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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

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11 In the Matter of:

12 SANTA MONICANS FOR COUNCIL
TERM LIMITS, YES ON MEASURE TL,
13 AND NANCY COLEMAN,

14 Respondents.

FPPC Case No. 18/200

STIPULATION, DECISION AND ORDER

15
16 **INTRODUCTION**

17 Santa Monicans for Council Term Limits, Yes on Measure TL (the “Committee”) was primarily
18 formed to support Santa Monica Measure TL, which appeared on the ballot in the November 6, 2018
19 General Election. Nancy Coleman (“Coleman”) was the principal officer of the Committee. Respondents
20 violated the Political Reform Act (the “Act”)¹ by failing to include the necessary disclosures on four
21 different advertisements paid for by the Committee.

22 **SUMMARY OF THE LAW**

23 The Act and its regulations are amended from time to time. The violations in this case occurred in
24 2018. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
25 existed at that time.

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

2 When enacting the Act, the people of California found and declared that previous laws regulating
3 political practices suffered from inadequate enforcement by state and local authorities.² To that end, the
4 Act is to be construed liberally to accomplish its purposes.³ Further, the Act provides adequate
5 enforcement mechanisms so that the Act will be “vigorously enforced.”⁴

6 Advertisement Disclosure

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

10 Under the Act, generally, any advertisement paid for by a primarily formed committee shall
11 include the words “Paid for by” followed by the name of the committee.⁶

12 The Act also sets out certain display requirements for these disclosures as displayed on electronic
13 advertisements. Websites must include the above disclosures in a contrasting color and in no less than 8-
14 point font.⁷ Electronic media advertisements that are not websites must include the text “Who funded this
15 ad?” in a contrasting color and a font size that is easily readable that hyperlinks to a website containing
16 the required disclosures in a contrasting color and no less than 8-point font, instead of displaying the
17 required disclosures on the ad itself.⁸ If it is impracticable to print “Who funded this ad?,” then only a
18 hyperlink is necessary.⁹

19 Joint and Several Liability of Committee and Principal Officer

20 It is the duty of the committee’s principal officer to authorize the content of communications
21 made by the committee, authorize expenditures made by the committee, and determine the committee’s
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24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (f).

27 ⁵ Section 84501.

28 ⁶ Section 84502.

⁷ Section 84504.3, subd. (c).

⁸ Section 84504.3, subd. (a).

⁹ Section 84504.3, subd. (b).

1 campaign strategy.¹⁰ A principal officer may be held jointly and severally liable, along with the
2 committee, for violations committed by the committee.¹¹

3 **SUMMARY OF THE FACTS**

4 The Committee qualified and filed its initial statement of organization on February 8, 2018.
5 Measure TL was a ballot measure that sought to amend the city charter to include term limits for
6 members of the City Council. The measure was successful, receiving approximately 74 percent of the
7 vote in its favor. The Committee received contributions and made expenditures totaling \$119,692.49
8 each in 2018. The Committee terminated on December 17, 2018.

9 The Committee purchased advertising in 2018 promoting the petition to qualify the ballot
10 measure. On or about March 21, 2018, the Committee self-reported its failure to print the proper
11 disclosures on one newspaper and two electronic advertisements, thereby initiating this enforcement
12 action.

13 The newspaper ad, which appeared in the Santa Monica Press beginning on March 12, 2018,
14 failed to print the required “Paid for by” phrase and committee name, although it did include the address
15 of the Committee’s website, SantaMonicaTransparency.org. On or around March 21, 2018, the
16 Committee corrected the disclosures on the advertisement to bring it into compliance.

17 The electronic media advertisements, banner-style ads that appeared on the website of the Santa
18 Monica Lookout, ran between March 15, 2018 and April 30, 2018. One of the advertisements failed to
19 include the required “Who funded this ad?” hyperlink. On or around March 21, 2018, the Committee
20 updated the ad to include the disclosure “Paid for by” and the name of the Committee on the ad itself;
21 however, the required hyperlink remained missing. The second electronic advertisement failed to include
22 the required “Who funded this ad?” hyperlink, although it did include the “Paid for by” and committee
23 name disclosure on the ad itself. Both electronic advertisements provided the address of the Committee’s
24 website.

25 In addition to the advertisements self-reported by the Committee, the Committee failed to print
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27 ¹⁰ Section 82047.6; Regulation 18402.1, subd. (b).

28 ¹¹ Sections 83116.5 and 91006.

1 the required disclosures on one additional advertisement. The Committee’s website, located at
2 SantaMonicaTransparency.org, failed to include the necessary “Paid for by” and committee name
3 disclosures on the advertisement, at least between August 1, 2016 and August 16, 2018. Further, not only
4 did the website fail to identify the Committee as the responsible person, but the website, instead,
5 appeared to be created by a group called the Santa Monica Transparency Project, which is not a
6 registered political committee.

