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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

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11 In the Matter of:

12 DANIEL C. SCHNUR, DAN SCHNUR
FOR SECRETARY OF STATE 2014, and
13 KELLY LAWLER,

14 Respondents.

FPPC Case No. 16/186

STIPULATION, DECISION AND ORDER

15
16 INTRODUCTION

17 In 2014, Daniel C. Schnur (“Schnur”) sought the office of Secretary of State and, in conjunction
18 therewith, created the committee Dan Schnur for Secretary of State 2014 (the “Committee”), which
19 qualified on or around January 2, 2014. The treasurer of the Committee was Kelly Lawler (“Lawler”) of
20 The KAL Group.

21 Schnur was unsuccessful in the Primary Election on June 3, 2014, and the Committee thereafter
22 terminated effective December 30, 2014. During its lifetime, the Committee violated the Political
23 Reform Act (the “Act”)¹ on two fronts: first, the Committee failed to file a \$5,000 Contribution Report
24 for a \$125,000 contribution made by Schnur to the Committee following the election, in violation of
25 Section 85309, subdivision (c); and, second, the Committee failed to process \$12,658 in campaign

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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 expenditures through its campaign bank account, instead using the personal funds of Schnur to cover the
2 expenses, in violation of Section 85201, subdivisions (d) and (e).

3 **SUMMARY OF THE LAW**

4 The Act and its regulations are amended from time to time. The violations in this case occurred
5 in 2014. For this reason, all legal references and discussions of law pertain to the Act’s provisions as
6 they existed at that time.

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

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

11 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
12 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
13 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting
14 system—and the true sources of campaign contributions may not be concealed.⁵ Another purpose of the
15 Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁶

16 Duty to Report Contributions of \$5,000 or More

17 A candidate for elective state office is required to report to the Secretary of State within 10
18 business days of receipt of every contribution of \$5,000 or more that is received at any time other than
19 the election cycle.⁷ The election cycle is the period of time commencing 90 days prior to an election and
20 ending on the date of the election.⁸

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24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (a).

27 ⁵ Sections 84200, et seq., and 84301.

28 ⁶ Section 81002, subd. (f).

⁷ Section 85309, subd. (c).

⁸ Section 85204.

1 disclosing the sizeable contribution. The \$125,000 contribution from Schnur himself was reported on a
2 Form 460 campaign statement that was timely filed on July 31, 2014.

3 Use of Campaign Bank Account

4 The Committee made \$12,658 in expenditures that were not processed through the designated
5 campaign bank account. Instead, these expenditures, which Lawler claims were travel expenses, were
6 paid using Schnur’s personal credit cards. Although these expenditures were disclosed on the
7 Committee’s campaign statement covering the period May 18, 2014 to June 30, 2014, \$4,013 of the
8 expenditures should have been reported on the pre-election campaign statement covering the period
9 January 1, 2014 to March 17, 2014, and \$6,867 should have been reported on the pre-election statement
10 covering the period March 18, 2014 to May 17, 2014, but were not.

11 **VIOLATIONS**

12 Count 1: Failure to File \$5,000 Contribution Report

13 The Committee, Schnur, and Lawler failed to timely file a \$5,000 contribution report for a
14 contribution in the amount of \$125,000 received from Schnur, in violation of Section 85309, subdivision
15 (c).

16 Count 2: Failure to Pay Expenses From Campaign Bank Account

17 The Committee, Schnur, and Lawler failed to pay a total of \$12,658 in expenditures from the
18 designated campaign bank account, in violation of Section 85201, subdivisions (d) and (e).

19 **PROPOSED PENALTY**

20 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
21 count. Thus, the maximum penalty that may be imposed is \$10,000.¹⁵

22 In determining the appropriate penalty for a particular violation of the Act, the Fair Political
23 Practices Commission (the “Commission”) considers the facts of the case, the public harm involved, and
24 the purposes of the Act. Also, the Commission considers factors such as: (a) the seriousness of the
25 violation; (b) the presence or absence of any intention to conceal, deceive or mislead; (c) whether the
26 violation was deliberate, negligent or inadvertent; (d) whether the violation was isolated or part of a
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28 ¹⁵ Section 83116, subd. (c).

1 pattern; (e) whether corrective amendments voluntarily were filed to provide full disclosure; and (f)
2 whether the violator has a prior record of violations.¹⁶ Additionally, the Commission considers penalties
3 in prior cases with comparable violations.

