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

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11 In the Matter of:

12 IBEW LOCAL 1245 POLITICAL  
ACTION COMMITTEE, CECELIA DE  
13 LA TORRE, AND TOM DALZELL,

14 Respondents.

FPPC Case No. 17/597

STIPULATION, DECISION AND ORDER

15  
16 INTRODUCTION

17 IBEW Local 1245 Political Action Committee (the “Committee” or “IBEW”) is a state general  
18 purpose committee that “contributes to candidates and measures in different elections as the leadership of  
19 IBEW Local 1245 determines.” Cecelia De La Torre (“De La Torre”) is the Committee’s treasurer and  
20 Tom Dalzell (“Dalzell”) is the Committee’s principal officer.

21 In 2014, the Committee made campaign contributions to Gray for Assembly 2014 (“Gray”), the  
22 controlled committee of Adam Gray, a successful candidate for State Assembly in the 2014 Primary and  
23 General Elections, that exceeded the contribution limits prescribed by statute. In this way, Respondents  
24 violated the Political Reform Act (the “Act”).<sup>1</sup>

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27 <sup>1</sup> The Act is contained in Government Code sections 81000 through 91014. All statutory references are to this code.  
28 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 this source.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violation in this case occurred in  
3 2014. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they  
4 existed at that time.

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

6 When enacting the Act, the people of California found and declared that previous laws regulating  
7 political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup> To that end, the  
8 Act is to be construed liberally to accomplish its purposes.<sup>3</sup> Another purpose of the Act is to provide  
9 adequate enforcement mechanisms so that the Act will be “vigorously enforced.”<sup>4</sup>

10 Limits on Campaign Contributions

11 The Act imposes campaign contribution limits with respect to the making and receiving of certain  
12 contributions. These limits are adjusted periodically, and different limits apply depending upon who is  
13 contributing and who is receiving.<sup>5</sup>

14 In 2014, a person, other than a small contributor committee or political party committee, wishing  
15 to contribute to a candidate for the State Assembly could not contribute more than \$4,100 per election;  
16 and a candidate for the State Assembly could not accept from a person any contribution totaling more  
17 than \$4,100 per election.<sup>6</sup>

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

19 It is the duty of a committee treasurer to ensure that the committee complies with the Act’s  
20 campaign reporting requirements and no expenditure may be made by a committee without the  
21 treasurer’s authorization.<sup>7</sup> It is the duty of the committee’s principal officer to authorize the content of  
22 communications made by the committee, authorize expenditures made by the committee, and determine  
23 the committee’s campaign strategy.<sup>8</sup> A treasurer and principal officer may be held jointly and severally

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25 <sup>2</sup> Section 81001, subd. (h).

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

27 <sup>4</sup> Section 81002, subd. (f).

28 <sup>5</sup> See Sections 85301, subd. (a), 83124, 85303, and 85305.

<sup>6</sup> Section 85301, subd. (a); Regulation 18545, subd. (a)(1).

<sup>7</sup> Sections 81004, 84100, 84104, and 84213; Regulation 18427.

<sup>8</sup> Section 82047.6; Regulation 18402.1, subd. (b).

1 liable, along with the committee, for violations committed by the committee.<sup>9</sup>

## 2 SUMMARY OF THE FACTS

3 The Committee dates back to, at least, 1974. In 2014, the Committee received a total of \$91,545  
4 in contributions and made \$204,395.18 in expenditures.

5 In 2014, Adam Gray sought re-election to the State Assembly. Gray was successful in both the  
6 June 3, 2014 Primary and November 4, 2014 General Elections, receiving 53.4 percent of the vote in the  
7 General Election. On August 1, 2013, the Committee made a contribution in the amount of \$5,000 to  
8 Gray for Assembly 2014. On October 27, 2014, the Committee made a second contribution, this time in  
9 the amount of \$8,200, to Gray for Assembly 2014. Therefore, in aggregate, the Committee made  
10 contributions totaling \$13,200 to Gray in conjunction with the 2014 Primary and General Elections.

11 In 2014, persons were permitted to contribute a maximum of \$4,100 per election for candidates  
12 for State Assembly. As a result, the most that the Committee could have contributed to Gray in  
13 conjunction with the 2014 Primary and General Elections was \$8,200.

## 14 VIOLATION

### 15 Count 1: Making Contributions Over the Limit

16 The Committee, De La Torre, and Dalzell made campaign contributions to a candidate that  
17 exceeded the campaign contribution limit for candidates for State Assembly, in violation of Section  
18 85301, subdivision (a); and Regulation 18545, subdivision (a)(1).

## 19 PROPOSED PENALTY

20 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per  
21 count. Thus, the maximum penalty that may be imposed is \$5,000.<sup>10</sup>

22 In determining the appropriate penalty for a particular violation of the Act, the Commission  
23 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the  
24 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
25 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
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28 <sup>9</sup> Sections 83116.5 and 91006.

