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

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11 In the Matter of:

12 FRIENDS OF SIERRA COLLEGE 2018 –
13 YES ON MEASURE E, AND KRIS
MAPES,

14 Respondents.

FPPC Case No. 18/337

STIPULATION, DECISION AND ORDER

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16 INTRODUCTION

17 Friends of Sierra College 2018 – Yes on Measure E (the “Committee”) was a committee
18 primarily formed to support Sierra Joint Community College District Measure E, which appeared on the
19 ballot in the June 5, 2018 Primary Election. Kris Mapes (“Mapes”) served as the principal officer and
20 treasurer of the Committee. Respondents violated the Political Reform Act (the “Act”)¹ by failing to
21 timely report certain subvendor payments on the Committee’s campaign statements, and failing to meet
22 the Act’s advertising disclosure requirements as to yard signs paid for by the Committee.

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27 ¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the
28 Government Code, unless otherwise indicated. 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 Title 2,
Division 6 of the California Code of Regulations, unless otherwise indicated.

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.

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 For this reason,
8 the 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 Duty to Report Subvendor Payments

15 A subvendor is a person or company that is hired by a committee’s agent or independent
16 contractor to provide a good or service for the committee. The Act requires committees to report
17 payments of \$500 or more made on its behalf by an agent or independent contractor the same way it
18 would if it were making the payment on its own.⁷ Disclosure of the expenditures made by an agent or
19 independent contractor are required to be made at the same time and in the same manner and detail as
20 required for the committee’s direct expenditures.⁸ Specifically, the following information must be
21 provided: (1) the subvendor’s full name; (2) his or her street address; (3) the amount of each
22 expenditure; and (4) a brief description of the consideration for which each expenditure was made.⁹ This
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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 Section 84303.

⁸ Regulation 18431, subd. (c); Section 84211, subd. (k).

⁹ Section 84211, subds. (k)(1)-(4) and (6).

1 information reported by the candidate or committee is commonly referred to as “subvendor
2 information.”

3 Advertisement Disclosure

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

7 Under the Act, any advertisement paid for by a primarily formed committee shall include the
8 words “Paid for by” followed by the name of the committee.¹¹

9 The Act also sets out certain display requirements for these disclosures as displayed on print
10 advertisements. Disclosures on advertisements larger than those designed to be individually distributed,
11 including yard signs, shall be in Arial equivalent type with a total height of at least five percent of the
12 height of the advertisement, and printed on a solid background with sufficient contrast that is easily
13 readable by the average viewer.¹²

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

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

20 **SUMMARY OF THE FACTS**

21 The Committee qualified on April 26, 2017. Measure E was a local bond measure intended to
22 repair and upgrade the Sierra College infrastructure via a parcel tax on residents of the Sierra Joint
23 Community College District. In order to pass, Measure E needed to receive 55 percent of the vote. The
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25 ¹⁰ Section 84501.

26 ¹¹ Section 84502, subd. (a).

27 ¹² Section 84504.2, subd. (b).

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 measure was successful, receiving approximately 55.45 percent of the vote. In 2018, the Committee
2 received a total of \$323,475 in contributions and made a total of \$364,609 in expenditures. The
3 Committee terminated on December 14, 2018.

4 The Committee failed to timely report \$85,155.12 in subvendor payments made during the
5 preelection reporting period of April 22, 2018 to May 19, 2018. The pertinent subvendor payments were
6 made via the Committee's consultant, Gilliard Blanning & Associates. On June 12, 2018, after being
7 contacted by the Enforcement Division, and after the election, the Committee filed an amendment to its
8 preelection campaign statement for the period of April 22, 2018 to May 19, 2018, reporting the missing
9 subvendor payments. The payments included expenditures made to Monaco Group, NCC Media,
10 Political Data Inc., US Postal Service, and Facebook.

11 The Committee also failed to include the appropriate disclosure on a yard sign advertisement it
12 paid for and distributed in advance of the election. The Committee paid for 1,000 copies of a 16" x 24"
13 yard sign that were printed on or around January 30, 2018. Although the Act requires that the necessary
14 advertising disclosures measure five percent the height of the advertisement, the single-line disclosure
15 was approximately two percent of the height of the sign. Further, the disclosure failed to identify the
16 Committee by its correct name. Instead of the correct registered name at the time the advertisements were
17 disseminated, Friends of Sierra College 2018, the sign identified the Committee as "Friends of Sierra
18 College PAC," along with the Committee's identification number.

19 VIOLATIONS

20 Count 1: Failure to Timely Report Subvendor Payments

21 The Committee and Mapes failed to timely report \$85,155.12 in subvendor payments for the
22 preelection reporting period of April 22, 2018 to May 19, 2018, in violation of Sections 84303 and
23 84211, subdivision (k)(6).

