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7 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

8 STATE OF CALIFORNIA

10 In the Matter of:

11 CALIFORNIA DEMOCRATIC PARTY  
AND KATHERINE MORET,

12 Respondents.

FPPC Case No. 16/19635

STIPULATION, DECISION AND ORDER

14 INTRODUCTION

15 Respondent California Democratic Party (“Committee”) is a state general purpose committee. At  
16 all relevant times, Respondent Katherine Moret was the treasurer.

17 This case arose from a sworn complaint. The Committee and Moret had a duty to identify various  
18 committee bank accounts as “all purpose” and “restricted use,” a duty to deposit funds into the correct  
19 account and a duty to notify recipients of contributions which account the funds derived from to avoid  
20 making and receiving contributions over the contribution limits. The Committee and Moret violated the  
21 Political Reform Act’s (the “Act”)<sup>1</sup> requirements by failing to print “all purpose” on all purpose checks,  
22 notify a recipient of contributions as to the nature of the funds, and deposit contributions received into  
23 the correct account.

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27 <sup>1</sup> 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 **SUMMARY OF THE LAW**

2 An express purpose of the Act is to ensure that receipts and expenditures in election campaigns  
3 are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be  
4 inhibited.<sup>2</sup> The Act, therefore, establishes a campaign reporting system designed to accomplish this  
5 purpose of disclosure. Another purpose of the Act is to provide adequate enforcement mechanisms so  
6 that the Act will be “vigorously enforced.”<sup>3</sup>

7 The Act contains the California state contribution limits for committees active in state candidate  
8 elections.<sup>4</sup> Section 85303 provides, in part:

9 “(b) A person may not make to any political party committee, and a political party committee  
10 may not accept, any contribution totaling more than twenty-five thousand dollars (\$25,000) per calendar  
11 year for the purpose of making contributions for the support or defeat of candidates for elective state  
12 office. ...

13 “(c) Except as provided in Section 85310, nothing in this chapter shall limit a person’s  
14 contributions to a committee or political party committee provided the contributions are used for  
15 purposes other than making contributions to candidates for elective state office. ...”

16 The contribution limit set forth in Section 85303, subdivision (b) above is subject to cost-of-  
17 living adjustments and at the time of this violation was \$34,000 for the political party committee limit.  
18 “Elective state office” is defined as the office of Governor, Lieutenant Governor, Attorney General,  
19 Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction,  
20 Members of the Legislature, members elected to the Board of Administration of the Public Employees’  
21 Retirement System, members elected to the Teachers’ Retirement Board, and members of the State  
22 Board of Equalization.<sup>5</sup>

23 To implement the contribution limits and provide for committees to track the receipt of their  
24 limited versus unlimited contributions, the Fair Political Practices Commission (“Commission”) adopted  
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27 <sup>2</sup> Section 81002, subdivision (a).

28 <sup>3</sup> Section 81002, subdivision (f).

<sup>4</sup> Section 85303.

<sup>5</sup> Section 82024.

1 a regulation in 2007 requiring some committees to designate and maintain separate bank accounts to keep  
2 the limited and unlimited funds separate.<sup>6</sup> These rules apply to political party committees as they are  
3 subject to the limits of Section 85303, subdivision (b), and qualify as state general purpose committees.<sup>7</sup>  
4 Regulation 18534 requires contributions made to committees for the purpose of making contributions to  
5 state candidates, which are subject to limits, to be kept in an separate account designated as “all  
6 purpose.” These funds may be used for any legitimate purpose, including making contributions to state  
7 candidates. Contributions a committee receives in excess of the contribution limits must be deposited into  
8 a “restricted use” account. These funds may be used for any legitimate purpose except to make  
9 contributions to state candidates.

10 The regulation states that all checks drawn on the account maintained with contributions received  
11 within the state contribution limits must include the words “all purpose” in the title of the account  
12 appearing on the checks. The regulation provides an example of appropriate account names as “XYZ's all  
13 purpose account.”<sup>8</sup> Contributions received in excess of the limits must be returned, split between  
14 accounts or deposited into the “restricted use” account within 14 days from the date the contribution is  
15 received. This is when a committee is permitted to transfer from the “restricted use” account to the “all  
16 purpose” account.<sup>9</sup> Any other transfers to “all purpose” from “restricted use” accounts are prohibited.<sup>10</sup>  
17 Checks drawn on the “restricted use” account must include the words “restricted use” in the title of the  
18 account appearing on the checks.<sup>11</sup>

19 Funds from a “restricted use” account may not be used to make contributions to candidates for  
20 elective state office, or to make contributions to other committees for the purpose of making  
21 contributions to candidates for elective state office.<sup>12</sup> These funds may be used for any other legitimate  
22 purpose, such as contributions to local California candidates, contributions to state and local ballot  
23 measure committees, voter registration, and administrative costs.

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25 <sup>6</sup> Regulation 18534.

26 <sup>7</sup> Section 82027.5, subdivision (b).

27 <sup>8</sup> Regulation 18534, subdivision (b).

