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

10
11 In the Matter of:

12 BURBANK HOSPITALITY
ASSOCIATION,

13 Respondent.
14

FPPC Case No. 18/113

STIPULATION, DECISION AND ORDER

15 **INTRODUCTION**

16 On September 23, 2016, Burbank Hospitality Association (“the “Committee””) made a \$50,000
17 contribution to Committee for Yes on Measure B. As a result, the Committee qualified as a major donor
18 committee in 2016. However, despite the Committee’s obligations to timely file a major donor campaign
19 statement and 24-hour contribution report in conjunction with the \$50,000 contribution, it failed to do so,
20 thereby violating the Political Reform Act (the “Act”).¹

21 **SUMMARY OF THE LAW**

22 The Act and its regulations are amended from time to time. The violations in this case occurred in
23 2016 and 2017. For this reason, all legal references and discussions of law pertain to the Act’s provisions
24 as they existed at that time.

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

2 When enacting the Act, the people of California found and declared that previous laws regulating
3 political practices suffered from inadequate enforcement by state and local authorities.² To that end, the
4 Act is to be construed liberally to accomplish its purposes.³

5 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
6 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
7 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵
8 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
9 “vigorously enforced.”⁶

10 Definition of a Major Donor Committee

11 A person qualifies as a major donor committee by making contributions totaling \$10,000 or more
12 during a calendar year.⁷

13 Required Filing of Campaign Statements

14 At the core of the Act’s campaign reporting system is the requirement that committees, including
15 major donor committees, must file campaign statements and reports for certain reporting periods and by
16 certain deadlines.⁸

17 A major donor committee must file a campaign statement for the period ending December 31 by
18 January 31 of the following year if it made contributions between July 1 and December 31.⁹

19 Duty to File 24-Hour Contribution Reports

20 Each candidate or committee that makes or receives a late contribution must file a report
21 disclosing the contribution within 24 hours of making or receiving the contribution.¹⁰ A “late
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23 _____
24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (a).

27 ⁵ Sections 84200, *et seq.*

28 ⁶ Section 81002, subd. (f).

⁷ Section 82013, subd. (c).

⁸ Section 84200, *et seq.*

⁹ Section 84200, subd. (b).

¹⁰ Section 84203.

1 contribution” includes a contribution aggregating \$1,000 or more that is made or received by a primarily
2 formed committee during the 90-day period preceding an election or on the date of the election.¹¹

3 SUMMARY OF THE FACTS

4 The Committee, also known as Visit Burbank, is a non-profit corporation created by the Burbank
5 City Council to administer funds generated by a one percent tax on hotel stays in Burbank. On September
6 23, 2016, the Committee made a contribution in the amount of \$50,000 to Committee for Yes on
7 Measure B, a primarily formed ballot measure committee that supported Burbank City Measure B, a
8 measure on the ballot in the November 8, 2016 General Election that sought to approve the construction
9 of a new terminal at the Burbank Airport.¹²

10 As a result of the \$50,000 contribution, the Committee qualified as a major donor committee and
11 was required to file a major donor campaign statement for the year 2016, by January 31, 2017. Further,
12 because the \$50,000 contribution was made during the 90-day period prior to the November 8, 2016
13 General Election, the Committee was required to file a 24-hour contribution report by September 26,
14 2016. However, the Committee failed to timely file either of these documents.

15 On June 23, 2017, the Committee filed the missing 24-hour report. On June 27, 2017, the
16 Committee filed the missing major donor campaign statement, which reported the \$50,000 contribution
17 as the only one made in 2016.

18 VIOLATIONS

19 Count 1: Failure to Timely File Major Donor Campaign Statement

20 The Committee failed to timely file a campaign statement for the period ending December 31,
21 2016, in violation of Section 84200, subdivision (b).

22 Count 2: Failure to Timely File 24-Hour Contribution Report

23 The Committee failed to timely file a 24-hour contribution report for a contribution in the amount
24 of \$50,000, in violation of Section 84203.

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26 ¹¹ Section 82036.

27 ¹² The Committee was initially investigated in FPPC Case No. 16/20101, along with Committee for Yes on Measure
28 B. However, given the nature of the violations contained herein, the Enforcement Division opened this separate case against
the Committee.

