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8
9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

10
11 In the Matter of:

12 SANTA MONICA FORWARD ISSUES
COMMITTEE – NO on LV and DEBBIE
13 MULVANEY.

14 Respondents.

FPPC Case No. 17/01441

STIPULATION, DECISION AND ORDER

15
16 **INTRODUCTION**

17 Respondent Santa Monica Forward Issues Committee – No on LV (“Committee”) was a primarily
18 formed ballot measure committee, which qualified on June 17, 2016. The Committee was formed to oppose
19 the local ballot measure, Residocracy Land Use Voter Empowerment Initiative: LV, also known as
20 Measure LV in the city of Santa Monica. Debbie Mulvaney (“Mulvaney”) serves as treasurer. The
21 Committee and Mulvaney violated the Political Reform Act (the “Act”)¹ by failing to provide sufficient
22 notice to many potential major donor committees.

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28 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 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 **Notification to Major Donors**

12 Under the Act, a major donor committee is defined as any person or combination of persons who
13 directly or indirectly makes contributions totaling \$10,000 or more in a calendar year to or at the behest
14 of candidates or committees.⁷ Such committees, commonly referred to as major donor committees, must
15 file campaign statements each year no later than July 31 for the period ending June 30, and no later than
16 January 31 for the period ending December 31, if the committees have made qualifying contributions
17 during those reporting periods.⁸

18 A candidate or committee that receives contributions of \$5,000 or more from any person shall
19 inform the contributor within two weeks of receipt of the contributions that he or she may be required to
20 file campaign reports. If a committee receives \$10,000 or more from a single source during any period in
21 which 24-hour reports are required, the committee must inform the contributor within one week of receipt
22 of the contributions that the source may be required to file campaign reports.⁹ The potential major donor
23 notice must include specific language provided in Regulation 18427.1. The notice is not required if notice
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26 ² Section 81001, subdivision (h).

³ Section 81003.

⁴ Section 81002, subdivision (a).

⁵ Sections 84200, *et seq.*

⁶ Section 81002, subdivision (f).

⁷ Section 82013, subd. (c).

⁸ Section 84200, subd. (b).

⁹ Section 84105.

1 has previously been sent to the contributor in the same calendar year, or if the contributor has been issued
2 a recipient ID number from the Secretary of State.

3 **Joint and Several Liability of Committee, Candidate, and Treasurer**

4 It is the duty of a committee treasurer and the candidate to ensure that the committee complies with
5 the Act’s campaign reporting.¹⁰ A treasurer and candidate may be held jointly and severally liable with the
6 committee for violations committed by the committee.¹¹

7 **SUMMARY OF THE FACTS**

8 This case was opened pursuant to a sworn complaint against the Committee alleging that the
9 Committee’s major donors failed to timely file campaign disclosure statements. Upon investigating this
10 matter, the Enforcement Division determined that the Committee had failed to send major donor notices
11 as required by the Act.

12 The Committee qualified as a recipient committee on June 17, 2016. The Committee filed their
13 initial statement of organization on May 15, 2016, as Santa Monica Forward Issues Committee. The
14 Committee amended their statement of organization to reflect the name of the ballot measure that they
15 were opposing and to indicate their qualification date. The relevant ballot measure was Measure LV, which
16 was to be voted upon in the November 8, 2016 General Election. The Committee reporting receiving about
17 \$762,054 in contributions and reported making about \$743,970 in expenditures between January 1, 2016
18 and December 31, 2016. The Committee and Mulvaney timely filed campaign disclosures statements and
19 has since terminated.

20 The Committee and Mulvaney failed to provide sufficient written notice to many potential major
21 donor committees as required by the Act. The Committee and Mulvaney were required to notify 39
22 potential major donors, those who contributed \$5,000 or more in a calendar year, that they may have had
23 filing obligations. These 39 potential major donors contributed a total of \$663,340 to the Committee. The
24 Committee provided evidence of notifying 9 of the 39 potential major donor committees of their filing
25 obligations, failing to provide evidence of notifying 30 potential major donor committees who contributed
26 a total of \$468,340 to the Committee.

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¹⁰ Sections 81004, 84100, 84104, and Regulation 18427.

