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

10
11 In the Matter of:

12 COMMITTEE FOR QUALITY
SCHOOLS – YES ON MEASURE T,
13 RANDY FREEMAN, AND XOCHITL
TAFOLLA-MOLINA,

14 Respondents.

FPPC Case No. 16/330

STIPULATION, DECISION AND ORDER

15
16 INTRODUCTION

17 Committee for Quality Schools – Yes on Measure T (the “Committee”) was a committee
18 primarily formed to support Perris Union High School District Measure T, a local school bond tax
19 measure on the ballot in the November 6, 2012 General Election. Randy Freeman (“Freeman”) was the
20 Committee’s principal officer and Xochitl Tafolla-Molina (“Tafolla-Molina”) was the Committee’s
21 treasurer.

22 This case involves multiple violations of the Political Reform Act (the “Act”)¹ by the Committee,
23 Freeman, and Tafolla-Molina (collectively, “Respondents”) arising from their failure to timely file a
24 semiannual campaign statement, failure to report certain subvendor payments, and failure to timely file
25 certain 24-hour contribution reports.

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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 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred in
3 2012 and 2013. For this reason, all legal references and discussions of law pertain to the Act’s provisions
4 as they 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

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

14 Mandatory Filing of Campaign Statements

15 At the core of the Act’s campaign reporting system is the requirement that committees file
16 campaign statements and reports for certain reporting periods and by certain deadlines.⁷

17 The Act requires a recipient committee to file semiannual campaign statements twice per year
18 disclosing its campaign contributions and expenditures. A recipient committee must file a semiannual
19 statement by January 31 for the period ending December 31 and by July 31 for the period ending June
20 30, or the next business day if the deadline falls on a weekend or holiday.⁸

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25 ² Section 81001, subd. (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subd. (a).

28 ⁵ Sections 84200, *et seq.*

⁶ Section 81002, subd. (f).

⁷ Sections 84200, *et seq.*

⁸ Section 84200, subd. (a); Regulation 18116, subd. (a).

1 Duty to Report Subvendor Payments

2 A subvendor is a person or company that is hired by a committee’s agent or independent
3 contractor to provide a good or service for the committee. The Act requires committees to report
4 payments of \$500 or more made on its behalf by an agent or independent contractor the same way it
5 would if it were making the payment on its own.⁹ Disclosure of the expenditures made by an agent or
6 independent contractor are required to be made at the same time and in the same manner and detail as
7 required for the committee’s direct expenditures.¹⁰ Specifically, the following information must be
8 provided: (1) the subvendor’s full name; (2) his or her street address; (3) the amount of each expenditure;
9 and (4) a brief description of the consideration for which each expenditure was made.¹¹ This information
10 reported by the candidate or committee is commonly referred to as “subvendor information.”

11 Duty to File 24-Hour Contribution Reports

12 Each candidate or committee that makes or receives a late contribution must file a report within
13 24 hours of making or receiving the contribution.¹² At the time of the violations at issue in this case, a
14 “late contribution” was defined as a contribution aggregating \$1,000 or more that is made or received by
15 a primarily formed committee during the 16-day period preceding an election.¹³

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

17 It is the duty of a committee treasurer to ensure that the committee complies with the Act.¹⁴ It is
18 the duty of the committee’s principal officer to authorize the content of communications made by the
19 committee, authorize expenditures made by the committee, and determine the committee’s campaign
20 strategy.¹⁵ A treasurer and principal officer may be held jointly and severally liable, along with the
21 committee, for violations committed by the committee.¹⁶

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24 ⁹ Section 84303.

25 ¹⁰ Regulation 18431, subd. (c); and Section 84211, subd. (k).

26 ¹¹ Section 84211, subd. (k)(1)-(4) and (6).

27 ¹² Section 84203.

28 ¹³ Former Section 82036.

¹⁴ Sections 81004, 84100, 84104, and 84213; Regulation 18427.

¹⁵ Section 82047.6; Regulation 18402.1, subd. (b).

¹⁶ Sections 83116.5 and 91006.

1 Statute of Limitations

2 No administrative action alleging a violation of the Act shall be commenced more than five years
3 after the date on which the violation occurred.¹⁷

4 **SUMMARY OF THE FACTS**

5 A probable cause report was served in this case on Respondents on October 7, 2017, tolling the
6 statute of limitations related to the violations contained herein.

7 This case originated from a Secretary of State referral arising from the Committee’s failure to pay
8 its 2013 and 2014 annual fees. After receiving the referral, the Enforcement Division of the Fair Political
9 Practices Commission (the “Commission”) discovered that, in addition to its failure to pay certain annual
10 fees, the Committee had also neglected to timely file certain campaign statements and reports.

11 The Committee filed its initial statement of organization on or about July 20, 2012, using the
12 original committee name “Committee for Quality Schools.” On or about October 15, 2012, the
13 Committee filed an amendment to its statement of organization adding “Yes on Measure T” to the
14 committee name. In conjunction with the settlement of this matter, the Committee filed a statement of
15 organization terminating the Committee as of January 31, 2013.

