

1 GALENA WEST
Chief of Enforcement
2 CHRISTOPHER BURTON
Commission Counsel
3 Fair Political Practices Commission
1102 Q Street, Suite 3000
4 Sacramento, CA 95811
Telephone: (916) 322-5660

5 Attorneys for Complainant
6 Fair Political Practices Commission, Enforcement Division

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

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11 In the Matter of:

12 ELK GROVE EDUCATION
ASSOCIATION POLITICAL ACTION
13 COMMITTEE, KATHLEEN TIJAN, LEE
RAMALEY, AND JEREMY ROBERTS,

14 Respondents.

FPPC Case No. 16/19974

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16 STIPULATION, DECISION AND ORDER

17 **INTRODUCTION**

18 The Elk Grove Education Association Political Action Committee (the “Committee”) filed its
19 initial statement of organization on April 25, 2012 as a county general purpose committee created for the
20 purpose of promoting pro-public education candidates at the local level. The Committee is sponsored by
the Elk Grove Education Association.

21 According to the Committee’s campaign filings, the Committee’s principal officers included Lee
22 Ramaley (“Ramaley”) and Kathleen Tijan (“Tijan”), and its treasurers included Ramaley and Jeremy
23 Roberts (“Roberts”), during the pertinent time period.

24 Respondents committed numerous violations of the Political Reform Act (the “Act”)¹ in 2016.
25 First, the Committee failed to timely file two required semiannual campaign statements and one pre-

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27 ¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the
28 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.

1 election campaign statement in 2016. Respondents also failed to timely report certain contributions on
2 two campaign statements. Further, Respondents failed to timely file 24-hour contribution reports for six
3 different contributions made amounting to \$39,274.11.

4 **SUMMARY OF THE LAW**

5 The Act and its regulations are amended from time to time. The violations in this case occurred
6 in 2016. For this reason, all legal references and discussions of law pertain to the Act's provisions as
7 they existed at that time.

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

9 When enacting the Act, the people of California found and declared that previous laws regulating
10 political practices suffered from inadequate enforcement by state and local authorities.² For this reason,
11 the Act is to be construed liberally to accomplish its purposes.³

12 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
13 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
14 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting
15 system.⁵ Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will
16 be "vigorously enforced."⁶

17 Mandatory Filing of Campaign Statements

18 At the core of the Act's campaign reporting system is the requirement that committees file
19 campaign statements and reports for certain reporting periods and by certain deadlines.⁷

20 The Act requires a recipient committee to file semiannual campaign statements twice per year
21 disclosing its campaign contributions and expenditures. A recipient committee must file a semiannual
22 statement by January 31 for the period ending December 31 and by July 31 for the period ending June
23 30, or the next business day if the deadline falls on a weekend or holiday.⁸

24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (a).

27 ⁵ Sections 84200, *et seq.*

28 ⁶ Section 81002, subd. (f).

⁷ Sections 84200, *et seq.*

⁸ Section 84200, subd. (a); Regulation 18116, subd. (a).

1 Also, a state or county general purpose committee shall file certain pre-election campaign
2 statements if it makes contributions or independent expenditures totaling \$500 or more in connection
3 with an election during the period covered by the pre-election statement.⁹ The Act provides that pre-
4 election campaign statements shall be filed as follows: (1) for the period ending 45 days before the
5 election, a statement to be filed no later than 40 days before the election; and (2) for the period ending 17
6 days before the election, a statement to be filed no later than 12 days before the election.¹⁰

7 The Act requires that committees report the total amount of contributions received during the
8 period covered by the campaign statement from (i) persons who have given a cumulative amount of \$100
9 or more; and (ii) persons who have given a cumulative amount of less than \$100.¹¹ Further, the Act
10 requires that committees report the name, address, occupation, and employer of each person that
11 contributes \$100 or more on its campaign statements.¹²

12 The Act also requires that committees report the total amount of expenditures made during the
13 period covered by the campaign statement to (i) persons who have received \$100 or more; and (ii)
14 persons who have received less than \$100.¹³ For each person to whom an expenditure of \$100 or more
15 has been made, the committee must report the name and address of the recipient, the amount of the
16 expenditure, and a brief description of the consideration for which each expenditure was made.¹⁴

17 Duty to File 24-Hour Contribution Reports

18 Each candidate or committee that makes or receives a late contribution must file a report within
19 24 hours of making or receiving the contribution.¹⁵ A “late contribution” includes a contribution
20 aggregating \$1,000 or more that is made or received by a candidate or his or her controlled committee
21 during the 90-day period preceding an election or on the date of the election.¹⁶

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24 ⁹ Section 84200.5, subd. (c).