1 **PROPOSED PENALTY**

2 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
3 count. Thus, the maximum penalty that may be imposed is \$10,000.¹³

4 In determining the appropriate penalty for a particular violation of the Act, the Commission
5 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
6 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
7 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
8 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
9 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
10 record of violations.¹⁴ The Commission also considers penalties in prior cases involving similar
11 violations.

12 In this case, the Enforcement Division did not discover any evidence displaying an intention by
13 the Committee to conceal, deceive, or mislead the public. The Committee also does not have a prior
14 history of violating the Act. Further, the Committee filed the required documents disclosing the missing
15 \$50,000 contribution after the Committee was made aware of its obligation to file those documents.

16 The public harm inherent in campaign reporting violations is that the public is deprived of
17 important, time-sensitive information regarding political contributions. Generally, these types of
18 violations are considered to be more serious where the public is deprived of information that was
19 required to be disclosed before an election because this has the potential to affect how votes are cast—so
20 greater public harm is involved, and a higher penalty is warranted. Another factor that influences the
21 amount of the penalty is whether the public harm was mitigated because some of the reportable activity
22 was disclosed to the public on another campaign filing, which is not the case here.

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28 ¹³ Section 83116, subd. (c).

¹⁴ Regulation 18361.5, subd. (d).

1 Recent similar cases involving a failure to timely file major donor campaign statements include
2 the following:

3 • *In the Matter of Gregory Kelly Meagher*; FPPC No. 16/236. Respondent, a major donor
4 committee, failed to timely file a major donor campaign statement for the reporting period of January 1,
5 2014 to December 31, 2014, in violation of Section 84200, subdivision (b). During the pertinent
6 reporting period, the respondent made \$19,500 in contributions and \$8,811 in independent expenditures.
7 In September 2017, the Commission approved a penalty of \$2,500 on one count.

8 As to Count 1, the violation here is deserving of a penalty similar to that approved in the *Meagher*
9 case. Although the amount of unreported financial activity is higher than in *Meagher*, here, only one
10 contribution made to one committee went unreported, whereas in *Meagher*, 11 different contributions
11 made to five different committees and three different independent expenditures made to three different
12 payees, went unreported.

13 Comparable cases in which a penalty was charged for violating Section 84203 include the
14 following:

15 • *In the Matter of Sebastian Ridley-Thomas and Sebastian Ridley-Thomas for Assembly 2014*;
16 FPPC No. 16/458. Respondents, a candidate and his controlled committee, failed to timely file 24-hour
17 contribution reports for four different late contributions totaling \$38,600, in violation of Section 84203.
18 The largest late contribution was a \$34,000 contribution paid to the Democratic State Central Committee
19 of California, which was timely reported by the payee on a 24-hour report. In December 2017, the
20 Commission approved a penalty of \$2,500 on one count.

21 As to Count 2, a penalty similar to that approved in *Ridley-Thomas* is justified given the similar
22 amount of unreported financial activity. Further, as in *Ridley-Thomas*, the recipient of the contribution
23 here reported the subject late contribution prior to the election.

24 In mitigation of the two counts, the Committee proactively amended their filings prior to a
25 request from the Enforcement Division.

26 Based on the foregoing, a penalty in the amount of \$2,500 is recommended for Count 1, and a
27 penalty in the amount of \$2,500 is recommended for Count 2.

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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondent Burbank Hospitality Association, hereby agree as follows:

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

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

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

11 4. Respondent has consulted with its attorney, Richard C. Miadich, Olson Hagel & Fishburn
12 LLP, and understands, and hereby knowingly and voluntarily waives, all procedural rights set forth in
13 Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not
14 limited to the right to appear personally at any administrative hearing held in this matter, to be
15 represented by an attorney at Respondent’s own expense, to confront and cross-examine all witnesses
16 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
17 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
18 reviewed.

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

25 6. If the Commission declines to approve this stipulation—then this stipulation shall become
26 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
27 rejected, all payments tendered by Respondent in connection with this stipulation shall be reimbursed to
28 Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing

1 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
2 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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7 Dated: _____
8 Galena West, Chief of Enforcement
9 Fair Political Practices Commission

10 Dated: _____
11 Tony Garibian, on behalf of Burbank Hospitality
12 Association

1 The foregoing stipulation of the parties “In the Matter of Burbank Hospitality Association,” FPPC Case
2 No. 18/113 is hereby accepted as the final decision and order of the Fair Political Practices Commission,
3 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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