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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

12 DAVID GUZZETTI,

13 Respondent.

FPPC Case No. 16/154

14 STIPULATION, DECISION AND ORDER

15 **INTRODUCTION**

16 In 2012, David Guzzetti was the treasurer and co-chair of Chico Conservation Voters, a
17 committee with a history of supporting various causes from year to year.

18 This case involves a pattern of personal use of campaign funds by Guzzetti—totaling
19 approximately \$11,917—in violation of the Political Reform Act.¹ The violations occurred over a period
20 of time spanning roughly two-and-a-half years, beginning in August 2012.

21 **SUMMARY OF THE LAW**

22 The Act and its regulations are amended from time to time. The violations in this case occurred
23 between approximately August 2012 and January 2015. All legal references and discussions of law
24 pertain to the Act’s provisions as they existed at that time.

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27 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections
81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission
28 are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references
are to this source.

1 **Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act**

2 When enacting the Political Reform Act, the people of California found and declared that
3 previous laws regulating political practices suffered from inadequate enforcement by state and local
4 authorities.² Thus, it was decreed that the Act “should be liberally construed to accomplish its
5 purposes.”³

6 One purpose of the Act is to help distinguish campaign contributions from personal gifts by
7 ensuring that campaign contributions may not be used for personal purposes.⁴ Another purpose of the Act
8 is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁵

9 **Restrictions Against Personal Use of Campaign Funds**

10 In the case of a committee that is not controlled by a candidate, when the committee receives
11 campaign contributions, any expenditure of such funds must be reasonably related to a political,
12 legislative, or governmental purpose of the committee. However, if the expenditure would confer a
13 substantial personal benefit (more than \$200) on any person with authority to approve the expenditure,
14 then the expenditure must be *directly* related.⁶

15 **SUMMARY OF THE FACTS**

16 Chico Conservation Voters has a history of terminating and reforming under the same name
17 between elections. This case involves a version of the committee that terminated in January 2013
18 (Secretary of State ID No. 1349230) and a version of the committee that reformed with the same name in
19 August 2013 (Secretary of State ID No. 1359787).

20 In 2012, committee spending was focused on support for state propositions 34, 36, 37—and
21 various Chico City Council candidates. In 2014, the committee opposed state proposition 1.

22 During calendar years 2012, 2013, and 2014, the committee raised approximately \$60,250.
23 Roughly two-thirds of this amount was contributed to the committee by its principal officer, Kelly
24 Meagher. The rest came from numerous other contributors and members of the community.

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26 ² Section 81001, subdivision (h).

27 ³ Section 81003.

28 ⁴ Section 89510, et seq.

⁵ Section 81002, subdivision (f).

⁶ See Sections 89511, subdivision (b)(3); and 89512.5, subdivision (a).

1 Guzzetti was the treasurer of the committee until approximately August 2014, when another
2 treasurer (Jessica Allen) took his place.

3 On approximately 148 occasions from August 2012 through January 2015, Guzzetti used
4 committee campaign funds—totaling approximately \$11,917—for personal purposes, which were
5 unrelated to any political, legislative, or governmental purpose. These purposes included gambling—as
6 well as personal dining/eatery charges, grocery expenses, bookstore charges, and personal computer
7 services. Records reflect that the funds were obtained by Guzzetti through the use of committee checks
8 that he made out to cash, ATM cash withdrawals, and charges to the committee’s debit card. Generally,
9 Guzzetti did not report these expenditures on campaign filings, and he concealed his spending through
10 mis-reporting—which included overstating other, legitimate expenses; understating committee receipts;
11 and overstating the committee’s unitemized, small expenditures (of less than \$100 each).

12 During this same period of time, in addition to the spending described above, Guzzetti also used
13 committee funds to pay himself approximately \$3,414. However, it appears that this spending was a
14 permissible use of campaign funds because it was reported on campaign filings as Guzzetti’s salary—
15 unlike the other expenditures described above, which were concealed.

16 VIOLATIONS

17 **Counts 1 – 5: Personal Use of Campaign Funds**

18 In making personal use of campaign funds as described above, Guzzetti violated Section 89512.5.
19 For settlement purposes, five counts are being charged for this conduct.

20 PROPOSED PENALTY

21 This matter consists of five counts. The maximum penalty that may be imposed is \$5,000 per
22 count. Thus, the maximum penalty that may be imposed is \$25,000.⁷

23 In determining the appropriate penalty for a particular violation of the Act, the Commission
24 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
25 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
26 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
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28 ⁷ See Section 83116, subdivision (c).

1 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
2 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
3 record of violations.⁸ Additionally, the Commission considers penalties in prior cases with comparable
4 violations.

5 Personal use of campaign funds is one of the most serious violations of the Act—especially in the
6 current case, which involves a deliberate pattern/scheme, coupled with intent to conceal. Generally, these
7 types of cases involve numerous illegal transactions—each of which could be charged as a separate
8 count. However, for settlement purposes, it is not necessary to charge every count. Recent stipulations
9 show that the maximum penalty of \$5,000 per count usually is imposed in these cases, and the number of
10 counts is adjusted to ensure that the penalty fits the wrongdoing.