25 ¹⁰ Section 84200.8, subds. (a) and (b).

26 ¹¹ Section 84211, subds. (a), (c), and (d).

27 ¹² Section 84211, subd. (f).

28 ¹³ Section 84211, subds. (b), (i), and (j).

¹⁴ Section 84211, subd. (k).

¹⁵ Section 84203.

¹⁶ Section 82036.

1 Joint and Several Liability of Committee, Principal Officer, and Treasurer

2 It is the duty of a committee treasurer to ensure that the committee complies with the Act.¹⁷ It is
3 the duty of the committee’s principal officer to authorize the content of communications made by the
4 committee, authorize expenditures made by the committee, and determine the committee’s campaign
5 strategy.¹⁸ A treasurer and principal officer may be held jointly and severally liable, along with the
6 committee, for violations committed by the committee.¹⁹

7 **SUMMARY OF THE FACTS**

8 This case originated from a sworn complaint received on or about October 28, 2016, alleging
9 numerous campaign reporting violations by the Committee. The Committee, which qualified on March
10 20, 2012, supported a local ballot measure and several school board candidates in conjunction with the
11 November 8, 2016 General Election. In particular, the Committee made contributions in support of
12 Measure M, an Elk Grove Unified School District bond measure; and Nancy Chaires-Espinoza, Carmine
13 Forcina, and Chet Madison, Sr., candidates for re-election to the Elk Grove Unified Board of Education.

14 In 2016, the Committee received a total of \$65,046 in contributions and made a total of
15 \$110,620.10 in expenditures.

16 The Committee failed to timely file the following campaign statements:

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18 Statement/ Report Type	Reporting Period	Due Date	Date Filed	Days Late	Amount of Contributions/ Expenditures
19 Semiannual	7/1/15 – 12/31/15	2/1/16	2/19/16	18	\$32,248/\$0
20 Semiannual	1/1/16 – 6/30/16	8/1/16	8/29/16	28	\$38,844/\$0
21 Pre-election	7/1/16 – 9/24/16	9/29/16	10/14/16	15	\$6,406/\$5,453.84

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24 In addition, the Committee failed to timely report certain contributions on its campaign
25 statements. In particular, the Committee received contributions in the amount of \$6,582 during the
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27 ¹⁷ Sections 81004, 84100, 84104, and 84213; Regulation 18427.

28 ¹⁸ Section 82047.6; Regulation 18402.1, subd. (b).

¹⁹ Sections 83116.5 and 91006.

1 reporting period of September 25, 2016 to October 22, 2016 and \$13,214 during the reporting period of
 2 October 23, 2016 to December 31, 2016 that were not timely reported. These contributions emanated
 3 from union member dues deducted through payroll by the Elk Grove Unified School District and then
 4 transferred to the Elk Grove Education Association, which made the contributions to the Committee.
 5 These contributions were reported on amended campaign statements filed in conjunction with this
 6 settlement.

