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

10  
11 In the Matter of:

12 FAMILY FARMERS WORKING FOR A  
BETTER CALIFORNIA WITH MAJOR  
13 SUPPORT BY WESTERN GROWERS  
ASSOCIATION AND WARD  
14 KENNEDY,

15 Respondents.

FPPC Case No. 16/0068

STIPULATION, DECISION AND ORDER

16  
17 **INTRODUCTION**

18 Respondent Family Farmers Working for a Better California with Major Support By Western  
19 Growers Association (“Family Farmers”) is a state general purpose committee. Respondent Ward  
20 Kennedy (the “Kennedy”) was at all times relevant to this matter the treasurer of Family Farmers. The  
21 Political Reform Act (the “Act”)<sup>1</sup> requires committees to timely report the receipt of all in-kind  
22 contributions. Family Farmers and Kennedy violated the Act by failing to timely report in-kind  
23 contributions on its preelection and semi-annual campaign statements.

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28 <sup>1</sup> The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 **SUMMARY OF THE LAW**

2 All legal references and discussions of law pertain to the Act’s provisions as they existed at the  
3 time of the violations.

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

5 When enacting the Political Reform Act, the people of California found and declared that  
6 previous laws regulating political practices suffered from inadequate enforcement by state and local  
7 authorities.<sup>2</sup> For this reason, the Act is to be construed liberally to accomplish its purposes.<sup>3</sup>

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

13 **Reporting Contributions**

14 A general purpose committee is required to file preelection statements “if it makes contributions  
15 or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by  
16 the preelection statement.”<sup>7</sup> The Act also requires general purpose committees to file semi-annual  
17 campaign statements bi-annually.<sup>8</sup>

18 The Act requires preelection and semi-annual campaign statements disclose certain information  
19 about receipts and expenditures, including the following:<sup>9</sup>

- 20 ❖ the total amount of contributions received during the period covered by the campaign statement  
21 and the total cumulative amount of contributions received;

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23  
24 <sup>2</sup> Section 81001, subdivision (h).

25 <sup>3</sup> Section 81003.

26 <sup>4</sup> Section 81002, subdivision (a).

27 <sup>5</sup> Sections 84200, *et seq.* and 84301.

28 <sup>6</sup> Section 81002, subdivision (f).

<sup>7</sup> Section 84200.5, subd. (e) and (f).

<sup>8</sup> Section 84200.

<sup>9</sup> Section 84211, subdivisions (a), (c) and (f).

❖ the total amount of contributions received during the period from persons who gave a cumulative amount of \$100 or more—along with the following additional information about each such contributor:

- the contributor’s full name;
- his or her street address;
- his or her occupation;
- the name of his or her employer, or if self-employed, the name of the business;
- the date and amount received for each contribution received during the period, and if the contribution is a loan, the interest rate for the loan;
- the cumulative amount of contribution.

**In-Kind Contribution**

An in-kind contribution “includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.”<sup>10</sup>

**Treasurer Liability**

Under the Act, it is the duty of the treasurer to ensure that the committee complies with all requirements of the Act concerning the receipt, expenditure, and reporting of funds.<sup>11</sup> The treasurer may be held jointly and severally liable, along with the committee, for violations committed by the committee.<sup>12</sup>

**SUMMARY OF THE FACTS**

Family Farmers was the subject of a Franchise Tax Board (“FTB”) audit covering the period of January 1, 2012 – December 31, 2012. The FTB examined Family Farmers campaign records and determined it had received \$99,993 of in-kind contributions from Jobs PAC, a general purpose committee, that was not timely reported on its preelection statement covering the reporting period of July 1, 2012 – September 30, 2012 and on its semi-annual campaign statement covering the reporting period of October 1, 2012 – December 31, 2012. Family Farmers was aware that JOBSPAC had made

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<sup>10</sup> Section 82015 subd. (d).

<sup>11</sup> Sections 81004, 84100, and Regulation 18427.

<sup>12</sup> Sections 83116.5 and 91006.

1 these contributions as they were for research and polling data used to produce mailers.

2 The following chart details the in-kind contributions received by Family Farmers during the  
3 preelection and semi-annual reporting periods.