16 According to the Committee’s bank records, the Committee had a total of \$205,200 in
17 contributions and \$205,200 in expenditures during the period of July 1, 2012 to January 31, 2013.

18 The subject ballot measure was assigned the letter “T” on August 1, 2012. However, although the
19 Committee was required to change its name to reflect its support of the measure within 30 days, it did not
20 do so until 75 days later, on October 15, 2012. Measure T was a successful ballot measure, garnering
21 61.83 percent of the vote.

22 The Committee also failed to timely file its semiannual campaign statement for the reporting
23 period of October 21, 2012 to December 31, 2012.¹⁸ The statement was not filed until December 16,
24 2016, and reported \$36,850 in contributions and \$136,429 in expenditures.

25 On its campaign statements covering the reporting periods of October 1, 2012 to October 20,
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27 ¹⁷ Section 9100.5.

28 ¹⁸ The Committee’s campaign statement covered the broader reporting period of September 11, 2012 to January 31,
2013.

2012 and October 21, 2012 to December 31, 2012, the Committee reported payments made to TBWB Strategies (“TBWB”) totaling \$183,998 for campaign consulting services. However, the Committee failed to timely report any subvendor payments associated with the services provided by TBWB. The detailed invoices for the \$183,998 in payments to TBWB itemized the services provided into categories including, but not limited to, “500 lawn signs with wires,” “skills’ mailer, Menifee version,” and “website + social media.” As disclosed by the Committee, the Committee should have reported a total of \$81,388.92 in subvendor payments derived from the payments to TBWB (\$30,333.89 on the pre-election statement covering the period of October 1 to October 20, 2012, and \$51,055.03 on the semiannual statement covering the period of October 21 to December 31, 2012).

The Committee also failed to timely file the following 24-hour contribution reports for contributions received:

Statement/ Report Type	Contribution Date	Due Date	Date Filed	Amount of Contribution
24-Hour Contribution	10/24/12	10/25/12	N/A	\$1,000
24-Hour Contribution	10/25/12	10/26/12	N/A	\$2,000
24-Hour Contribution	10/26/12	10/29/12	N/A	\$1,000
24-Hour Contribution	10/26/12	10/29/12	N/A	\$1,000
24-Hour Contribution	10/26/12	10/29/12	N/A	\$2,000
24-Hour Contribution	10/26/12	10/29/12	N/A	\$4,000
24-Hour Contribution	10/29/12	10/30/12	N/A	\$1,000
24-Hour Contribution	10/29/12	10/30/12	N/A	\$1,000
24-Hour Contribution	10/30/12	10/31/12	N/A	\$3,000
24-Hour Contribution	10/30/12	10/31/12	N/A	\$5,000

24-Hour Contribution	10/30/12	10/31/12	N/A	\$2,500
24-Hour Contribution	10/31/12	11/1/12	N/A	\$1,000
24-Hour Contribution	11/1/12	11/2/12	N/A	\$1,000
24-Hour Contribution	11/1/12	11/2/12	N/A	\$1,000
TOTAL:				\$26,500

None of these contributions were reported before the election.

VIOLATIONS

Count 1: Failure to Timely File Semiannual Campaign Statement

The Committee, Freeman, and Tafolla-Molina failed to timely file a semiannual campaign statement for the reporting period of October 21, 2012 to December 31, 2012, in violation of Section 84200, subdivision (a).

Count 2: Failure to Timely Report Subvendor Payments

The Committee, Freeman, and Tafolla-Molina failed to timely report \$81,388.92 in subvendor payments made during the period of October 1, 2012 to December 31, 2012, in violation of Sections 84303 and 84211, subdivision (k)(6).

Counts 3: Failure to Timely File 24-Hour Contribution Reports

The Committee, Freeman, and Tafolla-Molina failed to timely file a 24-hour contribution report for eight different late contributions received between October 24 and 29, 2012, amounting to \$13,000, in violation of Section 84203.

Count 4: Failure to Timely File 24-Hour Contribution Reports

The Committee, Freeman, and Tafolla-Molina failed to timely file a 24-hour contribution report for six different late contributions received between October 30 and November 1, 2012, amounting to \$13,500, in violation of Section 84203.

PROPOSED PENALTY

This matter consists of four counts. The maximum penalty that may be imposed is \$5,000 per

1 count. Thus, the maximum penalty that may be imposed is \$20,000.¹⁹

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

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

13 The public harm inherent in campaign reporting violations is that the public is deprived of
14 important, time-sensitive information regarding political contributions. Generally, these types of
15 violations are considered to be more serious where the public is deprived of information that was
16 required to be disclosed before an election because this has the potential to affect how votes are cast—so
17 greater public harm is involved, and a higher penalty is warranted. Another factor that influences the
18 amount of the penalty is whether the public harm was mitigated because some of the reportable activity
19 was disclosed to the public on another campaign filing.

