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

11
12 In the Matter of:

13 SCOTT JACKSON FOR JUDGE 2016,
SCOTT JACKSON, and LINDA PERRY,

14
15 Respondents.

FPPC No. 16/19742

STIPULATION, DECISION, AND ORDER

16 INTRODUCTION

17 Respondent Scott Jackson (“Jackson”) was a successful candidate for the Alameda County
18 Superior Court in the June 7, 2016 Primary Election and November 8, 2016 General Election. Respondent
19 Scott Jackson for Judge 2016 (the “Committee”) is his candidate-controlled committee, and Linda Perry
20 (“Perry”) was the Committee’s treasurer. Respondents violated the Political Reform Act (the “Act”),¹ by
21 failing to timely file two pre-election campaign statements in electronic format, failing to timely file two
22 semi-annual campaign statements in paper and electronic format; and two pre-election campaign
23 statements in paper and electronic format.

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28 ¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and 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, and all regulatory references are to this source.

1 **SUMMARY OF THE LAW**

2 The violations in this case occurred in 2016, and all legal references and discussions of law pertain
3 to the Act’s provisions as they existed at that time.

4 Need for Liberal Construction and Vigorous Enforcement of the Act

5 When enacting the Act, the people of California found and declared that previous laws regulating
6 political practices suffered from inadequate enforcement by state and local authorities.² Thus, it was
7 decreed that the Act “should be liberally construed to accomplish its purposes.”³ One purpose of the Act
8 is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and
9 truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ Another
10 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously
11 enforced.”⁵

12 Committees

13 A committee will qualify as a “recipient committee” when it receives two thousand dollars
14 (\$2,000) or more in contributions during a single calendar year.⁶ A committee is a “controlled committee”
15 when it is controlled directly by or indirectly by a candidate.⁷

16 Pre-Election Campaign Statements

17 A controlled committee must file two pre-election campaign statements before the election in
18 which the candidate is listed on the ballot.⁸ A committee must file a first pre-election campaign statement
19 for the period ending 45 days before the election no later than 40 days before the election.⁹ A committee
20 must also file a second pre-election campaign statement for the period ending 17 days before the election
21 no later than 12 days before the election.¹⁰

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25 ² Section 81001, subd. (h).
26 ³ Section 81003.
27 ⁴ Section 81002, subd. (a).
28 ⁵ Section 81002, subd. (f).
⁶ Section 82013, subd. (a).
⁷ Section 82016, subd. (a).
⁸ Section 84200.5, subd. (a).
⁹ Section 84200.8, subd. (a).
¹⁰ Section 84200.8, subd. (b).

1 Semi-Annual Campaign Statements

2 A controlled committee must file two semi-annual campaign statements each year no later than
3 July 31 for the period ending June 30 and no later than January 31 for the period ending December 31.¹¹
4 However, judges, judicial candidates, and their controlled committees are not required to file semi-annual
5 campaign statements for any six-month period in which they have not made or received any contributions
6 or made any expenditures.¹²

7 Where to File Campaign Statements

8 All candidates and their controlled committees must file one copy of campaign statements with
9 the elections official of the county in which the candidate is domiciled.¹³ In addition, superior court
10 judges, candidates for that office, and their controlled committees must file the original and one copy of
11 campaign statements in paper format with the Secretary of State.¹⁴ Superior court judges, candidates for
12 that office, and their controlled committees also must file electronically with the Secretary of State when
13 the total cumulative reportable amount of contributions received, expenditures made, loans made, or
14 loans received is \$25,000 or more.¹⁵

15 Joint and Several Liability

16 It is the duty of a committee treasurer and the candidate to ensure that the committee complies
17 with the Act.¹⁶ A treasurer and candidate may be held jointly and severally liable, along with the
18 committee, for violations committed by the committee.¹⁷

19 **SUMMARY OF THE FACTS**

20 Jackson was a successful candidate for the Alameda County Superior Court in the June 7, 2016
21 Primary Election and November 8, 2016 General Election, receiving 28.18 and 52.17 percent of the vote,
22 respectively.

