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7
8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**

10
11 In the Matter of:

FPPC No. 16/19681

12 **FRIENDS OF SAN JUAN USD, YES ON**
13 **P AND KATHY BYARS,**

STIPULATION, DECISION, AND ORDER

14 **Respondents.**

15
16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission and
18 respondents Friends of San Juan USD 2016, Yes on P and Kathy Byars (Respondents) hereby agree that
19 this Stipulation will be submitted for consideration by the Fair Political Practices Commission
20 (Commission) at its next regularly scheduled meeting.

21 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this
22 matter and to reach a final disposition without the necessity of holding an additional administrative hearing
23 to determine the liability of Respondents.

24 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
25 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of
26 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to, the right to
27 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
28 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to

1 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
2 the hearing as a hearing officer, and to have the matter judicially reviewed.

3 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing to
4 timely file a pre-election statement in violation of Government Code sections 84200.5, subdivision (a),
5 and 84200.8, subdivision (a), all as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated
6 by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this
7 matter.

8 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
9 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
10 \$1,500. Respondents submitted with this Stipulation a cashier's check in said amount, made payable to
11 the "General Fund of the State of California," as full payment of the administrative penalty that shall be
12 held by the State of California until the Commission issues its Decision and Order regarding this matter.
13 The parties agree that in the event the Commission refuses to accept this Stipulation, it shall become null
14 and void, and within fifteen (15) business days after the Commission meeting at which the Stipulation is
15 rejected, all payments tendered by Respondents in connection with this Stipulation shall be reimbursed to
16 Respondents. Respondents further stipulate and agree that in the event the Commission rejects the
17 Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any member
18 of the Commission, nor the Executive Director, shall be disqualified because of prior consideration of this
19 Stipulation.

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21 Dated: _____
22 Galena West, Chief, on behalf of the Enforcement
23 Division of the Fair Political Practices Commission

24 Dated: _____
25 Kathy Byars, individually and on behalf of Friends of
26 San Juan USD, Yes on P
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1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Friends of San Juan USD 2016, Yes on
3 P and Kathy Byars,” FPPC No. 16/19681, including all attached exhibits, is hereby accepted as the final
4 decision and order of the Fair Political Practices Commission, effective upon execution below by the
5 Chair.

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7 IT IS SO ORDERED.

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9 Dated: _____

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11 Joann Remke, Chair
12 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent Friends of San Juan USD 2016, Yes on P (the “Committee”) is a committee primarily formed to support Measure P, a local school bond measure benefitting San Juan Unified School District in Sacramento County. Respondent Kathy Byars (“Byars”) is the Committee’s treasurer.

Under the Political Reform Act (the “Act”),¹ a primarily formed ballot measure committee must timely file campaign statements disclosing the contributions it receives and the expenditures it makes. The Committee violated the Act by failing to timely file one pre-election statement. As the treasurer, Byars is liable, along with the Committee, for the Committee’s campaign reporting violation.²

SUMMARY OF THE LAW

An express purpose of the Act is to ensure that campaign contributions and expenditures are fully and truthfully disclosed so that voters are fully informed and improper practices are discouraged.

In furtherance of this purpose, the Act requires primarily formed ballot measure committees to file pre-election statements during election years.³ Before a general election, a committee must file a pre-election statement no later than 40 days before the election for the statement period ending 45 days before the election.⁴

SUMMARY OF THE FACTS

The Committee first qualified as a committee on September 1, 2016. The Committee and Byars timely filed late contribution reports for 11 contributions of \$1,000 or more that the Committee received between September 1, 2016 and September 23, 2016.

The Sacramento County Registrar of Voters referred the Committee and Byars to the Enforcement Division for failing to file a pre-election statement for the period of July 1, 2016 to September 24, 2016 by the September 29, 2016 deadline. The Committee and Byars filed the pre-election statement five days late on October 4, 2016. The statement reported \$83,050.00 in contributions and \$13,437.12 in expenditures made during the period of July 1, 2016 through September 24, 2016. The statement showed the Committee’s ending cash balance as \$80,046.21.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Sections 83116.5 and 91004.

³ Section 84200.5, subdivision (a).

⁴ Section 84200.8, subdivision (a).

Count 1: Failure to Timely File a Pre-Election Statement

The Committee and Byars failed to timely file a pre-election statement for the period of July 1, 2016 to September 24, 2016, in violation of Sections 84200.5, subdivision (a), and 84200.8, subdivision (a).

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of five thousand dollars (\$5,000).

In determining the appropriate penalty for a particular violation of the Act, the Commission 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 Commission 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 conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the Respondents demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether the violator, upon learning of the violations, voluntarily filed amendments.

The Commission also considers penalties in prior cases involving similar violations. Recent similar cases include the following:

Count 1

- *In the Matter of Patricia Lopez, Patty Lopez for Assembly 2014, and Carolina Perez*, FPPC Nos. 15/313 and 15/314. (Commission approved a stipulated decision on March 17, 2016.) The respondents failed to timely file two pre-election statements and one semi-annual statement. During the periods in question, the committee received \$13,242.01 and expended \$10,965.95. The statements were ultimately filed after the relevant election. The Commission imposed a penalty of \$2,500.
- *In the Matter of Apartment Association of Los Angeles PAC and Trevor Grimm*, FPPC No. 14/1359. (Commission approved a stipulated decision on October 15, 2015.) The respondents failed to timely file two pre-election statements for periods in which it made contributions totaling \$52,316. The Commission imposed a penalty of \$2,000 per violation, for a total penalty of \$4,000. Similar to the instant case, almost all of the committee's financial activity was timely reported prior to the election on other statements.

A central purpose of the Act is to ensure receipts and expenditures in election campaigns are fully and truthfully disclosed.⁵ The Committee and Byars failed to timely disclose contributions and expenditures. However, in mitigation, the pre-election statement was filed five days late, which was more than one month prior to the election. In addition, \$81,000 out of the \$83,050 the Committee received during the period covered by the pre-election statement was timely disclosed on late contribution reports.

⁵ Section 81002, subdivision (a).

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, the penalties imposed in prior cases, and other relevant information, a penalty of \$1,500 is recommended.