty to Disclose Contributor Information on Campaign Statements

Section 84211, subdivision (f) requires a candidate and his or her controlled committee to report on each of their campaign statements the following information about a person if the cumulative amount of contributions received from that person is \$100 or more and a contribution has been received from that person during the reporting period covered by the campaign statement: (1) the contributor's full name; (2) the contributor's street address; (3) the contributor's occupation; (4) the name of the contributor's employer, or if self-employed, the name of the contributor's business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor.

Duty to File Late Contribution Reports

Section 82036 defines a "late contribution" as a contribution which totals in the aggregate one thousand dollars (\$1,000) or more that is made or received before an election, but after the closing date of the last campaign statement that is required to be filed before the election. Thus, for the June 8, 2010 primary election, the late contribution period was May 23 through June 7, 2010. Pursuant to Section 84203, when a committee makes or receives a late contribution, the committee must disclose the contribution in a late contribution report filed at each office with which the committee is required to file its next campaign statement pursuant to Section 84215, within 24 hours of making or receiving the contribution.

Treasurer and Candidate Liability

Under Sections 81004, subdivision (b), 84100, and 84213, and Regulation 18427, subdivisions (a), (b) and (c), it is the duty of a committee's treasurer and candidate to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee's treasurer and candidate may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee under Sections 83116.5 and 91006.

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SUMMARY OF THE EVIDENCE

Unless otherwise indicated, documents supporting the following summary of evidence are included in the attached Certification of Records filed herewith at Exhibit A, A-8 through A-15, and incorporated herein by reference.

Respondents are Mike Briggs, and his controlled committee, Mike Briggs for City Council 2010 (Respondent Committee). At all relevant times, Respondent Briggs was the treasurer of Respondent Committee. (Certification, Exhibit A-8.) In the June 8, 2010 primary election, Respondent Briggs was one of two qualifying candidates for the Fresno City Council, District 3, and he was the unsuccessful candidate in the run-off election in the November 2, 2010 general election for the same seat.

Respondent Briggs previously served two terms in the California State Assembly in the 29th Assembly District, from 1998 – 2002. Prior to serving on the California State Assembly, Respondent Briggs was a Fresno City Councilmember for several years. Additionally, Respondent Briggs ran unsuccessfully for election to the California State Assembly in the 29th Assembly District in the March 2, 2004 primary election.

On May 27, 2010, Respondents filed with the Fresno City Clerk a pre-election campaign statement for the reporting period ending May 22, 2010. (Certification, Exhibit A-10.) Respondents reported receiving \$12,165 in contributions, and making \$10,635 in expenditures. Additionally, Respondents filed two late contribution reports on May 28, 2010, and June 3, 2010, disclosing late contributions totaling \$1,500 and \$1,000, respectively. (Certification, Exhibit A-13.) Lastly, on August 2, 2010, Respondents filed with the Fresno City Clerk a semi-annual campaign statement for the reporting period ending June 30, 2010. (Certification, Exhibit A-12.) Respondents reported receiving \$6,800 in contributions, and making \$8,982 in expenditures during this period, with year-to-date campaign activity of \$18,965 in contributions and \$20,630 in expenditures.

Additionally, Respondent Briggs has prior enforcement action against him in the form of the Default Decision effective December 10, 2009, in which he was prosecuted for failing to file pre-election campaign statements, failing to disclose contributor information, and failure to file late contribution reports. (Certification, Exhibit A-15.)

Respondents committed three violations of the Act, as follows:

Count 1

(Failure to File a Pre-Election Campaign Statement)

Respondent Briggs was a qualifying candidate for Fresno City Council, District 3, in the June 8, 2010 primary election. Respondent Briggs filed a statement of intention to run for this office on March 10, 2010. During the pre-election reporting period ending March 17, 2010, Respondents received the following contributions (Certification, Exhibit A-9.):

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Date	Contributor	Amount
03/10/2010	California Independent Petroleum Association PAC	\$600.00
03/10/2010	John Harris	\$300.00

Additionally, Respondents accrued the following expenses during the pre-election reporting period ending March 17, 2010 (Certification, Exhibit A-9.):

Creditor	Description	Amount
Creative Campaigns	Agent Bill	\$255.60

Because Respondent Briggs filed a statement of intention on March 10, 2010, and received contributions and accrued expenses toward his election to the Fresno City Council between March 10 and March 17, 2010, Respondent Briggs was required to file a pre-election campaign statement for the pre-election reporting period ending March 17, 2010. Respondent Briggs failed to file this pre-election campaign statement, though the campaign activity during this time was reported on Respondents' pre-election statement for the next reporting period. By failing to file the pre-election campaign statement for the above mentioned reporting period, Respondent Briggs committed one violation of Government Code Sections 84200.5, subdivision (b), and 84200.7, subdivision (a)(1).