7 **VIOLATIONS**

8 Count 1: Failure to Comply with Disclosure Requirements for Advertisements

9 The Committee and Coleman paid for one print and three electronic media advertisements that
10 failed to include the necessary advertising disclosures, in violation of Sections 84502 and 84504.3.

11 **PROPOSED PENALTY**

12 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
13 count. Thus, the maximum penalty that may be imposed is \$5,000.¹²

14 In determining the appropriate penalty for a particular violation of the Act, the Commission
15 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
16 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
17 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
18 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
19 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
20 record of violations.¹³

21 Respondents do not have a prior history of violating the Act, and the violations contained herein
22 do not appear to be part of a pattern of disregard for the Act. Further, there is no evidence of an intent to
23 conceal, deceive, or mislead the public. In fact, upon discovery of their non-conforming advertisements,
24 Respondents self-reported the violations to the Enforcement Division. In addition, the Committee
25 reported expenditures related to the advertisements on its campaign statements; therefore, the public had
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¹² Section 83116, subd. (c).

28 ¹³ Regulation 18361.5, subd. (d).

1 some information regarding the advertising activity. However, in contrast, the seriousness of the
2 violations is high since some of the advertisements contained no disclosure whatsoever (with the
3 exception of a website), thereby completely depriving the viewer of the identity of the responsible party.

4 Additionally, the Commission considers penalties in prior cases involving similar violations.
5 Comparable cases in which a penalty was charged for failure to comply with disclosure requirements for
6 political advertisements including the following:

7 • *In the Matter of Preserve Tracy / “No on Measure M” and Dana Richards*; FPPC No. 18/1104.
8 Respondents, a primarily formed ballot measure committee and its treasurer, failed to include the proper
9 disclosures on two yard sign and one website advertisement, in violation of Sections 84502, 84504.2,
10 subdivision (b), and 84107. The committee paid for one yard sign ad that failed to include the necessary
11 “Paid for by” or committee name disclosures. Respondents quickly modified the sign by adding
12 corrective stickers; however, the added disclosure was too small and did not print the full name of the
13 committee. The committee paid for a second yard sign advertisement that failed to print the full name of
14 the committee. Finally, the committee maintained a website that failed to include the required “Paid for
15 by” phrase. In February 2019, the Commission approved a fine of \$2,500 on one count.

16 As to Count 1, Respondents are deserving of a penalty similar to that approved in the *Preserve*
17 *Tracy* case. Here, the violations are aggravated by the fact that multiple advertisements failed to include
18 the required disclosures. Further, not only did the Committee’s website fail to display the required
19 disclosures, the website also referred to a person other than the true responsible party, creating an
20 elevated level of public confusion. However, in mitigation, the Committee self-reported three of its non-
21 confirming advertisements and, like in *Preserve Tracy*, corrected certain of the ads.

22 The Committee also failed to meet the disclosure requirements as to one additional newspaper
23 advertisement. In particular, a newspaper ad placed in the Santa Monica Mirror failed to print the
24 required disclosure on a solid white background and in a printed or drawn box, as required under Section
25 84504.2, subdivision (a)(1). However, given the de minimis nature of the violation, this violation is not
26 charged herein, in the interest of settlement.

27 Based on the foregoing, a penalty in the amount of \$2,500 is recommended.

1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondents, Santa Monicans for Council Term Limits, Yes on Measure TL, and Nancy Coleman,
4 hereby agree as 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 understand, and hereby knowingly and voluntarily waive, any and all
13 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
14 This includes, but is not limited to, the right to appear personally at any administrative hearing held in
15 this matter, to be represented by an attorney at Respondents’ own expense, to confront and cross-examine
16 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
17 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
18 reviewed.

19 5. Respondents agree to the issuance of the decision and order set forth below. Also,
20 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
21 \$2,500. One or more payments totaling this amount, to be paid to the General Fund of the State of
22 California, is/are submitted with this stipulation as full payment of the administrative penalty described
23 above, and they will be held by the State of California until the Commission issues its decision and order
24 regarding this matter.

25 6. If the Commission declines to approve this stipulation—then this stipulation shall become
26 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
27 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to
28 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing

1 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
2 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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

10 Dated: _____
11 Nancy Coleman, individually and on behalf of Santa
12 Monica for Council Term Limits, Yes on Measure TL

1 The foregoing stipulation of the parties “In the Matter of Santa Monicans for Council Term Limits, Yes
2 on Measure TL, and Nancy Coleman,” FPPC Case No. 18/200 is hereby accepted as the final decision
3 and order 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
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