7 The Committee also failed to timely file the following 24-hour contribution reports in conjunction
 8 with contributions made in 2016:

Statement/ Report Type	Contribution Date	Due Date	Date Filed	Amount of Contribution
24-Hour Contribution	8/29/16	8/30/16	10/14/16	\$3,675
24-Hour Contribution	10/5/16	10/6/16	10/10/16	\$20,326.84
24-Hour Contribution	10/27/16	10/28/16	10/31/16	\$1,302.23
24-Hour Contribution	10/27/16	10/28/16	10/31/16	\$2,250
24-Hour Contribution	10/27/16	10/28/16	10/31/16	\$3,906.68
24-Hour Contribution	10/27/16	10/28/16	10/31/16	\$3,906.68
24-Hour Contribution	10/27/16	10/28/16	10/31/16	\$3,906.68

22 **VIOLATIONS**

23 Count 1: Failure to Timely File Semiannual Campaign Statements

24 As a recipient committee under the Act, the Committee and Ramaley were required to file a
 25 semiannual campaign statement for the period of July 1 to December 31, 2015, by February 1, 2016; and
 26 a semiannual campaign statement for the period of January 1 to June 30, 2016, by August 1, 2016;
 27 however, the Committee and Ramaley failed to do so, in violation of Section 84200, subdivision (a).

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1 Count 2: Failure to Timely File Pre-Election Campaign Statement

2 As a recipient committee under the Act, the Committee, Ramaley, and Roberts were required to
3 file a pre-election campaign statement for the period of July 1 to September 24, 2016, by September 29,
4 2016; however, the Committee, Ramaley, and Roberts failed to do so, in violation of Sections 84200.5,
5 subdivision (a); and 84200.8, subdivision (a).

6 Count 3: Failure to Timely Report Financial Activity on Campaign Statement

7 The Committee, Tijan, Ramaley, and Roberts failed to timely report \$6,582 in contributions
8 received on the Committee’s pre-election campaign statement covering the reporting period of
9 September 25, 2016 to October 22, 2016, in violation of Section 84211, subdivisions (a) and (d).

10 Count 4: Failure to Timely Report Financial Activity on Campaign Statement

11 The Committee, Tijan, and Roberts failed to timely report \$13,214 in contributions received on
12 the Committee’s semiannual campaign statement for the reporting period of October 23, 2016 to
13 December 31, 2016, in violation of Section 84211, subdivisions (a) and (d).

14 Count 5: Failure to Timely File 24-Hour Contribution Reports

15 The Committee, Tijan, Ramaley, and Roberts failed to timely file a 24-hour contribution report
16 for six different contributions made amounting to \$39,274.11, in violation of Section 84203.

17 **PROPOSED PENALTY**

18 This matter consists of five counts. The maximum penalty that may be imposed is \$5,000 per
19 count. Thus, the maximum penalty that may be imposed is \$25,000.²⁰

20 In determining the appropriate penalty for a particular violation of the Act, the Commission
21 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
22 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
23 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
24 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
25 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
26 record of violations.²¹ Additionally, the Commission considers penalties in prior cases involving similar

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²⁰ Section 83116, subd. (c).

²¹ Regulation 18361.5, subd. (d).

1 violations.

2 In this case, the Enforcement Division found no evidence that Respondents intended to conceal,
3 deceive, or mislead. Instead, the violations contained herein appear to have been the result of negligence.
4 In particular, the Committee was going through a transition of treasurers, which led to the violations,
5 according to Respondents. Respondents do not have a prior history of enforcement; therefore, the subject
6 violations do not appear to be part of a pattern of disregard for the Act. As to the pertinent campaign
7 statements, the Committee filed original versions of the statements prior to contact by the Enforcement
8 Division, and filed corrective amendments in conjunction with this settlement.

9 The public harm inherent in campaign reporting violations is that the public is deprived of
10 important, time-sensitive information regarding political contributions. Generally, these types of
11 violations are considered to be more serious where the public is deprived of information that was
12 required to be disclosed before an election because this has the potential to affect how votes are cast—so
13 greater public harm is involved, and a higher penalty is warranted. Another factor that influences the
14 amount of the penalty is whether the public harm was mitigated because some of the reportable activity
15 was disclosed to the public on another campaign filing.

16 Comparable cases in which a penalty was charged for failure to timely file semiannual campaign
17 statements include the following:

- 18 • *In the Matter of Voto Latino Action Fund PAC and Maria Teresa Kumar*; FPPC No. 16/338.