23 The Committee filed an initial statement of organization on March 4, 2016 with the Secretary of
24 State (“SOS”). The Committee filed an amended statement of organization on March 18, 2016, indicating

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26 ¹¹ Section 84200, subd. (a).

27 ¹² Section 84200, subd. (a)(2).

28 ¹³ Section 84215, subd. (a).

¹⁴ Id.

¹⁵ Sections 84215, subd. (a), and 84605, subd. (a)(1).

¹⁶ Sections 81004, 84100, and 84104; Regulation 18427.

¹⁷ Sections 83116.5 and 91006.

1 that it qualified as a committee on March 14, 2016. The Committee, Jackson, and Perry timely filed a
2 paper copy with SOS and an electronic copy with the Alameda County Registrar of Voters (the “Alameda
3 ROV”) of the pre-election campaign statement for the reporting period ending on April 23, 2016. This
4 pre-election campaign statement reported \$68,617.91 in total contributions received and \$47,876.31 in
5 total expenditures made. Because the Committee received contributions and made expenditures totaling
6 \$25,000 or more to support Jackson’s candidacy, the Committee was required to file this and future
7 campaign statements online or electronically with SOS. The Committee, Jackson, and Perry failed to
8 timely file an electronic copy with SOS.

9 The Committee, Jackson, and Perry timely filed a paper copy with SOS and an electronic copy
10 with the Alameda ROV of the pre-election campaign statement for the reporting period ending on
11 May 21, 2016 but failed to timely file an electronic copy with SOS. This pre-election campaign statement
12 reported \$26,575.00 in total contributions received and \$25,266.64 in total expenditures made.

13 The Committee, Jackson, and Perry timely filed an electronic copy with the Alameda ROV of the
14 semi-annual campaign statement for the reporting period ending on June 30, 2016. The Committee,
15 Jackson, and Perry failed to timely file a paper copy and an electronic copy with SOS. This semi-annual
16 campaign statement reported \$9,274.00 in total contributions received and \$22,316.69 in total
17 expenditures made. The Committee, Jackson, and Perry failed to timely file subsequent pre-election and
18 semi-annual campaign statements.

19 After receiving communications from the Enforcement Division, the Committee and Jackson
20 filed the delinquent campaign statements with SOS and Alameda ROV as part of this settlement. For the
21 reporting period ending on September 24, 2016, they late-filed a pre-election campaign statement
22 showing \$44,663.00 in total contributions received and \$60,499.92 in total expenditures made. For the
23 reporting period ending on October 22, 2016, they late-filed a pre-election campaign statement showing
24 \$17,734.99 in total contributions received and \$20,751.46 in total expenditures made. For the reporting
25 period ending on December 31, 2016, they late-filed a semi-annual campaign statement showing \$54,937
26 in total contributions received and \$28,601.08 in total expenditures made.

27 Although the Committee, Jackson, and Perry did not timely file paper and electronic copies of
28 campaign statements, some disclosure occurred before the election because the Committee, Jackson, and

1 Perry timely filed all late contribution reports (24 Hour Reports) with the Alameda ROV, disclosing
2 contributions received of \$1,000 or more.

3 **VIOLATIONS**

4 Count 1: Failure to Timely File Pre-Election Campaign Statements Electronically with SOS

5 The Committee, Jackson, and Perry failed to timely file two pre-election campaign statements
6 electronically with SOS for the reporting periods covering January 1, 2016 through April 23, 2016 by
7 April 28, 2016 and April 24, 2016 through May 21, 2016 by May 26, 2016, in violation of Government
8 Code sections 84200.5, 84200.8, 84215, subdivision (a), and 84605, subdivision (a)(1).