¹¹ Sections 83116.5 and 91006.

1 Of the 39 potential major donor committees who the Committee and Mulvaney were required to
2 provide notice to, 26 qualified as major donor committees (those who contribute \$10,000 or more in a
3 calendar year) and were required to file 24-hour late contribution reports and semiannual campaign
4 statements. The Committee provided evidence of notifying 6 of the qualifying major donor committees.
5 The Committee and Mulvaney failed to notify 20 of the qualifying major donor committees of their filing
6 obligations. These 20 qualifying major donor committees contributed \$339,500 to the Committee. Of these
7 20 qualifying major donor committees, 3 did not file campaign disclosure statements and an additional 7
8 major donors who did not receive a major donor notice filed contribution reports after the deadline, from
9 eleven months to nearly two years late.

10 VIOLATIONS

11 **Count 1: Failure to Provide Sufficient Notice to Potential Major Donors**

12 The Committee and Mulvaney failed to provide sufficient notice to 30 potential major donor
13 committees that contributed a total of \$468,340, in violation of Section 84105 and Regulation 18427.1.

14 PROPOSED PENALTY

15 This matter consists of one count. The maximum penalty that may be imposed is \$5,000.¹²

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

22 The actions of the Committee and Mulvaney appear to be negligent, as opposed to intentional or
23 with an intent to conceal. The Committee and Mulvaney do not have a prior record of violations. The major
24 donor notice provision was added to the Act to increase compliance with major donor reporting provisions.
25 When a candidate or recipient committee fails to notify a potential major donor of the pertinent filing
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28 ¹² See Section 83116, subdivision (c).

¹³ Regulation 18361.5, subdivision (d).

1 requirements, the harm is that the public is potentially deprived of important, time-sensitive information
2 regarding large political contributions from single sources.

3 In determining a penalty, the Commission considers penalties in prior cases with comparable
4 violations. A comparable case in which a penalty was charged for failure to provide sufficient notice to
5 potential major donors is *In the Matter of Roger Aceves for Supervisor 2014, Roger S. Aceves, and Tony*
6 *Vallejo*, FPPC Case No. 17/145. (The Commission approved a stipulated decision in June 2018.) Similar
7 to the facts in this case, the Aceves committee was required to provide sufficient notice to 21 potential
8 major donors, 10 of which qualified as major donor committees with filing obligations. The 21 potential
9 major donors' contributions totaled \$208,320, and the 10 qualifying major donor committees' contributions
10 totaled \$151,500. None of the 10 qualifying major donor committees filed as major donors in the
11 appropriate year. Based on the number of contributors who the Aceves committee failed to notify and the
12 amount of contributions that were not reported, the Commission imposed one count of violating the duty
13 to provide sufficient notice to potential major donor committees for a penalty of \$2,000.

14 Here, the Committee failed to provide notice to 30 potential major donors, as opposed to 21. In
15 addition, the total contributions were much higher in this case, over \$400,000 received from potential major
16 donors, compared to \$200,000. Therefore, a higher penalty is justified.

17 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases, a
18 penalty of \$3,000 is recommended.

19 CONCLUSION

20 Complainant, the Enforcement Division of the Fair Political Practices Commission, and Santa
21 Monica Forward Issues Committee – No on LV and Debbie Mulvaney hereby agree as follows:

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

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

8 5. Respondents agree to the issuance of the decision and order set forth below. Also,
9 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
10 \$3,000. One or more payments totaling said amount—to be paid to the General Fund of the State of
11 California—is/are submitted with this stipulation as full payment of the administrative penalty described
12 above, and same shall be held by the State of California until the Commission issues its decision and order
13 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 Respondents in connection with this stipulation shall be reimbursed to
17 Respondents. 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.

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

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24 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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27 Dated: _____

Debbie Mulvaney, individually and on behalf of Santa
Monica Forward Issues Committee – No on LV

1 The foregoing stipulation of the parties “In the on Matter of Santa Monica Forward Issues
2 Committee – No on LV and Debbie Mulvaney,” FPPC Case No. 17/01441 is hereby accepted as the final
3 decision 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: _____

_____ Richard C. Miadich, Chair
Fair Political Practices Commission
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