24 Count 2: Failure to Comply With Disclosure Requirements for Political Advertisements

25 The Committee and Mapes paid for a yard sign advertisement that failed to print the required
26 disclosure using the correct size, and failed to identify the Committee by its correct name in the
27 disclosure, in violation of Sections 84502 and 84504.2, subdivision (b).

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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 \$10,000.¹⁶

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.¹⁷

11 Respondents do not have a prior history of violating the Act, and the violations contained herein
12 do not appear to be part of a pattern of disregard for the Act. Further, there is no evidence of an intent to
13 conceal, deceive, or mislead the public.

14 Additionally, the Commission considers penalties in prior cases involving similar violations.
15 Comparable cases involving a committee's failure to timely report subvendor payments include the
16 following:

- 17 • *In the Matter of Friends of Livermore, Leland Younker, and David Jonas*; FPPC No. 16/19930.

18 Respondents, a general purpose committee and its principal officer and treasurer, failed to timely report
19 \$62,155.92 in subvendor payments made during four different reporting periods, including preelection
20 periods, in violation of Sections 84303 and 84211, subdivision (k)(6). In January 2019, the Commission
21 approved a penalty of \$1,500 on one count.

22 As to Count 1, a penalty similar to that approved in *Friends of Livermore* is warranted. Although
23 the Committee failed to timely report a higher amount of subvendor payments, the missing payments in
24 the comparable case spanned four different reporting periods, instead of just one. Further, in mitigation,
25 Respondents contend that the violations resulted from a simple software error. The Committee's other
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¹⁶ Section 83116, subd. (c).

¹⁷ Regulation 18361.5, subd. (d).

1 preelection campaign statement, timely filed prior to the election, reported sizeable subvendor payments
2 made via Gilliard Blanning & Associates.

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

5 • *In the Matter of Bluff Cove Homeowners' Association Measure E Opposition Committee, Jennifer*
6 *Hope, and Robert L. Chapman, Jr.*; FPPC No. 18/188. Respondents, a primarily formed ballot measure
7 committee, and its principal officer and treasurer, failed to include the name of the committee or requisite
8 "Paid for by" phrase on five mailer advertisements, in violation of Sections 84502 and 84504.2,
9 subdivision (a). In October 2018, the Commission approved a fine of \$2,000 on one count.

10 As to Count 2, Respondents are deserving of a penalty lower than that approved in the *Bluff Cove*
11 case for several reasons. First, only one advertisement was non-compliant here, as opposed to five.
12 Second, the subject advertisement in this case included some sort of disclaimer – it was simply too small
13 and identified the Committee by the wrong name. Finally, the advertisements at issue in the comparable
14 case appeared to refer to a third party as the sender, elevating the level of public confusion.

15 In aggravation of all counts, Respondents committed additional violations of the Act that are not
16 being charged herein in the interest of settlement. In particular, the Committee failed to timely file an
17 amendment to its statement of organization following its qualification. Although the Committee qualified
18 on April 26, 2017, it did not file an amendment to its statement of organization adding the "qualified by"
19 date until August 3, 2017 (87 days late).

20 In mitigation, Respondents were cooperative at all times during the investigation of this matter.

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

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Count	Violation	Proposed Penalty
1	Failure to Timely Report Subvendor Payments	\$1,500
2	Failure to Comply With Disclosure Requirements for Political Advertisements	\$1,500
	TOTAL:	\$3,000

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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondents, Friends of Sierra College 2018 – Yes on Measure E, and Kris Mapes, hereby agree as
4 follows:

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

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

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

12 4. Respondents have consulted with their attorney, Ashlee Titus of Bell, McAndrews &
13 Hiltachk, LLP, and understand, and hereby knowingly and voluntarily waive, all procedural rights set
14 forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is
15 not limited to, the right to appear personally at any administrative hearing held in this matter, to be
16 represented by an attorney at Respondents’ own expense, to confront and cross-examine all witnesses
17 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
18 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
19 reviewed.

20 5. Respondents agree to the issuance of the decision and order set forth below. Also,
21 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
22 \$3,000. One or more payments totaling this amount, to be paid to the General Fund of the State of
23 California, is/are submitted with this stipulation as full payment of the administrative penalty described
24 above, and they will be held by the State of California until the Commission issues its decision and order
25 regarding this matter.

26 6. If the Commission declines to approve this stipulation—then this stipulation shall become
27 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
28 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to

1 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing
2 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
3 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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

11 Dated: _____
12 Kris Mapes, individually and on behalf of Friends of
13 Sierra College 2018 – Yes on Measure E
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1 The foregoing stipulation of the parties “In the Matter of Friends of Sierra College 2018 – Yes on
2 Measure E, and Kris Mapes,” FPPC Case No. 18/337 is hereby accepted as the final decision and order
3 of the Fair Political Practices Commission, effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: _____
8 Richard C. Miadich, Chair
9 Fair Political Practices Commission