

1 GALENA WEST
Chief of Enforcement
2 CHRISTOPHER BURTON
Commission Counsel
3 Fair Political Practices Commission
1102 Q Street, Suite 3000
4 Sacramento, CA 95811
Telephone: (916) 322-5660

5 Attorneys for Complainant
6 Fair Political Practices Commission, Enforcement Division

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

10
11 In the Matter of:

12 FAIR RENTS 4 PACIFICA, JULIE
13 STAROBIN, AND THURSDAY
ROBERTS,

14 Respondents.

FPPC Case No. 17/1217

STIPULATION, DECISION AND ORDER

15
16 **INTRODUCTION**

17 Fair Rents 4 Pacifica (the “Committee”) is a primarily formed ballot measure committee
18 supporting City of Pacifica Measure C (“Measure C”), entitled “Pacifica Community Preservation, Rent
19 Stabilization, and Renters’ Rights Act,” which appeared on the November 7, 2017 Special Election
20 ballot. Julie Starobin (“Starobin”) was the treasurer of the Committee during the pertinent time period.
21 Thursday Roberts (“Roberts”) is the principal officer of the Committee.

22 Despite being primarily formed to support Measure C, Respondents failed to timely change the
23 name of the Committee to reflect its support of the ballot measure, within 30 days of the designation of
24 the measure as “Measure C,” resulting in advertisements with inaccurate disclosure statements, in
25 violation of the Political Reform Act (the “Act”).¹

26
27 ¹ 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 violations in this case occurred in
3 2017. 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.² To that end, the
8 Act is to be construed liberally to accomplish its purposes.³ Further, the Act provides adequate
9 enforcement mechanisms so that the Act will be “vigorously enforced.”⁴

10 Duty to Identify Committee as Primarily Formed Ballot Measure Committee

11 The Act defines “primarily formed committee” to include a committee which is formed or exists
12 primarily to support or oppose a single ballot measure.⁵ Within 30 days of the designation of the
13 numerical order of propositions appearing on the ballot, any committee which is primarily formed to
14 support or oppose a ballot measure shall, if supporting the measure, include the statement “a committee
15 for Proposition __” in the name of the committee in any reference to the committee required by law.⁶ A
16 primarily formed ballot measure committee must also identify the title and ballot measure letter in its
17 statement of organization.⁷

18 Whenever there is a change in any of the information contained in a statement of organization,
19 including the committee name, an amendment shall be filed within ten days to reflect the change.⁸ The
20 committee must file the original of the amendment with the Secretary of State and a copy with the local
21 filing officer.⁹

22 ///

24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (f).

27 ⁵ Section 82047.5.

28 ⁶ Section 84107.

⁷ Section 84102, subd. (d).

⁸ Section 84103, subd. (a).

⁹ Sections 84103, subd. (a); and 84215.

1 Advertising Disclosure Requirements

2 An “advertisement” under the Act means any general or public advertisement which is authorized
3 and paid for by a person or committee for the purpose of supporting or opposing a candidate for elective
4 office or a ballot measure(s).¹⁰ On mass mailings and other written advertisements by a committee that
5 supports or opposes a ballot measure, the committee must print its full name on the advertisement.¹¹

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

7 It is the duty of a committee treasurer to ensure that the committee complies with the campaign
8 reporting provisions of the Act.¹² It is the duty of the committee’s principal officer to authorize the
9 content of communications made by the committee, authorize expenditures made by the committee, and
10 determine the committee’s campaign strategy.¹³ A treasurer and principal officer may be held jointly and
11 severally liable, along with the committee, for violations committed by the committee.¹⁴

12 **SUMMARY OF THE FACTS**

13 The Committee qualified on May 28, 2017, as a primarily formed ballot measure committee,
14 supporting Measure C. The Committee’s initial statement of organization provided that it supported the
15 “Pacifica Community Preservation, Rent Stabilization, and Renters’ Rights Act.” At the time, Measure C
16 had not yet been assigned “C” as the applicable measure letter.

17 According to its campaign statements, in 2017, the Committee received a total of \$54,556.70 in
18 contributions and made a total of \$47,310.50 in expenditures. Measure C was unsuccessful on the ballot,
19 with approximately 60.4 percent of voters voting against the measure.

20 San Mateo County assigned the letter “C” to the ballot measure on August 17, 2017. However,
21 the Committee failed to change its name to reflect the supported ballot measure within 30 days of the
22 designation of the measure’s letter (September 16, 2017), as required by Section 84107.

