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

10 In the Matter of:

FPPC Case No. 18/188

11 BLUFF COVE HOMEOWNERS'
ASSOCIATION MEASURE E
12 OPPOSITION COMMITTEE, JENNIFER
HOPE, AND ROBERT L. CHAPMAN,
13 JR.,

STIPULATION, DECISION AND ORDER

14 Respondents.

15
16 INTRODUCTION

17 Bluff Cove Homeowners' Association Measure E Opposition Committee (the "Committee") is a
18 primarily formed ballot measure committee created to oppose Palos Verdes Estates Measure E, which
19 appeared on the ballot in the April 10, 2018 Special Election. The measure, which was successful with
20 approximately 69 percent of the vote, authorized a parcel tax in order to fund the local police department.
21 The principal officer of the Committee is Jennifer Hope ("Hope") and the treasurer is Robert L.
22 Chapman, Jr. ("Chapman").

23 Respondents committed multiple violations of the Political Reform Act (the "Act"),¹ including a
24 failure to timely file two preelection campaign statements; and a failure to properly identify the
25 Committee on five mailer advertisements sent in advance of the election.

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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 2018. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
4 existed at that time—unless otherwise noted.

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

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

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

15 Mandatory Filing of Campaign Statements and Reports

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

18 The Act requires that primarily formed ballot measure committees file certain preelection
19 campaign statements.⁸ In particular, in connection with the election held April 10, 2018, committees
20 were required to file preelection campaign statements (Form 460s) with the filing officer by the deadline
21 of March 1, 2018 for the reporting period of January 1 through February 24, 2018, and by the deadline of
22 March 29, 2018 for the reporting period of February 25 through March 24, 2018.⁹

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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 Sections 84200, *et seq.*

⁸ Section 84200.5, subd. (a).

⁹ Section 84200.8, subds. (a) and (b); and 84215.

1 Advertisement Disclosure

2 An “advertisement” under the Act means any general or public communication that is authorized
3 and paid for by a committee for the purpose of supporting or opposing a candidate(s) for elective office
4 or a ballot measure(s).¹⁰

5 Under the Act, any advertisement paid for by a primarily formed committee shall include the
6 words “Paid for by” followed by the name of the committee.¹¹ On print advertisements designed to be
7 individually distributed, including mailers, the disclosure area shall have a solid white background and
8 shall be in a printed or drawn box on the bottom of at least one page that is set apart from any other
9 printed matter. The text shall be in a contrasting color, in an Arial equivalent type with a type size of at
10 least 10-point.¹²

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

12 It is the duty of a committee treasurer to ensure that the committee complies with the reporting
13 provisions of the Act.¹³ It is the duty of the committee’s principal officer to authorize the content of
14 communications made by the committee, authorize expenditures made by the committee, and determine
15 the committee’s campaign strategy.¹⁴ A treasurer and principal officer may be held jointly and severally
16 liable, along with the committee, for violations committed by the committee.¹⁵

17 **SUMMARY OF THE FACTS**

18 The Committee filed its initial statement of organization on January 23, 2018. On February 7,
19 2018, the Committee qualified as a recipient committee. On April 4, 2018, the Committee filed an
20 amendment to its statement of organization, providing the “qualified by” date. As of June 30, 2018, the
21 Committee had received a total of \$8,399.35 in contributions and made a total of \$2,236.60 in
22 expenditures.

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¹⁰ Section 84501.

26 ¹¹ Section 84502.

27 ¹² Section 84504.2, subd. (a).

28 ¹³ Sections 81004, 84100, 84104, and 84213; Regulation 18427.

¹⁴ Section 82047.6; Regulation 18402.1, subd. (b).

¹⁵ Sections 83116.5 and 91006.

1 Despite qualifying as a recipient committee, the Committee failed to timely file the following
2 preelection campaign statements:

3 Statement/ Report Type	Reporting Period	Due Date	Date Filed	Days Late	Amount of Contributions/ Expenditures
4 Preelection	1/1/18 – 2/24/18	3/1/18	4/3/18	33	\$0/\$2,032.18
5 Preelection	2/25/18 – 3/24/18	3/29/18	4/4/18	6	\$2,032.18/\$8,399.35

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8 The Committee paid for and distributed five different mailer advertisements in opposition to
9 Measure E that did not include the proper disclosures. A total of 5,180 copies were made of each of the
10 five mailers, which were sent out on or around February 7, 2018; February 26, 2018; March 1, 2018;
11 March 9, 2018; and March 26, 2018. The Committee spent a total of \$10,521.74 on the mailers.

12 None of the mailers disclosed the name of the Committee or included the requisite “Paid for by”
13 phrase. The only identifying information printed on the mailers was the Committee’s website,
14 www.bluffcove.org. The website disclosed the shortened name “Bluff Cove Homeowners Association;”
15 however, it failed to include the “Paid for by” phrase. Further, the mailers printed the name “Bluff Cove
16 Neighborhood Patrol,” providing further confusion as to who was behind the mailers.