4 Date Received	Statement Period	Contributor	Description of Goods	Amount of Fair Market Value
5 8/10/2012	July 1, 2012 – September 30, 2012	JOBSPAC	Research & Polling (in kind contribution)	\$20,617.69
6 8/17/2012	July 1, 2012 – September 30, 2012	JOBSPAC	Research & Polling (in kind contribution)	\$20,125.50
7 9/07/2012	July 1, 2012 – September 30, 2012	JOBSPAC	Research & Polling (in kind contribution)	\$13,750
8 9/17/2012	July 1, 2012 – September 30, 2012	JOBSPAC	Research & Polling (in kind contribution)	\$19,750
9 10/22/2012	October 21, 2012 – December 31, 2012	JOBSPAC	Research & Polling (in kind contribution)	\$16,000
10 10/22/2012	October 21, 2012 – December 31, 2012	JOBSPAC	Research & Polling (in kind contribution)	\$9,750
11				<b>Total: \$99,992</b>

12 On May 6, 2013, Family Farmers and Kennedy filed amendments to disclose the in-kind  
13 contributions on its preelection statement covering the reporting period of July 1, 2012 – September 30,  
14 2012 and on its semi-annual campaign statement covering the reporting period of October 21, 2012 –  
15 December 31, 2012.

## 16 VIOLATIONS

### 17 Counts 1-2

#### 18 Count 1: Failure to Timely Report Receipt of In-Kind Contributions Preelection Statement

19 Family Farmers and Kennedy failed to timely report receipt of \$74,242 of in-kind contributions  
20 from Jobs PAC on its preelection statement covering the reporting period of July 1, 2012 – September  
21 30, 2012 by the October 5, 2012 deadline, in violation of Government Code section 84211 subdivisions  
22

1 (a), (c) and (f).

2 Count 2: Failure to Timely Report Receipt of In-Kind Contributions on Semi-Annual Statement

3 Family Farmers and Kennedy failed to timely report receipt of \$25,750 of in-kind contributions  
4 from Jobs PAC on its semi-annual statement covering the reporting period of October 21, 2012 –  
5 December 31, 2012 by the January 31, 2013 deadline, in violation of Government Code section 84211  
6 subdivisions (a), (c) and (f).

7 **PROPOSED PENALTY**

8 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per  
9 count. Thus, the maximum penalty that may be imposed is \$10,000.<sup>13</sup> On September 26, 2012, the statute  
10 of limitations in this case was tolled upon the service of a probable cause report to the respondent's  
11 attorney, Ashlee Titus of Bell, McAndrews & Hiltachk, LLP.

12 In determining the appropriate penalty for a particular violation of the Act, the Commission  
13 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the  
14 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
15 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
16 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
17 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
18 record of violations.<sup>14</sup> Additionally, the Commission considers penalties in prior cases with comparable  
19 violations.

20 In this case, the Enforcement Division did not find any evidence that Family Farmers and  
21 Kennedy intentionally failed to report the in-kind contributions from JOBSPAC. In September of 2013,  
22 Family Farmers and Kennedy were penalized by the Commission for failing to file supplemental  
23 independent expenditure reports in paper and/or electronic format.

24 Failure to Timely Disclose Campaign Activity

25 The harm inherent in reporting violations is that the public is deprived of time-sensitive  
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28 <sup>13</sup> See Section 83116, subdivision (c).

<sup>14</sup> Regulation 18361.5, subdivision (d).



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

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

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

8           4.       Respondents have consulted with their attorney, Ashlee Titus of Bell, McAndrews &  
9 Hiltachk, LLP, and understand, and hereby knowingly and voluntarily waive, any and all procedural  
10 rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This  
11 includes, but is not limited to the right to appear personally at any administrative hearing held in this  
12 matter, to be represented by an attorney at Respondent’s own expense, to confront and cross-examine all  
13 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial  
14 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially  
15 reviewed.

16           5.       Respondents agree to the issuance of the decision and order set forth below. Also,  
17 Respondent agrees to the Commission imposing against it an administrative penalty in the amount of  
18 \$5,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General  
19 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
20 administrative penalty described above, and same shall be held by the State of California until the  
21 Commission issues its decision and order regarding this matter.

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

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

5 Dated: \_\_\_\_\_

Galena West, Chief of Enforcement  
Fair Political Practices Commission

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

Ward Kennedy, treasurer, individually and o/b/o of  
Family Farmers Working for a Better California with  
Major Support By Western Growers Association

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1           The foregoing stipulation of the parties “In the Matter of Family Farmers Working for a Better  
2 California with Major Support By Western Growers Association and Ward Kennedy,” FPPC Case No.  
3 16/0068 is hereby accepted as the final decision and order of the Fair Political Practices Commission,  
4 effective upon execution below by the Chair.

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6           IT IS SO ORDERED.

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

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Joann Remke, Chair  
Fair Political Practices Commission