

1 GALENA WEST  
Enforcement Chief  
2 DAVE BAINBRIDGE  
Assistant Enforcement Chief  
3 Fair Political Practices Commission  
428 J Street, Suite 620  
4 Sacramento, CA 95814  
Telephone: (916) 322-5660  
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant

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

10  
11 In the Matter of:

12 QUALITY SCHOOLS FOR ALL  
13 CHILDREN YES ON MEASURE M  
14 COMMITTEE AND JAMES "JIM"  
KOENIG

15 Respondents.

FPPC No. 16/19683

STIPULATION, DECISION, AND ORDER

16  
17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission and  
19 respondents Quality Schools for All Children Yes on Measure M Committee and James "Jim" Koenig  
20 (Respondents) hereby agree that this Stipulation will be submitted for consideration by the Fair Political  
21 Practices Commission (Commission) at its next regularly scheduled meeting.

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

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

1 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to  
2 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over  
3 the hearing as a hearing officer, and to have the matter judicially reviewed.

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

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

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22 Dated: \_\_\_\_\_  
23 Galena West, Chief, on behalf of the Enforcement  
24 Division of the Fair Political Practices Commission

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26 Dated: \_\_\_\_\_  
27 James Koenig, individually and on behalf of Quality  
28 Schools for All Children Yes on Measure M

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Quality Schools for All Children Yes on  
3 Measure M Committee and James “Jim” Koenig,” FPPC No. 16/19683, including all attached exhibits, is  
4 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon  
5 execution below by the Chair.

6  
7 IT IS SO ORDERED.

8  
9 Dated: \_\_\_\_\_

\_\_\_\_\_ Joann Remke, Chair  
Fair Political Practices Commission

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Quality Schools for All Children Yes on Measure M Committee (the “Committee”) is a committee primarily formed to support a local school bond measure benefitting Alisal Union School District in Monterey County. Respondent James “Jim” Koenig (“Koenig”) is the Committee’s treasurer.

Under the Political Reform Act (the “Act”),<sup>1</sup> 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, Koenig is liable, along with the Committee, for the Committee’s campaign reporting violation.<sup>2</sup>

### **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.<sup>3</sup> 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.<sup>4</sup>

### **SUMMARY OF THE FACTS**

The Committee first qualified as a committee on August 26, 2016. The Committee and Koenig filed three 24-hour contribution reports to disclose ten contributions of \$1,000 or more that the Committee received between August 26, 2016 and September 21, 2016. But the Committee failed 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 Koenig filed the pre-election statement six days late on October 5, 2016. The statement reported \$37,500 in contributions and no expenditures during the period of July 1, 2016 through September 24, 2016. The statement showed the Committee’s ending cash balance as \$37,500.

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<sup>1</sup> 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.

<sup>2</sup> Sections 83116.5 and 91004.

<sup>3</sup> Section 84200.5, subd. (a).

<sup>4</sup> Section 84200.8, subd. (a).

## VIOLATION

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

The Committee and Koenig 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:

- *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.<sup>5</sup> The Committee and Koenig failed to timely disclose contributions and expenditures. However, in mitigation, the pre-election statement was filed six days late, which was more than one month prior to the election. In addition, all of the contributions

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<sup>5</sup> Section 81002, subd. (a).

the Committee received during the period covered by the pre-election statement were timely disclosed on late contribution reports.

**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.