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

10
11 In the Matter of:

12 CALIFORNIA CONSERVATIVE PAC
AND JOHN FUGATT,

13 Respondents.

FPPC Case No. 15/1301

14 STIPULATION, DECISION AND ORDER

15 **INTRODUCTION**

16 Respondent California Conservative PAC (“Committee”) is a state general purpose committee.
17 Respondent John Fugatt (“Fugatt”) is the Committee’s treasurer and principal officer.

18 The Political Reform Act (the “Act”)¹ requires a general purpose committee to file two semi-
19 annual campaign statements each year by July 31 and by January 31. If a general purpose committee
20 makes contributions or independent expenditures totaling five hundred dollars (\$500) or more during a
21 preelection reporting report, the committee is required to file preelection campaign statements. If a
22 general purpose committee cumulatively receives contributions or makes expenditures totaling twenty-
23 five thousand dollars (\$25,000) or more to support or oppose candidates for any elective state office or
24 state measure, the committee is required to file campaign statements electronically and in paper format.
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27 _____
28 ¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 The Committee and Fugatt violated the Act by failing to timely file four semi-annual campaign
2 statements for the periods ending on December 31, 2013, June 30, 2014, December 31, 2014, and June
3 30, 2015, and one preelection campaign statement for the period ending on October 18, 2014, both
4 electronically and in paper format.

5 SUMMARY OF THE LAW

6 All statutory references and discussions of law pertain to the Act’s provisions as they existed at
7 the time of the violations.

8 An express purpose of the Act is to ensure that campaign contributions and expenditures are fully
9 and truthfully disclosed so that voters are fully informed and improper practices are discouraged.

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

11 When enacting the Political Reform Act, the people of the state of California found and declared
12 previous laws regulating political practices suffered from inadequate enforcement by state and local
13 authorities.² To that end, the Act must be liberally construed to achieve its purposes.³

14 A central purpose of the Act is to ensure voters are fully informed and improper practices are
15 inhibited by requiring committees to disclose all contributions and expenditures made throughout a
16 campaign.⁴ Another is to provide adequate enforcement mechanisms so that the Act will be “vigorously
17 enforced.”⁵

18 Definition of State General Purpose Committee

19 In 2013, a “committee” included any person or combination of persons who received
20 contributions totaling \$1,000 or more in a calendar year,⁶ commonly known as a “recipient committee.”
21 A general purpose committee is a committee which is formed or exists primarily to support or oppose
22 more than one candidate or ballot measure.⁷ A state general purpose committee is a political party
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25 ² Section 81001, subd. (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subd. (a).

28 ⁵ Section 81002, subd. (f).

⁶ Section 82013, subd. (a).

⁷ Section 82027.5, subd. (a).

1 committee or a committee formed to support or oppose candidates and measures voted on in a state
2 election or in more than one county.⁸

3 Duty to File Semi-Annual Campaign Statements

4 A general purpose committee must file two semi-annual campaign statements each year no later
5 than July 31 for the period ending June 30 and no later than January 31 for the period ending December
6 31.⁹ Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a
7 statement shall be extended to the next regular business day.¹⁰

8 Duty to File Preelection Campaign Statements

9 For the November 4, 2014 General Election, a state or county general purpose committee which
10 made contributions or independent expenditures totaling five hundred dollars (\$500) or more during a
11 preelection reporting period was required to file preelection campaign statements¹¹ as follows: 1) For the
12 period ending September 30, the statement must have been filed no later than October 5; 2) For the
13 period ending 17 days before the election, the statement must have been filed no later than 12 days before
14 the election.¹²

15 Campaign Statements

16 A campaign statement must accurately account for the committee's total contributions
17 received and expenditures made during the relevant period.¹³ A statement must also disclose the
18 occupation and employer of contributors and expenditures made of \$100 or more.¹⁴

19 Duty to File Electronically

20 A general purpose committee that cumulatively receives contributions or makes expenditures
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25 ⁸ Section 82027.5, subd. (b).

26 ⁹ Section 84200, subd. (a).

27 ¹⁰ Regulation 18116, subd. (a).

28 ¹¹ Section 84200.5, subd. (e).

¹² Section 84200.7, subd. (b).

¹³ Section 84211, subds. (a)–(d).

¹⁴ Section 84211, subd. (f)(i) and (k).

1 totaling twenty-five thousand dollars (\$25,000) or more to support or oppose candidates for any elective
2 state office or state measure is required to file campaign statements online or electronically with the
3 Secretary of State.¹⁵ Once a person or entity is required to file online or electronically, the person or
4 entity is required to file all subsequent reports online or electronically.¹⁶ Persons filing online or
5 electronically are also required to continue to file statements and reports in paper format.¹⁷

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

7 Every committee must have a treasurer.¹⁸ It is the duty of the treasurer to ensure the committee
8 complies with the requirements of the Act concerning the receipt and expenditure of funds and the
9 reporting of such funds.¹⁹ It is the duty of the committee's principal officer to authorize the content of
10 communications made by the committee, authorize expenditures made by the committee, and determine
11 the committee's campaign strategy.²⁰ A committee's treasurer and principal officer, along with the
12 committee, may be held jointly and severally liable with the committee.²¹

13 **SUMMARY OF THE FACTS**

14 The Committee qualified as a recipient committee on or about May 29, 2012, when it received
15 contributions totaling \$1,000 or more in a calendar year. During the above-referenced reporting period,
16 the Committee cumulatively received contributions and made expenditures totaling twenty-five
17 thousand dollars (\$25,000) or more to support or oppose candidates for elective state office; therefore,
18 the Committee is required to file campaign statements online or electronically with the SOS. During the
19 period between July 1, 2013, through June 30, 2015, the Committee received approximately \$63,750 in
20 contributions and made approximately \$67,850 in expenditures.