On August 26, 2010, 157 days past the due date and 79 days after the June 8, 2010 primary election, at the request of enforcement division staff, Respondents filed a pre-election campaign statement for the reporting period ending March 17, 2010. (Certification, Exhibit A-9.)

Count 2

(Failure to Disclose Required Contributor Information)

Respondents had a duty to disclose street address, occupation and employer information for any individuals who contributed \$100 or more to Respondent Committee in a calendar year. On May 27, 2010, according to records maintained by the Fresno City Clerk, Respondents filed a pre-election campaign statement for the reporting period ending May 22, 2010 (Certification, Exhibit A-10.). Respondents did not disclose street address, occupation and/or employer information for the following individuals who contributed \$100 or more during the reporting period ending May 22, 2010:

Date	Contributor	Amount	Missing Information
04/13/2010	Jeffrey Roberts	\$300.00	Address, Occupation, and Employer
04/20/2010	Barbara Barstow	\$100.00	Occupation, and Employer
04/22/2010	Varoujan Der Simonian	\$100.00	Occupation, and Employer
04/22/2010	Ron Vega	\$300.00	Occupation, and Employer
04/22/2010	Paul Winter	\$100.00	Occupation, and Employer
04/22/2010	Roselyn Clark	\$100.00	Occupation, and Employer
04/22/2010	Barbara Alby	\$250.00	Occupation, and Employer
04/23/2010	James Demera, Jr.	\$200.00	Occupation, and Employer
04/26/2010	A. Thomas Ferdinandi, Sr.	\$200.00	Occupation, and Employer

Date	Contributor	Amount	Missing Information
05/18/2010	George Beal	\$300.00	Occupation, and Employer
05/20/2010	Richard Caglia	\$300.00	Address
	Total Contributions	\$2,250.00	

Respondents failed to disclose street address, occupation and/or employer information for 11 individuals during the second pre-election reporting period. By failing to disclose required contributor information for contributions of \$100 or more, Respondents violated Government Code Section 84211, subdivision (f).

It should be noted that the total amount of contributions shown above is 18% of the total contributions received by Respondent Committee during the reporting period ending May 22, 2010. Additionally, on August 26, 2010, at the request of enforcement division staff, Respondents filed an amended pre-election campaign statement for the reporting period ending May 22, 2010 which included all of the required contributor information. (Certification, Exhibit A-11.)

Count 3

(Failure to File a Late Contribution Report)

Respondent had a duty to file a late contribution report within 24 hours of receiving any late contribution. The late contribution reporting period for the June 8, 2010 primary election was May 23 through June 7, 2010. According to the semi-annual campaign statement Respondents filed for the reporting period ending June 30, 2010 (Certification, Exhibit A-12.), Respondents received the following contributions of \$1,000 or more during the late contribution period:

Contribution Date	Filing Due Date	Contributor	Amount
05/26/2010	05/27/2010	Jeannine Grech	\$1,000
05/27/2010	05/28/2010	Ashwood Development Company	\$1,500
06/03/2010	06/04/2010	Herndon Business Park Operations	\$1,000
			\$3,500

Respondents properly and timely filed late contribution reports for the contributions received on May 27 and June 3, 2010. (Certification, Exhibit A-13.) However, Respondents failed to file a late contribution report for the late contribution received on May 26, 2010. (Certification, Exhibit A-14.) By failing to disclose the late contribution in a properly filed late contribution report, Respondents violated Government Code Section 84203, subdivision (a).

It should be noted that the unreported late contribution represents 14.9% of the total contributions received during the late contribution reporting period. Additionally, Respondents reported all of the late contributions identified above in a timely filed semi-annual campaign statement for the reporting period ending June 30, 2010.

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CONCLUSION

This matter consists of three counts of violating the Act, which carry a maximum administrative penalty of Five Thousand Dollars (\$5,000) per count, for a total of Fifteen Thousand Dollars (\$15,000).