20 Comparable cases in which a penalty was charged for failure to timely file semiannual campaign
21 statements include the following:

- 22 • *In the Matter of Voto Latino Action Fund PAC and Maria Teresa Kumar*; FPPC No. 16/338.

23 Respondents, a recipient committee and its treasurer, failed to timely file a semiannual campaign
24 statement. Respondents eventually filed the statement, which reported \$65,771.14 in contributions and
25 the same amount in expenditures. In March 2017, the Commission approved a penalty of \$2,500 on one
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¹⁹ Section 83116, subd. (c).

²⁰ Regulation 18361.5, subd. (d).

1 count.

2 As to Count 1, Respondents are deserving of a penalty similar to that approved in the comparable
3 case given the similar amount of financial activity that went unreported.

4 Comparable cases in which a penalty was charged for failure to timely report subvendor
5 payments include the following:

6 • *In the Matter of Consumer Advocates for Safe Food and Water, Sponsored by Food & Water*
7 *Watch and Jesse Mainardi*; FPPC No. 16/37. Respondents, a state general purpose committee and its
8 treasurer, failed to timely report approximately \$304,500 in subvendor payments related to television
9 advertisements on one campaign statement. In August 2017, the Commission approved a penalty of
10 \$2,000 on one count.

11 As to Count 2, a penalty lower than that approved in the comparable case is justified given the
12 lower amount of subvendor payments that were not timely reported here.

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

15 • *In the Matter of Elk Grove Education Association Political Action Committee, Kathleen Tijan,*
16 *Lee Ramaley, and Jeremy Roberts*; FPPC No. 16/19974. Respondents, a general purpose committee and
17 its principal officers and treasurers, failed to timely file 24-hour contribution reports for six different
18 contributions amounting to \$39,274.11. However, although late, the respondents filed the required 24-
19 hour reports prior to the pertinent election. In December 2017, the Commission approved a penalty of
20 \$2,000 on one count.

21 As to Counts 3 and 4, a penalty higher than that approved in the comparable case is warranted.
22 Here, each contribution at issue was made during the reporting period associated with the year-end
23 semiannual campaign statement, which was not due until January 31, 2013 – after the election. As a
24 result, given that Respondents never filed the required 24-hour reports, unlike in the comparable case, the
25 public was completely deprived of even the opportunity to learn of the subject contributions prior to the
26 election. As a result, the violations in this case are of a different character than that in the comparable
27 case, and deserving of a higher penalty. Further, in aggravation, Respondents also failed to timely file 24-
28 hour contribution reports for two additional late contributions, amounting to \$6,750, although these

1 reports were filed only two days late and prior to the election. In the interest of settlement, these
2 violations are not being charged herein.

3 In aggravation of all counts, as a primarily formed committee, the Committee also failed to timely
4 change its name to reflect the supported ballot measure. Whereas the Committee was required to change
5 its name, by amending its statement of organization, within 30 days of August 1, 2012, the date the letter
6 T was assigned to the measure, it did not do so until October 15, 2012. However, the Committee printed
7 the accurate name including the measure letter “T” on all mass mailers that were sent out; therefore, in
8 the interest of settlement, this additional violation is not being charged here.

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

11 Based on the foregoing, the following penalties are recommended:

Count	Violation	Proposed Penalty
1	Failure to Timely File Semiannual Campaign Statement	\$2,500
2	Failure to Timely Report Subvendor Payments	\$1,500
3	Failure to Timely File 24-Hour Contribution Reports	\$2,500
4	Failure to Timely File 24-Hour Contribution Reports	\$2,500
TOTAL:		\$9,000

19 CONCLUSION

20 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
21 Respondents, Committee for Quality Schools – Yes on Measure T, Randy Freeman, and Xochitl Tafolla-
22 Molina, hereby agree as follows:

- 23 1. The Respondents violated the Act as described in the foregoing pages, which are a true
24 and 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 of reaching a final disposition without the necessity of holding an administrative hearing to determine the

1 liability of the Respondent pursuant to Section 83116.

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

9 5. The Respondents agree to the issuance of the decision and order set forth below. Also, the
10 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
11 \$9,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General
12 Fund of the State of California—is/are submitted with this stipulation as full payment of the
13 administrative penalty described above, and same shall be held by the State of California until the
14 Commission issues its decision and order regarding this matter.

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

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

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25 Dated: _____
26 Galena West, Chief of Enforcement
27 Fair Political Practices Commission
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Dated: _____
Randy Freeman, individually and on behalf of
Committee for Quality Schools – Yes on Measure T

Dated: _____
Xochitl Tafolla-Molina, individually and on behalf of
Committee for Quality Schools – Yes on Measure T

1 The foregoing stipulation of the parties “In the Matter of Committee for Quality Schools – Yes on
2 Measure T, Randy Freeman, and Xochitl Tafolla-Molina,” FPPC Case No. 16/330 is hereby accepted as
3 the final decision and order of the Fair Political Practices Commission, effective upon execution below
4 by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____
9 Joann Remke, Chair
10 Fair Political Practices Commission
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