11 For example, *In the Matter of John Lindner and Franklin-McKinley for Our Kids—Yes on*
12 *Measure J 2010*; FPPC Case No. 16/286 (approved Oct. 19, 2017), the Commission imposed a penalty in
13 the amount of \$18,500 against a school board member for personal use of campaign funds that belonged
14 to a ballot measure committee. Lindner was the treasurer for the ballot measure committee, and he made
15 personal use of campaign funds totaling approximately \$9,301 over a period of time spanning roughly six
16 months. This included approximately 20 instances of bank transfers (to Lindner’s personal account), cash
17 withdrawals, and other personal expenditures. It was noted that Lindner engaged in false campaign
18 reporting to purposely and fraudulently conceal his violations. He did not pay back the committee for any
19 of his personal expenditures. In arriving at the penalty amount, three counts were charged for personal
20 use of campaign funds—and the maximum penalty of \$5,000 per count was imposed. Also, a fourth
21 count—for failure to disclose expenditures—resulted in an additional penalty of \$3,500. This count
22 related to Lindner’s scheme in terms of helping to conceal his wrongdoing. Other violations were noted
23 as aggravating factors, but for settlement purposes, they were not charged.

24 The current case is similar to *Lindner* in many ways. For example, both cases involve treasurers
25 who were experienced candidates—with reason to be familiar with the Act. Lindner had been a school
26 board member for many years, and Guzzetti is a former member of the Chico City Council.

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⁸ Regulation 18361.5, subdivision (d).

1 Also, both cases involve intentional violations and deliberate concealment—coupled with no
2 repayment of the misused funds.

3 Additionally, in *Lindner*, it was noted that other violations could have been charged, including
4 false reporting of numerous civic donations, an impermissible loan, unlawful use of cash, and failure to
5 report expenditures. It appears that these potential counts related to Lindner’s personal use of campaign
6 funds—or concealment thereof—but for settlement purposes, these potential counts were not charged.
7 Rather, they were noted as aggravating factors. The one exception is the count that was charged for
8 failure to report expenditures.

9 The current case also involves other potential counts that could be charged, including false
10 reporting, other campaign filing/reporting deficiencies, unlawful cash transactions, and failure to keep
11 required committee records. Most of these violations served to conceal Guzzetti’s personal use of
12 campaign funds. For settlement purposes, they are being noted as aggravating factors—but are not being
13 charged. Instead of including an extra count for Guzzetti’s failure to report his spending—as was done in
14 *Lindner*—an extra count for personal use of campaign funds is being recommended.

15 Although *Lindner* is similar to the current case in many ways, Lindner’s misuse of campaign
16 funds involved fewer instances over a shorter period of time (about 20 instances over six months—
17 compared to approximately 148 instances over 30 months in the current case). However, Guzzetti has
18 provided the Enforcement Division with a letter from his treating physician, which reflects that Guzzetti
19 suffered from severe health problems and cognitive difficulties during the time leading up to his liver
20 transplant in April 2015. Guzzetti maintains that these problems influenced his judgment during a period
21 of time when he suffered from liver cancer, Parkinson’s disease, and chronic hepatic encephalopathy,
22 which brought on memory lapses and confusion. Also, Guzzetti cooperated with the Enforcement
23 Division by agreeing to an early settlement—and by entering into a tolling agreement with respect to the
24 statute of limitations. Additionally, he does not have a history of prior violations of this nature.

25 In *Lindner*, the ratio of the penalty (\$18,500) to the amount of misused funds (\$9,301) was
26 roughly two to one. The current case involves misused funds totaling approximately \$11,917. A
27 comparable penalty would be about \$24,000.

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1 Under these circumstances, the following agreed upon penalty is recommended: five counts with
2 the maximum penalty of \$5,000 per count for four of the counts and a penalty of \$4,000 for the last
3 count—for a total penalty of \$24,000, which is approximately double the amount misspent.

4 **CONCLUSION**

5 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
6 Respondent David Guzzetti hereby agree as follows:

7 1. Respondent violated the Act as described in the foregoing pages, which are a true and
8 accurate summary of the facts in this matter.

9 2. This stipulation will be submitted for consideration by the Fair Political Practices
10 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

11 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
12 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
13 liability of Respondent pursuant to Section 83116.

14 4. Respondent has consulted with his attorney, Richard L. Harriman. Respondent
15 understands and hereby knowingly and voluntarily waives, any and all procedural rights set forth in
16 Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not
17 limited to the right to appear personally at any administrative hearing held in this matter, to be
18 represented by an attorney at Respondent’s own expense, to confront and cross-examine all witnesses
19 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
20 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
21 reviewed.

22 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
23 Respondent agrees to the Commission imposing against him an administrative penalty in the amount of
24 \$24,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General
25 Fund of the State of California—is/are submitted with this stipulation as full payment of the
26 administrative penalty described above, and same shall be held by the State of California until the
27 Commission issues its decision and order regarding this matter.

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1 6. If the Commission refuses to approve this stipulation—then this stipulation shall become
2 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
3 rejected, all payments tendered by Respondent in connection with this stipulation shall be reimbursed to
4 Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing
5 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
6 Director, shall be disqualified because of prior consideration of this Stipulation.

7 7. The parties to this agreement may execute their respective signature pages separately. A
8 copy of any party’s executed signature page—including a hardcopy of a signature page transmitted via
9 fax or as a PDF email attachment—is as effective and binding as the original.

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12 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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16 Dated: _____

David Guzzetti, Respondent

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18 The foregoing stipulation of the parties “In the Matter of David Guzzetti,” FPPC Case No.
19 16/154, is hereby accepted as the final decision and order of the Fair Political Practices Commission,
20 effective upon execution below by the Chair.

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22 IT IS SO ORDERED.

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24 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission