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

11 In the Matter of:

12 KCRW FOUNDATION,

13 Respondent.

FPPC Case No. 18/352

14 STIPULATION, DECISION AND ORDER

15 **INTRODUCTION**

16 On March 5, 2016, the KCRW Foundation (“Foundation”) made a \$125,000 contribution to a
17 recipient committee named, at the time, “Campaign for Safety & Modernization at Santa Monica College”
18 (“Committee”). As a result, the Foundation qualified as a major donor committee in 2016. However,
19 despite the Foundation’s obligation to file a semi-annual statement, it failed to do so timely, thereby
20 violating the Political Reform Act¹ (“Act”).

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27 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections
28 81000 through 91014. All statutory references are to this code. 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 **Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act**

3 When enacting the Political Reform Act, the people of California found and declared that previous
4 laws regulating political practices suffered from inadequate enforcement by state and local authorities.²
5 Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”³

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

11 **Definition of a Major Donor Committee**

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

14 **Duty to File Campaign Statements**

15 At the core of the Act’s campaign reporting system is the requirement that committees, including
16 major donor committees, must file campaign statements and reports for certain periods and by certain
17 deadlines.⁸ A major donor committee must file a campaign statement for the period ending June 30 by the
18 deadline of July 31 if it made contributions between January 1 and June 30.⁹ Whenever the deadline falls
19 on a Saturday, Sunday or official state holiday, the filing deadline for a statement shall be extended to the
20 next regular business day.¹⁰

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25 ² Section 81001, subdivision (h).
26 ³ Section 81003.
27 ⁴ Section 81002, subdivision (a).
28 ⁵ Sections 84200, *et seq.*
⁶ Section 81002, subdivision (f).
⁷ Section 82013, subdivision (c).
⁸ Section 84200, *et seq.*
⁹ Section 84200, subdivision (b).
¹⁰ Regulation 18116, subdivision (a).

1 **SUMMARY OF THE FACTS**

2 The Foundation is an organization that provides financial support and resources for the local public
3 radio station KCRW. The Foundation made a \$125,000 contribution to the Committee on March 5, 2016.
4 The Committee was initially opened to raise money for a potential bond campaign. The Committee
5 changed its name to indicate that it was primarily formed to support Measure V in August of 2016. Measure
6 V was a bond issue measure for Santa Monica Community College District in Los Angeles County that
7 sought to fund improvements to the college’s buildings. The measure was approved by 63.9% of voters in
8 the November 8, 2016 General Election. The Committee changed its name in September of 2016 to indicate
9 that it was sponsored by KCRW Foundation, Inc. and Santa Monica College Associated Students.

10 The Foundation’s contribution was reported by the Committee in its semi-annual statement
11 covering the period from January 1, 2016 through June 30, 2016. As a result of the contribution, the
12 Foundation qualified as a major donor committee in 2016 and was obligated to file a semi-annual statement
13 for the period in which the contribution was made. However, despite the Foundation’s obligation to file a
14 semi-annual statement for the period of January 1, 2016 through June 30, 2016, it failed to do so timely,
15 thereby violating the Act. The statement was filed with Santa Monica City Clerk on July 23, 2018, almost
16 two years late and after receiving the complaint in this case.

17 **VIOLATION**

18 **Count 1**

19 Failure to Timely File a Semi-Annual Statement

20 The Foundation failed to timely file a semi-annual statement for the period beginning on January
21 1, 2016 and ending on June 30, 2016, and due on August 1, 2016 in violation of Section 84200,
22 subdivision (b).

23 **PROPOSED PENALTY**

24 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per count.¹¹

25 In determining the appropriate penalty for a particular violation of the Act, the Commission
26 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission
27 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention
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¹¹ See Section 83116, subdivision (c).

1 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)
2 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were
3 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.¹² The
4 Foundation has no prior record of violations.

5 Additionally, the Commission considers penalties in prior cases with comparable violations. *In the*
6 *Matter of Burbank Hospitality Association*, FPPC No. 18/113 (the Commission approved a stipulated
7 decision on June 21, 2018.) Burbank Hospitality Association failed to timely file a semi-annual statement
8 after making a \$50,000 contribution on September 23, 2016 to a primarily formed ballot measure
9 committee in support of a measure on the November 8, 2016 General Election. The statement was filed
10 almost six months late. The Commission imposed a penalty of \$2,500.

11 This case is analogous because like in *Burbank Hospitality*, a major donor committee failed to file
12 a semi-annual campaign statement detailing one large contribution made to a primarily formed ballot
13 measure committee. In aggravation, the amount of unreported financial activity here is significantly higher.
14 However, in contrast to *Burbank Hospitality*, the contribution here was made in March before a November
15 election. In further mitigation, the primarily formed committee re-designated to indicate that the
16 Foundation was a sponsor of the Committee.

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

18 CONCLUSION

19 Complainant, the Enforcement Division of the Fair Political Practices Commission, and the KCRW
20 Foundation, hereby agree as follows:

- 21 1. Respondent violated the Act as described in the foregoing pages, which are a true and
22 accurate summary of the facts in this matter.
- 23 2. This stipulation will be submitted for consideration by the Fair Political Practices
24 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 25 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
26 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
27 liability of Respondent pursuant to Section 83116.

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¹² Regulation 18361.5, subdivision (d).

1 4. Respondent has consulted with its attorney, Joseph A. Guardarrama of Kaufman Legal
2 Group, and understands, and hereby knowingly and voluntarily waives, all procedural rights set forth in
3 Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not
4 limited to the right to appear personally at any administrative hearing held in this matter, to be represented
5 by an attorney at Respondent’s own expense, to confront and cross-examine all witnesses testifying at the
6 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
7 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

8 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
9 Respondent agrees to the Commission imposing against them an administrative penalty in the amount of
10 \$2,500. One or more cashier’s checks or money orders totaling said amount—to be paid to the General
11 Fund of the State of California—is/are submitted with this stipulation as full payment of the administrative
12 penalty described above, and same shall be held by the State of California until the Commission issues its
13 decision and order regarding this matter.

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

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

Galena West, Chief of Enforcement
Fair Political Practices Commission

8 Dated: _____

Jill Smayo on behalf of the KCRW Foundation.

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1 The foregoing stipulation of the parties “In the Matter of the KCRW Foundation” FPPC Case No.
2 18/352 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: _____

_____ Alice T. Germond, Chair
Fair Political Practices Commission