28 <sup>9</sup> Regulation 18534, subdivision (c).

<sup>10</sup> Regulation 18534, subdivision (e).

<sup>11</sup> Regulation 18534, subdivision (c).

<sup>12</sup> Regulation 18543, subdivision (d).



1 derived.

2 Another result of this practice was that funds received over the contribution limits totaling  
3 \$450,000 that should have been deposited into a “restricted use” account were deposited in error into the  
4 “all purpose” account. Fortunately, this error was caught before the funds were expended and the funds  
5 were then transferred into the “restricted use” account.

## 6 VIOLATION

### 7 Failure to Identify Campaign Bank Accounts

8 The Committee and Moret failed to identify the committee bank accounts as “all purpose,” failed  
9 to notify a recipient of contributions from which account the funds derived, and deposited contributions  
10 into the wrong account, in violation of Section 85303 and Regulation 18534, subdivisions (b), (c) and (f).

## 11 PROPOSED PENALTY

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

14 In determining the appropriate penalty for a particular violation of the Act, the Commission  
15 considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis  
16 on serving the purposes and intent of the Act. Additionally, the Commission considers the facts and  
17 circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d):  
18 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3)  
19 whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated  
20 good faith in consulting with Commission staff; 5) whether there was a pattern of violations; and 6)  
21 whether, upon learning of the violation, the violator voluntarily provided amendments to provide full  
22 disclosure.

23 The Commission has not been presented with a violation of this section for consideration so there  
24 are no exact comparable cases. This case is a combination of campaign reporting and contribution limits  
25 enforcement. The regulation was adopted by the Commission specifically to support the contribution  
26 limits of Section 85303.<sup>17</sup> Because the contributions that a committee receives are limited in some cases

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<sup>17</sup> See staff memorandum entitled, “Adoption of Regulation 18530.3 on Reporting Mixed State and Federal

1 and not limited in others, it is important immediately upon receipt to segregate funds that are subject to  
2 limits from those that are not. The way to avoid the commingling of limited and unlimited contributions  
3 is the segregation of funds contributed for these different purposes. The commingling of these funds at  
4 any point would make contribution limits virtually unenforceable because the source of funds expended  
5 from a commingled account cannot readily be established. The other procedures set up by the regulation  
6 require disclosure to the recipients of the contributions so they are on notice what they are permitted to  
7 use the contributions received from other committees for and whether they had received funds that were  
8 limited in their use or unlimited.

9 In aggravation, the Committee is an extremely sophisticated party who should be held to the  
10 highest standards. Two contributions over the limits were deposited into the wrong account as a result of  
11 these practices. In mitigation, those deposits were reversed within 14 days and the error did not result in  
12 the Committee using any funds improperly. In addition, the regulation does not require that the  
13 Committee's checks be pre-printed with the correct names of the accounts, only that the accounts be  
14 identified. Although according to Commission records, that exception appears to have been written in for  
15 unsophisticated filers who had temporary checks at the beginning of a campaign. Further, the  
16 Committee's restricted use checks contained the proper identification as required by the regulation.  
17 Additionally, the Committee contends that they have changed the accounts to include the proper  
18 designations and performed an internal audit to ensure all future transactions comply with the regulation.  
19 Therefore, an administrative penalty \$3,500 is recommended for this violation.

## 20 CONCLUSION

21 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
22 Respondents California Democratic Party and Katherine Moret hereby agree as follows:

23 1. Respondents violated the Act as described in the foregoing pages, which are a true and  
24 accurate summary of the facts in this matter.

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

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28 Expenditures by Political Party Committees, and Regulation 18534 on Required Committee Bank Accounts.” presented at the  
December 14, 2006 Commission meeting.

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

4           4.       Respondents understand, and hereby knowingly and voluntarily waive, any and all  
5 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.  
6 This includes, but is not limited to the right to appear personally at any administrative hearing held in this  
7 matter, to be represented by an attorney at Respondents’ own expense, to confront and cross-examine all  
8 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial  
9 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially  
10 reviewed.

11           5.       Respondents agree to the issuance of the decision and order set forth below. Also,  
12 Respondents agrees to the Commission imposing against it an administrative penalty in the amount of  
13 \$3,500. One or more cashier’s checks or money orders totaling said amount—to be paid to the General  
14 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
15 administrative penalty described above, and same shall be held by the State of California until the  
16 Commission issues its decision and order regarding this matter.

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

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

1 Dated: \_\_\_\_\_

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Galena West, Chief of Enforcement  
Fair Political Practices Commission

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4 Dated: \_\_\_\_\_

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Katherine Moret, individually and on behalf of the  
California Democratic Party, Respondent

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1 The foregoing stipulation of the parties “In the Matter of the California Democratic Party and Katherine  
2 Moret,” FPPC Case No. 16/19635 is hereby accepted as the final decision and order of the Fair Political  
3 Practices Commission, effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: \_\_\_\_\_

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9 Joann Remke, Chair  
10 Fair Political Practices Commission  
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