<sup>10</sup> Section 83116, subd. (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.<sup>11</sup>

4 In this case, during its investigation, the Enforcement Division did not discover any evidence  
5 displaying any intention by Respondents to conceal, deceive, or mislead the public. Instead, it appears  
6 that Respondents were simply negligent in their actions. Further, Respondents do not have a prior history  
7 of violating the Act.

8 Making campaign contributions in excess of the campaign contribution limits is one of the more  
9 serious violations of the Act because it allows for the circumvention of the limits on campaign  
10 contributions prescribed by California's voters and provides an unfair advantage to one candidate over  
11 another in an election. Prior Commission cases involving receipt and making of campaign contributions  
12 over the limit typically have resulted in penalties in the mid-to-high range. Comparable cases in which a  
13 penalty was charged for violating Section 85301, subdivision (a), include the following:

14 • *In the Matter of Daniel Stephenson, et al.*; FPPC No. 15/1545. Respondents, an individual and  
15 numerous entities which he directed and controlled, made contributions to a candidate for State Senate  
16 that, when aggregated, exceeded the applicable contribution limit by \$7,808, in violation of Section  
17 85301, subdivision (a); and Regulation 18545, subdivision (a)(1). In December 2015, the Commission  
18 approved a penalty of \$3,500 on one count.

19 • *In the Matter of Yocha Dehe Wintun Nation*; FPPC No. 14/528. Respondent, a major donor  
20 committee and lobbyist employer, made cumulative contributions to a candidate for State Senate that  
21 exceeded the applicable contribution limit by \$1,525, in violation of Section 85301, subdivision (a); and  
22 Regulation 18545, subdivision (a)(1). In August 2014, the Commission approved a penalty of \$3,000 on  
23 one count.

24 As to Count 1, Respondents are deserving of a penalty similar to those approved in the  
25 comparable cases given the similar amount of excessive contributions. Further, as in both comparable  
26 cases, it appears here that Respondents' actions were not intentional. In particular, although not  
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<sup>11</sup> Regulation 18361.5, subd. (d).

1 absolutely certain, Respondents suspect that they simply failed to check their records before making the  
2 second contribution to Gray which brought their total contributions over the limit. In making the second  
3 contribution for \$8,200, Respondents were responding to an emergency request for funds received from a  
4 lobbyist connected with Gray in order to fight off an “advertising blitz” by Gray’s opponent.

5 In mitigation of all counts, Respondents cooperated fully with the Enforcement Division and do  
6 not have a history of violating the Act.

7 Further, Gray separately agreed to a settlement in FPPC No. 16/455, *In the Matter of Gray for*  
8 *Assembly 2014, Adam Gray, and Douglas L. White*, in which a penalty of \$3,000 was approved for  
9 Gray’s acceptance of a contribution over the limit from IBEW. In conjunction with the settlement, Gray  
10 reimbursed to IBEW the full amount over the limit (\$5,000).

11 Based on the foregoing, a penalty in the amount of \$3,000 is recommended here.

## 12 CONCLUSION

13 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
14 Respondents, IBEW Local 1245 Political Action Committee, Cecelia De La Torre, and Tom Dalzell,  
15 hereby agree as follows:

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

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

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

23 4. Respondents have consulted with their attorney, Alexander Pacheco, General Counsel,  
24 IBEW Local 1245 Political Action Committee, and understand, and hereby knowingly and voluntarily  
25 waive, all procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1  
26 through 18361.9. This includes, but is not limited to the right to appear personally at any administrative  
27 hearing held in this matter, to be represented by an attorney at Respondents’ own expense, to confront  
28 and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing,

1 to have an impartial administrative law judge preside over the hearing as a hearing officer, and to have  
2 the matter judicially reviewed.

3 5. Respondents agree to the issuance of the decision and order set forth below. Also,  
4 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
5 \$3,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General  
6 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
7 administrative penalty described above, and same shall be held by the State of California until the  
8 Commission issues its decision and order regarding this matter.

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

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

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19 Dated: \_\_\_\_\_  
20 Galena West, Chief of Enforcement  
21 Fair Political Practices Commission

22 Dated: \_\_\_\_\_  
23 Cecelia De La Torre, individually and on behalf of  
24 IBEW Local 1245 Political Action Committee

25 Dated: \_\_\_\_\_  
26 Tom Dalzell, individually and on behalf of  
27 IBEW Local 1245 Political Action Committee  
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1 The foregoing stipulation of the parties “In the Matter of IBEW Local 1245 Political Action Committee,  
2 Cecelia De La Torre, and Tom Dalzell,” FPPC Case No. 17/597 is hereby accepted as the final decision  
3 and order 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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