9 Count 2: Failure to Timely File Semi-Annual Campaign Statements

10 The Committee, Jackson, and Perry failed to timely file two semi-annual campaign statements, in
11 paper and electronic format, for the reporting periods covering May 22, 2016 through June 30, 2016 by
12 August 1, 2016 and October 23, 2016 through December 31, 2016 by January 31, 2017, in violation of
13 Government Code section 84200, 84215, subdivision (a), and 84605, subdivision (a)(1).

14 Count 3: Failure to Timely File Pre-Election Campaign Statements

15 The Committee, Jackson, and Perry failed to timely file two pre-election campaign statements, in
16 paper and electronic format, for the reporting periods covering July 1, 2016 through September 24, 2016
17 by September 29, 2016 and September 25, 2016 through October 22, 2016 by October 27, 2016, in
18 violation of Government Code sections 84200.5, 84200.8, 84215, subdivision (a), and 84605, subdivision
19 (a)(1).

20 **PROPOSED PENALTY**

21 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
22 count. Thus, the maximum penalty that may be imposed is \$15,000.

23 In determining the appropriate penalty for a particular violation of the Act, the Commission
24 considers the facts of the case, the public harm involved, and the purpose of the Act. Also, the
25 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
26 any intention to conceal, deceive, or mislead; (c) whether the violation was deliberate, negligent, or
27 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments

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1 voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of
2 violations.¹⁸

3 These violations resulted in a lack of transparency for the public into Jackson’s campaign, but
4 there is no evidence of an intention to conceal, deceive, or mislead the public. The violations do not seem
5 to have been deliberate. Jackson believed the reports were being timely and properly filed by Perry, as
6 she held herself out as a professional treasurer. During the election, he also met with Perry to sign
7 campaign statements, and she processed contributions and expenditures without incident. Once Jackson
8 was informed that certain campaign statements had not been filed, he immediately engaged a new
9 professional treasurer and voluntarily filed the delinquent campaign statements with SOS and Alameda
10 ROV to bring the Committee in compliance with the Act. The Committee and Jackson do not have a
11 prior enforcement history, but Perry was a named respondent in five prior cases, all involving the failure
12 to timely file campaign statements.

13 The Commission also considers penalties in prior cases with comparable violations. Recent cases
14 with a similar violation include the following:

15 Count 1

16 *In the Matter of Democrats United for Public Education and Diane Peete*; FPPC No. 16/378.
17 (The Commission approved a stipulated agreement on May 25, 2017.) Respondents timely filed a
18 quarterly campaign statement in paper format but failed to file one in electronic format. The statement
19 disclosed a \$50,000 contribution received by the committee and a \$10,000 contribution made by the
20 committee. After receiving contact from the Enforcement Division, Respondents filed the campaign
21 statement in electronic format. The Commission approved a penalty of \$1,000 for this violation.

22 The Committee, Jackson and Perry timely filed two pre-election campaign statements in paper
23 format with SOS and in electronic format with the Alameda ROV but failed to timely file an electronic
24 copy of both with SOS. The pre-election campaign statement for the period ending on April 23, 2016
25 disclosed \$68,617.91 in total contributions received and \$47,876.31 in total expenditures made. The pre-
26 election campaign statement for the period ending on May 21, 2016 disclosed \$26,575.00 in total
27 contributions received and \$25,266.64 in total expenditures made. Unlike in *Democrats United*, however,

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¹⁸ Regulation 18361.5, subd. (d).

1 the Committee, Jackson and Perry timely filed electronic reports with the Alameda ROV, which meant
2 that reports were available electronically in the jurisdiction in which the election was conducted, thereby
3 minimizing public harm. The Committee and Jackson also filed the campaign statements electronically
4 after receiving contact from the Enforcement Division. For these reasons a penalty of \$1,000 is
5 recommended.