19 Respondents, a recipient committee and its treasurer, failed to timely file a semiannual campaign
20 statement. Respondents eventually filed the statement, which reported \$65,771.14 in contributions and
21 the same amount in expenditures. In March 2017, the Commission approved a penalty of \$2,500 on one
22 count.

- 23 • *In the Matter of Fred Garcia, Fred Garcia for Sheriff 2014, and Jeff Davis*; FPPC No. 14/299.

24 Respondents, a candidate, his controlled committee, and its treasurer, failed to timely file one semiannual
25 and one pre-election campaign statement. Respondents eventually filed the statements, which reported a
26 total of \$14,664 in contributions and \$12,777.10 in expenditures. In July 2016, the Commission
27 approved a penalty of \$2,500 on one count.

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1 As to Count 1, Respondents are deserving of a penalty similar to those in the two comparable
2 cases, given that the average amount of financial activity here (\$35,546) falls in between the amounts at
3 issue in *Voto Latino* and *Garcia*.

4 Comparable cases in which a penalty was charged for failure to timely file pre-election campaign
5 statements include the following:

6 • *In the Matter of Ivan Altamirano and Friends of Ivan Altamirano for Council 2013*; FPPC No.
7 13/908. Respondents, a candidate-treasurer and his controlled committee failed to timely file a pre-
8 election campaign statement and failed to timely report \$3,183 in expenditures on the statement. Known
9 receipts and expenditures for the pertinent reporting period were \$12,378 and \$14,237, respectively. In
10 September 2016, the Commission approved a penalty of \$2,500 on one count.

11 As to Count 2, this case is analogous to the comparable case in that Respondents both failed to
12 timely file a pre-election campaign statement and failed to report certain financial activity on the
13 statement once it was filed. Although the total amount of financial activity on the subject statement is
14 lower here (\$11,859.84) than in *Altamirano* (\$26,615), the violation is aggravated by the fact that
15 Respondents also failed to report certain amounts of financial activity on the late-filed campaign
16 statement (\$6,406 in contributions and \$1,452 in expenditures) that are higher than those at issue in
17 *Altamirano*. Conversely, the violation here is mitigated by the fact that the pertinent statement was filed
18 15 days late but prior to the election, unlike in *Altamirano*. Therefore, a penalty slightly lower than that
19 approved in *Altamirano* is justified.

20 Comparable cases in which a penalty was charged for violating Section 84211 include the
21 following:

22 • *In the Matter of Our Water Now – H2Own “Yes on Measure W,” Richard Piercy, and Adolph*
23 *Collaso*; FPPC No. 16/19934. Respondents, a primarily-formed ballot measure committee and its
24 treasurer and principal officer, failed to timely report \$375 in contributions and a \$1,500 expenditure on
25 two pre-election campaign statements, in violation of Section 84211, subdivisions (a), (b), (c), (d), (f), (i),
26 and (k). In June 2017, the Commission approved a fine of \$2,000 on one count.

27 • *In the Matter of Gay and Lesbian Victory Fund, Frank Selvaggi, and Kim Hoover*; FPPC Nos.
28 14/1362 and 17/96. Respondents, a general purpose committee and its treasurers, failed to timely report

1 approximately \$31,350 in contributions and \$20,000 in expenditures on a pre-election campaign
2 statement, and approximately \$64,641 in contributions and \$64,286 in expenditures on a semiannual
3 campaign statement, in violation of Section 84211, subdivisions (a), (b), (c), (f), (i), and (k). In May
4 2017, the Commission approved penalties of \$3,000 and \$3,500 on two counts.

5 As to Counts 3 and 4, a penalty that falls in the middle of those approved in the two comparable
6 cases is warranted. In *Our Water Now*, the respondents failed to timely report \$1,875 in activity on two
7 pre-election campaign statements. In *Gay and Lesbian*, the respondents failed to timely report an
8 average of approximately \$90,138.50 per statement. Here, Respondents failed to report an average of
9 \$9,898 per statement. Therefore, a penalty more towards the middle is justified. Also, like the two
10 comparable cases, the subject campaign statements at issue here include those covering pre-election
11 periods.