23 The Committee also produced a number of advertisements after September 16, 2017, including
24 approximately 15,000 copies each of two different mailers; a full-page newspaper advertisement that ran
25

26 ¹⁰ Section 84501.

27 ¹¹ Sections 84305 subd. (a); and 84504, subd. (c).

28 ¹² Sections 81004, 84100, 84104, and 84213; Regulation 18427.

¹³ Section 82047.6; Regulation 18402.1, subd. (b).

¹⁴ Sections 83116.5 and 91006.

1 in the Pacifica Tribune on October 11, 2017; and a web site, none of which included reference to
2 Measure C in the name of the Committee.

3 The Committee filed an amendment to its statement of organization on or about November 6,
4 2017, after contact by the Enforcement Division, that identified the Committee as being primarily formed
5 in support of Measure C; however, the Committee did not add reference to Measure C to its name. The
6 Committee remains active.

7 VIOLATION

8 Count 1: Improper Committee Name on Statement of Organization and Advertisements

9 The Committee, Starobin, and Roberts failed to timely change the name of the Committee, a
10 primarily formed ballot measure committee, to reflect the supported ballot measure, and failed to include
11 “Measure C” in the Committee name on mass mailings and advertisements, in violation of Sections
12 84103, 84107, 84305, and 84504.

13 PROPOSED PENALTY

14 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
15 count. Thus, the maximum penalty that may be imposed is \$5,000.¹⁵

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

23 In this case, the Enforcement Division did not discover any evidence displaying an intention by
24 Respondents to conceal, deceive, or mislead the public. Instead, it appears that the violation contained
25 herein occurred as the result of negligence. Respondents also do not have a prior history of violating the
26

27 _____
28 ¹⁵ Section 83116, subd. (c).

¹⁶ Regulation 18361.5, subd. (d).

1 Act. However, Respondents never amended the Committee’s statement of organization to change the
2 Committee’s name to include reference to the supported ballot measure.

3 The Commission also considers penalties in prior cases involving similar violations. Comparable
4 cases in which a penalty was charged for similar violations include the following:

5 • *In the Matter of Our Water Now – H2Own “Yes on Measure W,” Richard Piercy, and Adolph*
6 *Collaso*; FPPC No. 16/19934. Respondents, a primarily formed ballot measure committee, and its
7 treasurer and principal officer, failed to timely change the name of the committee to reflect the ballot
8 measure it supported, within 30 days of the designation of the measure as “Measure W,” in violation of
9 Sections 84103 and 84107. In June 2017, the Commission approved a fine of \$3,500 on one count.

10 • *In the Matter of R4: Redondo Residents for Responsible Revitalization*; FPPC No. 15/112.
11 Respondent, a primarily formed ballot measure committee, failed to include reference to the opposed
12 ballot measure in its name on advertisements, in violation of Sections 84305, subdivision (a); and 84504,
13 subdivision (c); and Regulation 18450.4, subdivision (b)(1). In September 2017, the Commission
14 approved a fine of \$3,000 on one count.

15 The violation here is deserving of a penalty similar to those approved in the *Our Water Now* and
16 *R4* cases. Just as in the comparable cases, not only did the Committee fail to properly name itself, but it
17 also paid for advertisements that did not display the correct committee name.

18 The violation contained herein is aggravated by other minor campaign reporting violations
19 committed by Respondents; however, Respondents voluntarily filed corrective amendments to the
20 Committee’s campaign statements correcting the reporting errors. In the interest of settlement, these
21 violations are not charged herein.

22 Based on the foregoing, a penalty in the amount of \$3,500 is recommended for Count 1.

23 CONCLUSION

24 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
25 Respondents, Fair Rents 4 Pacifica, Julie Starobin, and Thursday Roberts, hereby agree as follows:

- 26 1. Respondents violated the Act as described in the foregoing pages, which are a true and
27 accurate summary of the facts in this matter.
- 28 2. This stipulation will be submitted for consideration by the Fair Political Practices

1 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

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

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

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

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

24 ///

25 ///

26 ///

27 ///

28 ///

1 The foregoing stipulation of the parties “In the Matter of Fair Rents 4 Pacifica, Julie Starobin, and
2 Thursday Robert,” FPPC Case No. 17/1217 is hereby accepted as the final decision and order of the Fair
3 Political Practices Commission, effective upon execution below by the Chair.

4
5 IT IS SO ORDERED.

6
7 Dated: _____

8 _____
9 Joann Remke, Chair
10 Fair Political Practices Commission
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28