21 On or about April 8, 2015, the SOS notified the Committee and Fugatt in writing that they had
22 failed to file the Committee's semi-annual campaign statements for the reporting periods of January 1,
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25 ¹⁵ Section 84605, subd. (a)(2).

26 ¹⁶ Section 84605, subd. (d).

27 ¹⁷ Section 84605, subd. (f).

28 ¹⁸ Section 84100.

¹⁹ Sections 81004, 84100, 84104, and 84213, and Regulation 18427.

²⁰ Section 82047.6; Regulation 18402.1, subd. (b).

²¹ Sections 83116.5 and 91006.

1 2014 through December 31, 2014. After the Committee failed to file the required statements, the SOS
2 referred the matter to the Enforcement Division.

3 The Enforcement Division found that the Committee failed to file required campaign statements
4 and made an independent expenditure totaling five hundred dollars (\$500) or more during a preelection
5 reporting period; therefore, it was required to file a preelection campaign statement before the
6 November 4, 2014 General Election. The Enforcement Division contacted the Committee and Fugatt
7 several times requesting that the Committee file its outstanding campaign statements, which they did on
8 February 24, 2016.

9 The Committee and Fugatt violated the Act by failing to timely file four semi-annual campaign
10 statements for the periods ending on December 31, 2013, June 30, 2014, December 31, 2014, and June
11 30, 2015, and one preelection campaign statement for the period ending on October 18, 2014, both
12 electronically and in paper format.

13 VIOLATIONS

14 Count 1: Failure to Timely File a Semi-Annual Campaign Statements

15 The Committee and Fugatt failed to timely file the semi-annual campaign statement for the period
16 July 1, 2013, through December 31, 2013, due January 31, 2014. On February 24, 2016, the Committee
17 and Fugatt filed the semi-annual campaign statement, disclosing no contributions received during this
18 reporting period and approximately \$5,179 in expenditures made during this reporting period.

19 The Committee and Fugatt failed to timely file the semi-annual campaign statement for the period
20 January 1, 2014, through June 30, 2014, due July 31, 2014. On February 24, 2016, the Committee and
21 Fugatt filed the semi-annual campaign statement, disclosing no contributions received during this
22 reporting period and no expenditures made during this reporting period. However, the Committee and
23 Fugatt timely filed 24 Hour Reports disclosing the receipt of \$8,000 on May 20, 2014 and \$1,000 on May
24 21, 2014, as well as a contribution made to Tim Donnelly for Governor 2014 in the amount of
25 approximately \$7,721 on May 20, 2014. The semi-annual campaign statement for the reporting period
26 January 1, 2014, through June 30, 2014, was required to include the financial activity disclosed in the 24
27 Hour Reports for activity during this period. By failing to timely file the semi-annual campaign statement
28 for the period July 1, 2013, through December 31, 2013, by the January 31, 2014 due date; failing to

1 timely file the semi-annual campaign statement for the period January 1, 2014, through June 30, 2014, by
2 the July 31, 2014 due date; and failing to disclose contributions received and expenditures made during
3 this period, the Committee and Fugatt violated Sections 84200, 84605 and 84211 subdivisions (a)-(d),
4 (f), (i) and (k).

5 Count 2: Failure to Timely File a Preelection Campaign Statement

6 The Committee and Fugatt failed to timely file the preelection campaign statement for the period
7 July 1, 2014, through October 18, 2014 due October 23, 2014. On February 24, 2016, the Committee and
8 Fugatt filed preelection campaign statements for the period July 1, 2014, through September 30, 2014;
9 and October 1, 2014, through October 18, 2014, disclosing the receipt of a \$10,000 contribution on
10 October 14, 2014 and making an independent expenditure supporting Friends of Mayor Harper-
11 Assembly Fund 2014 on October 16, 2014, in the amount of approximately \$8,277 in connection with the
12 June 3, 2014 Primary Election. The contribution was timely reported on a 24 Hour Report and the
13 independent expenditure was timely reported on a Late Independent Expenditure Report. Since the
14 Committee only made an independent expenditure in excess of \$500 during the second preelection
15 period, the Committee and Fugatt were required to file a preelection campaign statement for the period
16 July 1, 2014, through October 18, 2014, by the October 23, 2014 due date. By failing to timely file the
17 preelection campaign statement for the period July 1, 2014, through October 18, 2014 by the October 23,
18 2014 due date, the Committee and Fugatt violated Sections 84200.5, 84200.7 and 84605.