12 Comparable cases in which a penalty was charged for violating Section 84203 include the
13 following:

14 • *In the Matter of Gray for Assembly 2014, Adam Gray, and Douglas L. White*; FPPC No. 16/455.
15 Respondents, a candidate, his controlled committee, and its treasurer, failed to timely file a 24-hour
16 contribution report for four contributions amounting to \$12,700, in violation of Section 84203. In
17 August 2017, the Commission approved a penalty of \$2,000 on one count.

18 • *In the Matter of Douglas Hanson, Committee to Re-Elect Hanson for City Council 2016, and*
19 *Claudette Pais*; FPPC No. 16/19682. Respondents, a candidate, his controlled committee, and its
20 treasurer, failed to timely file 24-hour contribution reports for seven contributions totaling \$8,200. All of
21 the subject contributions were reported on the appropriate timely-filed pre-election campaign statements,
22 as well as a late-filed 24-hour report. In December 2016, the Commission imposed a penalty of \$2,000
23 on one count.

24 As to Count 5, a penalty similar to those approved in *Gray* and *Hanson* is recommended. Like in
25 *Hanson*, the violation here is mitigated, in part, by the fact that the 24-hour reports, albeit late, were filed
26 prior to the election.

27 In aggravation of all violations, Respondents also failed to timely report certain information on
28 the Committee's campaign statements, including accurate contributor information and proper

1 characterization of the committee type. Further, Respondents sent out two mass mailers supporting
2 Measure M and local candidates that did not include the required “Paid for by” language thereon. In the
3 interest of settlement, these additional violations are not being charged.

4 In mitigation, Respondents do not have a prior enforcement history and cooperated with the
5 Enforcement Division during its investigation in this case.

6 Based on the foregoing, the following penalties are recommended:

Count	Violation	Proposed Penalty
1	Failure to Timely File Semiannual Campaign Statements	\$2,500
2	Failure to Timely File Pre-Election Campaign Statement	\$2,000
3	Failure to Timely Report Financial Activity on Campaign Statement	\$2,500
4	Failure to Timely Report Financial Activity on Campaign Statement	\$2,500
5	Failure to Timely File 24-Hour Contribution Reports	\$2,000
TOTAL:		\$11,500

CONCLUSION

15 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
16 Respondents, Elk Grove Education Association Political Action Committee, Kathleen Tijan, Lee
17 Ramaley, and Jeremy Roberts, hereby agree as follows:

- 19 1. The Respondents violated the Act as described in the foregoing pages, which are a true
20 and accurate summary of the facts in this matter.
- 21 2. This stipulation will be submitted for consideration by the Fair Political Practices
22 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 23 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
24 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
25 liability of the Respondent pursuant to Section 83116.
- 26 4. The Respondents understand, and hereby knowingly and voluntarily waive, any and all
27 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
28 This includes, but is not limited to, the right to appear personally at any administrative hearing held in

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

5 5. The Respondents agree to the issuance of the decision and order set forth below. Also, the
6 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
7 \$11,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General
8 Fund of the State of California—is/are submitted with this stipulation as full payment of the
9 administrative penalty described above, and same shall be held by the State of California until the
10 Commission issues its decision and order regarding this matter.

11 6. If the Commission declines to approve this stipulation—then this stipulation shall become
12 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
13 rejected, all payments tendered by the Respondents in connection with this stipulation shall be
14 reimbursed to the Respondents. If this stipulation is not approved by the Commission, and if a full
15 evidentiary hearing before the Commission becomes necessary, neither any member of the Commission,
16 nor the Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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

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

24 Dated: _____
25 Jeremy Roberts, individually and on behalf of Elk
26 Grove Education Association Political Action
27 Committee
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Dated: _____ Kathleen Tijan

Dated: _____ Lee Ramaley

1 The foregoing stipulation of the parties “In the Matter of Elk Grove Education Association Political
2 Action Committee, Kathleen Tijan, Lee Ramaley, and Jeremy Roberts,” FPPC Case No. 16/19974 is
3 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon
4 execution below by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____
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10 Joann Remke, Chair
11 Fair Political Practices Commission
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