4 The typical penalty levied for the failure to file \$5,000 contribution reports has historically fallen
5 in the mid-to-low range of available penalties, depending on the facts of the case. Comparable cases in
6 which a penalty was charged for violating Section 85309, subdivision (c), include the following:

7 • *In the Matter of Shannon Grove, Shannon Grove for Assembly 2012, and Karen Cain*; FPPC No.
8 14/024. Respondents, a candidate for State Assembly, her candidate controlled committee, and its
9 treasurer, failed to file \$5,000 contribution reports in connection with 11 contributions totaling \$77,400
10 (1 count). In June 2014, the Commission imposed a penalty of \$2,000 for this count.

11 • *In the Matter of Kenneth Dickson and Kenneth Dickson for 67th Assembly 2012*; FPPC No.
12 14/025. Respondents, a candidate for the State Assembly and his controlled committee of which he
13 served as treasurer, failed to file \$5,000 contribution reports in connection with two contributions totaling
14 \$101,545 that were made by the candidate himself (1 count). In April 2014, the Commission imposed a
15 penalty of \$1,000 for this count.

16 As alleged herein, the Respondents also failed to exclusively use the designated campaign bank
17 account to make all campaign expenditures. Such violations make it difficult to track and account for
18 campaign funds and to ensure compliance with the Act. Penalties associated with campaign bank
19 account violations typically fall in the middle range of available penalties. Comparable cases in which a
20 penalty was charged for violating Section 85201, subdivision (e), include the following:

21 • *In the Matter of Luis Castro, Committee to Elect Luis Castro for Calexico City Council Member*
22 *2012, and Ana Castro*; FPPC No. 13/1200. Respondents made \$4,700 in campaign expenditures, and
23 accepted \$5,800 in contributions, without using the campaign bank account. In October 2016, the
24 Commission imposed a penalty of \$2,000.

25 • *In the Matter of Monica Cooper and Friends to Elect Monica Cooper Treasurer of Carson 2015*;
26 FPPC No. 15/200. Respondents made \$5,945 in campaign expenditures without using the campaign
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28 ¹⁶ Regulation 18361.5, subd. (d).

1 bank account. In April 2016, the Commission imposed a penalty of \$2,500.

2 As to Count 1, the penalty is more appropriately on the higher end given the size of the
3 contribution that went unreported. Further aggravating the violation is the fact that the Respondents also
4 failed to file 24-hour contribution reports for 11 different contributions received during the election
5 cycle; Schnur and Lawler have prior histories of violating the Act; and Schnur is experienced with the
6 Act, having previously served as the Chair of the Commission. In mitigation, the public harm is lesser
7 given that the \$125,000 contribution was made by Schnur himself.

8 As to Count 2, a penalty on the higher end is warranted given the larger amount of expenditures
9 made outside of the campaign bank account, the Respondents' failure to report certain of the
10 expenditures on the appropriate campaign statements, and the level of familiarity these Respondents have
11 with the Act.

12 Based on the foregoing, a penalty in the amount of \$2,000 for Count 1 and \$2,500 for Count 2 is
13 recommended, for a total administrative penalty of \$4,500.

14 **CONCLUSION**

15 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
16 Respondents Daniel C. Schnur, Dan Schnur for Secretary of State 2014, and Kelly Lawler, hereby agree
17 as follows:

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

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

4 5. The Respondents agree to the issuance of the decision and order set forth below. Also, the
5 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
6 \$4,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General
7 Fund of the State of California—is/are submitted with this stipulation as full payment of the
8 administrative penalty described above, and same shall be held by the State of California until the
9 Commission issues its decision and order regarding this matter.

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

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

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

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24 Dated: _____
25 Daniel C. Schnur, individually and on behalf of
26 Dan Schnur for Secretary of State 2014

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28 Dated: _____
Kelly Lawler, individually and on behalf of
Dan Schnur for Secretary of State 2014

1 The foregoing stipulation of the parties “In the Matter of Daniel C. Schnur, Dan Schnur for Secretary of
2 State 2014, and Kelly Lawler,” FPPC Case No. 16/186 is hereby accepted as the final decision and order
3 of the Fair Political Practices Commission, effective upon execution below by the Chair.
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5 IT IS SO ORDERED.
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7 Dated: _____
8 Joann Remke, Chair
9 Fair Political Practices Commission
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