17 **VIOLATIONS**

18 Count 1: Failure to Timely File Preelection Campaign Statements

19 The Committee, Hope, and Chapman failed to timely file two preelection campaign statements, in
20 violation of Sections 84200.5, subdivision (a); and 84200.8, subdivisions (a) and (b).

21 Count 2: Failure to Comply with Disclosure Requirements for Advertisements

22 The Committee and Hope paid for five mailer advertisements that did not include the name of the
23 committee or requisite “Paid for by” phrase, in violation of Sections 84502 and 84504.2, subdivision (a).

24 **PROPOSED PENALTY**

25 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
26 count. Thus, the maximum penalty that may be imposed is \$10,000.¹⁶

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¹⁶ See Section 83116, subd. (c).

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

8 Here, the actions of the Committee appear to be the result of negligence, as there is no evidence
9 of deliberate omission or attempts to conceal. In particular, the late-filed campaign statements were
10 ultimately filed prior to the election and any contact from the Enforcement Division; and the subject
11 mailers provided a link to a website that provide a shortened version of the Committee's name. Further,
12 Respondents claim they were inexperienced with the Act. Respondents also do not have a prior history of
13 violating the Act.

14 Additionally, the Commission considers penalties in prior cases with comparable violations.
15 Comparable cases in which a penalty was charged for failure to timely file campaign statements include
16 the following:

- 17 • *In the Matter of Alicia Cruz 4 School Board 2016 and Alicia Cruz*; FPPC No. 17/620.

18 Respondents, a candidate-controlled committee and its controlling candidate and treasurer, failed to
19 timely file one preelection and one semiannual campaign statement, in violation of Sections 84200,
20 84200.5, and 84200.8. The statements were not filed until after Enforcement contact, which was months
21 after the pertinent election. In August 2018, the Commission approved a penalty of \$2,000 on one count.

22 As to Count 1, Respondents here are deserving of a lower penalty. Although the Committee failed
23 to timely file two different campaign statements, both statements were filed prior to the election, unlike
24 in the *Cruz* case.

25 Comparable cases in which a penalty was charged for failure to comply with disclosure
26 requirements for political advertisements include the following:

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¹⁷ Regulation 18361.5, subd. (d).

1 • *In the Matter of Al Bairos and Committee to Re-Elect Al D. Bairos OID Director District #4*
2 *2015*; FPPC No. 15/1876. Respondents, a candidate-controlled committee and its controlling candidate,
3 failed to disclose the name of the committee and required “Paid for by” phrase on a mass mailing, in
4 violation of Section 84305, subdivision (a); and Regulation 18435, subdivision (d). In July 2018, the
5 Commission approved a penalty of \$1,500 on one count.

6 As to Count 2, Respondents are deserving of a higher penalty than that approved in *Bairos*. In
7 *Bairos*, respondents distributed approximately 991 copies of the subject mailer at a cost of \$3,574.43.
8 Here, the quantity and cost of the pertinent mailers far exceeded that at issue in the comparable case, as
9 the Committee paid for a total of 25,900 copies of mailers at a cost of \$10,521.74. Further, the subject
10 mailers were slightly misleading in that they appeared to refer to the sender as the “Bluff Cove
11 Neighborhood Patrol,” and not the Committee. As a result, a higher penalty is warranted.

12 In aggravation of all counts, the Committee also failed to timely file an amendment to its
13 statement of organization upon qualifying as a committee. However, in the interest of settlement, this
14 additional campaign filing violation is not being charged herein.

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

Count	Violation	Proposed Penalty
1	Failure to Timely File Preelection Campaign Statements	\$1,500
2	Failure to Comply with Disclosure Requirements for Advertisements	\$2,000
TOTAL:		\$3,500

22 CONCLUSION

23 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
24 Respondents, Bluff Cove Homeowners’ Association Measure E Opposition Committee, Jennifer Hope,
25 and Robert L. Chapman, Jr. hereby agree as follows:
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27 1. Respondents violated the Act as described in the foregoing pages, which are a true and
28 accurate summary of the facts in this matter.

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

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

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

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

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

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8 Dated: _____

Jennifer Hope, individually and on behalf of Bluff Cove
Homeowners' Association Measure E Opposition
Committee

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11 Dated: _____

Robert L. Chapman, Jr., individually and on behalf of Bluff
Cove Homeowners' Association Measure E Opposition
Committee

1 The foregoing stipulation of the parties “In the Matter of Bluff Cove Homeowners’ Association Measure
2 E Opposition Committee, Jennifer Hope, and Robert L. Chapman, Jr.,” FPPC Case No. 18/188 is hereby
3 accepted as the final decision and order of the Fair Political Practices Commission, effective upon
4 execution below by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

_____ Alice T. Germond, Chair
Fair Political Practices Commission