6 Counts 2 and 3

7 *In the Matter of California Conservative PAC and John Fugatt*; FPPC No. 15/1301. (The
8 Commission approved a stipulated agreement on August 16, 2018.) Respondents failed to timely file
9 paper and electronic copies of four semi-annual campaign statements and one pre-election campaign
10 statement. However, all late contribution reports from the reporting periods of those campaign statements
11 were timely filed by Respondents. The Commission approved a penalty of \$2,500 each for one count of
12 failing to timely file two semi-annual campaign statements and another count of failing to timely file one
13 pre-election campaign statement.

14 In mitigation, Jackson was a first-time judicial candidate, interviewed and hired a professional
15 treasurer who was recommended to him by local officials, and at all times believed the treasurer was
16 timely and properly filing campaign reports. Upon being informed that certain campaign reports had not
17 been filed, Jackson hired a new treasurer to review all campaign activity and file amended reports. At
18 all times, Jackson has fully cooperated with the FPPC and this investigation.

19 The Committee, Jackson, and Perry failed to timely file two semi-annual and two pre-election
20 campaign statements in paper and electronic format but, like *California Conservative PAC*, timely filed
21 late contribution reports with the Alameda ROV for the relevant reporting periods. For Counts 2 and 3,
22 a penalty of \$2,500 is recommended.

23 In summary, the following penalties are recommended:

Count #	Violation	Penalty Amount
1	Failure to Timely File Pre-Election Campaign Statements Electronically with SOS	\$1,000
2	Failure to Timely File Semi-Annual Campaign Statements	\$2,500
3	Failure to Timely File Pre-Election Campaign Statements	\$2,500
	Total:	\$6,000

1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondents Scott Jackson for Judge 2016, Scott Jackson, and Linda Perry hereby agree as follows:

4 1. The Respondents violated the Act as described in the foregoing pages, which are a true
5 and 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
10 the liability of the Respondents pursuant to Section 83116.

11 4. The Respondent Scott Jackson for Judge 2016 and Scott Jackson have consulted with their
12 attorneys, Tom Willis and Nick Warshaw of Remcho Johansen & Purcell LLP, and understand, and
13 hereby knowingly and voluntarily waive, any and all procedural rights set forth in Sections 83115.5,
14 11503, 11523, and Regulations 18361.1 through 18361.9. The Respondent Linda Perry understands, and
15 hereby knowingly and voluntarily waives, any and all procedural rights set forth in Sections 83115.5,
16 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to the right to
17 appear personally at any administrative hearing held in this matter, to be represented by an attorney at
18 the Respondents’ own expense, to confront and cross-examine all witnesses testifying at the hearing, to
19 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
20 the hearing as a hearing officer, and to have the matter judicially reviewed.

21 5. The Respondents agree to the issuance of the decision and order set forth below. Also, the
22 Respondents agree to the Commission imposing against it an administrative penalty in the amount of
23 \$6,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General
24 Fund of the State of California—is/are submitted with this stipulation as full payment of the
25 administrative penalty described above, and same shall be held by the State of California until the
26 Commission issues its decision and order regarding the matter.

27 6. If the Commission declines to approve this stipulation—then this stipulation shall become
28 null and void, and within fifteen business days after the Commission meeting at which the stipulation is

1 rejected, all payments tendered by the Respondents in connection with this stipulation shall be reimbursed
2 to the Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing
3 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
4 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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9 Dated: _____
10 Galena West, Chief of Enforcement
11 Fair Political Practices Commission

12 Dated: _____
13 Scott Jackson, individually and on behalf of Scott
14 Jackson for Judge 2016

15 Dated: _____
16 Linda Perry, individually and on behalf of Scott
17 Jackson for Judge 2016

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19 The foregoing stipulation of the parties "In the Matter of Scott Jackson for Judge 2016, Scott Jackson,
20 and Linda Perry," FPPC No. 16/19742, is hereby accepted as the final decision and order of the Fair
21 Political Practices Commission, effective upon execution below by the Chair.

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23 IT IS SO ORDERED.

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25 Dated: _____
26 Richard C. Miadich, Chair
27 Fair Political Practices Commission
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