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

Regarding Count 1, the typical administrative penalty for failing to file a pre-election campaign statement has been in the mid-to-high end of the penalty range. Failing to file a pre-election campaign statement is a serious violation of the Act because the public is deprived of valuable information before an election regarding a candidate's receipts and expenditures. Because Respondent Briggs filed a statement of intention before the end of the pre-election period, he was required to file a pre-election campaign statement for the reporting period of January 1 through March 17, 2010. Respondents failed to file this pre-election campaign statement which would have disclosed receipt of \$900 in contributions. However, Respondents ultimately reported these contributions on the pre-election campaign statement Respondents timely filed for the next pre-election reporting period ending May 22, 2010, thus the public was informed of this campaign activity prior to the election. Lastly, Respondent Briggs is a prior member of the California State Assembly and the Fresno City Council, and has prior enforcement action against him in the form of the Default Decision effective December 10, 2009, in which he was prosecuted for failing to file pre-election campaign statements. Accordingly, an administrative penalty in the amount of three thousand five hundred dollars (\$3,500) is appropriate for this violation.

Regarding Count 2, the typical administrative penalty for failing to disclose street address, occupation and employer information has been in the low range of available penalties. In this matter, Respondents were required to provide street address, occupation and employer information for 11 contributors of \$100 or more in the pre-election reporting period ending May 22, 2010. The undisclosed information concerned approximately 18% of Respondents' total contributions reported as received in Respondents' pre-election campaign statement. To date, Respondents have not provided the required information for these 11 contributors. Lastly, Respondent Briggs is a prior member of the California State Assembly and the Fresno City Council, and has prior enforcement action against him in the form of the Default Decision effective December 10, 2009, in which he was prosecuted for failing to disclose street address, occupation and employer information for contributors of \$100 or more. Thus, a higher-than-typical administrative penalty of three thousand five hundred dollars (\$3,500) for this violation is appropriate.

Regarding Count 3, the typical administrative penalty for failing to file late contribution reports has varied depending on the surrounding circumstances. In this case, Respondents failed to timely report receiving one contribution of \$1,000 during the late contribution reporting period of May 23 through June 7, 2010. This contribution amounted to 14.9% of the total reported contributions received during the late contribution reporting period. Lastly, Respondent Briggs is a prior member of the California State Assembly and the Fresno City Council, and has prior enforcement action against him in the form of the Default Decision effective December 10, 2009, in which he was prosecuted for failing to file late contribution reports. Accordingly, an administrative penalty in the amount of two thousand five hundred dollars (\$2,500) is appropriate for this violation.

FACTORS IN AGGRAVATION

Failure to file campaign statements is a serious violation of the Act because it deprives the public of important information about a candidate and committee's contributors and financial activities.

The facts of this case, in conjunction with Respondent Briggs' prior prosecution by the Commission in the form of the Default Decision effective December 10, 2009, show a pattern of violations. Respondent Briggs was a former member of the California State Assembly, a former Fresno City Councilmember, and was previously prosecuted by the Commission for these same types of violations, thus, Respondents should have been aware of their duties and requirements under the Act. Thus, taken as a whole, Respondents' conduct in this matter shows a reckless disregard for the Act, and Respondents' violations are serious.

FACTORS IN MITIGATION

Regarding Count 1, Respondents reported the information which should have been disclosed in the first pre-election reporting period in a timely filed pre-election statement for the second pre-election reporting period. Respondents, at the direction of the Enforcement Division, filed the first pre-election campaign statement on August 26, 2010, 157 days past the due date, and 79 days after the June 8, 2010 primary election.

Regarding Count 2, Respondents, at the direction of the Enforcement Division, filed the amended second pre-election campaign statement on August 26, 2010, which disclosed all the proper contributor information, 79 days after the June 8, 2010 primary election.

Regarding Count 3, though Respondents failed to report the \$1,000 late contribution before the June 8, 2010 election, Respondents reported the \$1,000 late contribution received on May 26, 2010, in their timely filed semi-annual campaign statement for the reporting period ending June 30, 2010.

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PENALTY

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of the agreed upon penalty of Nine Thousand Five Hundred Dollars (\$9,500), Three Thousand Five Hundred Dollars (\$3,500) each for Counts 1 and 2, and Two Thousand Five Hundred Dollars (\$2,500) for Count 3.

* * * * *