19 Count 3: Failure to Timely File a Semi-Annual Campaign Statements

20 The Committee and Fugatt failed to timely file the semi-annual campaign statement for the period
21 October 19, 2014, through December 31, 2014 due January 31, 2015. On February 24, 2016, the
22 Committee and Fugatt filed a semi-annual campaign statement for the period October 19, 2014, through
23 December 31, 2014, disclosing the receipt of \$44,750 in contributions and making approximately
24 \$44,149 in expenditures during this period. The expenditures made over \$500 were timely disclosed in
25 either 24 Hour Reports and Late Independent Expenditure Reports. By failing to timely file the semi-
26 annual campaign statement for the period July 1, 2013, through December 31, 2013, by the January 31,
27 2014 due date, the Committee and Fugatt violated Sections 84200 and 84605.

28 The Committee and Fugatt failed to timely file the semi-annual campaign statement for the period

1 January 1, 2015, through June 30, 2015 due July 31, 2015. On February 24, 2016, the Committee and
2 Fugatt filed the semi-annual campaign statement, disclosing no contributions received during this
3 reporting period and approximately \$2,524 in expenditures made during this reporting period. By failing
4 to timely file the semi-annual campaign statement for the period July 1, 2013, through December 31,
5 2013, by the January 31, 2014 due date and failing to timely file the semi-annual campaign statement for
6 the period January 1, 2015, through June 30, 2015 by the July 31, 2015 due date, the Committee and
7 Fugatt violated Sections 84200 and 84605.

8 **PROPOSED PENALTY**

9 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
10 count, for a total of \$15,000.²²

11 In determining the appropriate penalty for a particular violation of the Act, the Commission
12 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
13 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
14 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
15 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
16 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
17 record of violations.²³ Additionally, the Commission considers penalties in prior cases with comparable
18 violations.

19 The Commission also considers penalties in prior cases involving similar violations. A recent
20 similar case includes the following:

21 *In the Matter of Elk Grove Education Association Political Action Committee, Kathleen Tijan,*
22 *Lee Ramaley and Jeremy Roberts, FPPC # 16/19974, approved by the Commission in December 2017. In*
23 *this case, Elk Grove Education PAC (PAC), a county general purpose committee, failed to timely file*
24 *two semi-annual campaign statements and one pre-election campaign statement, along with failing to*
25 *timely report certain contributions and 24 Hour Reports. The semi-annual campaign statements should*
26 *have reported \$32,248 and \$38,844 in contributions received. The pre-election campaign statement*

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28 ²² See Section 83116, subdivision (c).

²³ Regulation 18361.5, subdivision (d).

1 should have reported \$6,406 in contributions received and \$5,453 in expenditures made. Further, the
2 PAC failed to timely disclose \$6,582 in contributions received on a pre-election campaign statement and
3 \$13,214 in contributions received on a semi-annual campaign statement. The aggravation included the
4 fact that 24 Hour Reports were not disclosed as well. In mitigation, the PAC had no Enforcement history,
5 the violations were not part of a pattern and it appeared to be the result of negligence as the PAC was
6 going through a transition in treasurers. In December 2017, the Commission approved a \$2,500 fine for
7 one count of failing to timely file semi-annual campaign statements, \$2,000 for failing to timely file a
8 pre-election campaign statement and a \$2,500 per count for failing to timely report financial activity on a
9 campaign statement.

10 A central purpose of the Act is to ensure receipts and expenditures in election campaigns are fully
11 and truthfully disclosed.²⁴ In aggravation, the Committee and Fugatt were previously fined in the
12 streamlined program for two separate cases for failing to: timely file five late independent expenditure
13 reports both in paper and electronic format; and file semi-annual campaign statements from July 1, 2012,
14 through June 30, 2013, both in paper and electronic format and then failed to timely file semi-annual and
15 a pre-election campaign statements for the time periods right after receiving a streamlined penalty for
16 failing to timely file semi-annual campaign statements.

17 In mitigation, the Committee and Fugatt disclosed most of the financial activity in 24 Hour
18 Reports prior to the relevant election.

19 For these reasons, the total penalty recommended is \$2,500 per Count, for a total of \$7,500.

20 CONCLUSION

21 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
22 Respondents California Conservative PAC and John Fugatt 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.

27 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose

28 ²⁴ Section 81002, subd. (a).

1 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
2 liability of Respondents pursuant to Section 83116.

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

10 5. Respondents agree to the issuance of the decision and order set forth below. Also,
11 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
12 \$7,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General
13 Fund of the State of California—will be submitted with this stipulation as full payment of the
14 administrative penalty described above, and same shall be held by the State of California until the
15 Commission issues its decision and order regarding this matter.

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

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

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26 Dated: _____
27 Galena West, Chief, on behalf of the Enforcement
28 Division of the Fair Political Practices Commission

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Dated: _____

John Fugatt, individually and on behalf of California
Conservative PAC

The foregoing Stipulation of the parties “In the Matter of California Conservative PAC and John Fugatt,” FPPC No. 15/1301, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: _____

Alice T. Germond, Chair
Fair Political Practices Commission