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8
9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 17/1449

12 **SCOTT SCHONFELD,**

STIPULATION, DECISION AND ORDER

13
14 Respondent.

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16 **INTRODUCTION**

17 On August 8, 2016, Respondent, Scott Schonfeld (“Schonfeld”), made a \$49,000 contribution to
18 a city general purpose committee, Santa Monica Forward Issues Committee (the “Issues Committee”)
19 (ID#1385604). Due to this contribution, Schonfeld qualified as a major donor committee.

20 The Political Reform Act (the “Act”)¹ requires major donor committees to file certain campaign
21 statements depending on its campaign activity. Schonfeld violated the Act by failing to timely file a
22 semi-annual major donor campaign statement and 24-hour contribution report.

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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 The Act and its regulations are amended from time to time. The violations in this case occurred
3 in 2016. For this reason, all legal references and discussions of law pertain to the Act’s provisions as
4 they 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 Thus, it was
8 decreed the Act “should be liberally construed to accomplish its purposes.³ A central purpose of the Act
9 is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully
10 and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ Another
11 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously
12 enforced.”⁵

13 **Committee**

14 “Committee” means any person who directly or indirectly makes contributions totaling \$10,000
15 or more in a calendar year to or at the behest of candidates or committees.⁶ This type of committee is
16 generally referred to as a major donor committee.

17 **Contribution**

18 “Contribution” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or
19 an enforceable promise to make a payment except to the extent that full and adequate consideration is
20 received.⁷ A payment made at the behest of a committee is a contribution to the committee unless full
21 and adequate consideration is received from the committee for making the payment.⁸

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26 ² Section 81001, subdivision (h).
27 ³ Section 81003.
28 ⁴ Section 81002, subdivision (a).
⁵ Section 81002, subdivision (f).
⁶ Section 82013, subdivision (c).
⁷ Section 82015, subdivision (a).
⁸ Section 82015, subdivision (b)(1).

1 **Semi-Annual Campaign Statements**

2 The Act requires a major donor committee to file semi-annual campaign statements disclosing its
3 campaign contributions and expenditures. A major donor committee must file a semi-annual
4 campaign statement by January 31 for the period ending December 31, and by July 31 for the period
5 ending June 30, if they have made contributions during the six-month period before the closing date of
6 the statements.⁹

7 **Notification to Contributors**

8 A committee that receives a contribution of \$5,000 or more from any person shall inform the
9 contributor within two weeks of receipt of the contributions that he or she may be required to file
10 campaign reports.¹⁰ The notice is not required if notice has previously been sent in the same calendar
11 year.¹¹

12 **24-Hour Contribution Reports**

13 A “late contribution” means a contribution that totals in the aggregate \$1,000 or more and is
14 made to or received by a committee formed or existing primarily to support or oppose a candidate
15 during the 90-day period preceding the date of the election at which the candidate is to be voted on.¹²
16 Each committee that makes or receives a late contribution shall report the late contribution within 24
17 hours of the time it is made.¹³ For the November 8, 2016 election, the 90-day period began on August
18 10, 2016.

19 In the case of a late contribution that is an in-kind or non-monetary contribution, the normal 24-
20 hour reporting deadline is extended to 48 hours, but only with respect to reporting *receipt* of the
21 contribution; reporting the *making* of such a contribution is subject to the normal 24-hour deadline.¹⁴

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26 ⁹ Section 84200, subdivision (b).

27 ¹⁰ Section 84105.

28 ¹¹ Regulation 18427.1, subdivision (d)(1).

¹² Section 82036, subdivision (a).

¹³ Section 84203, subdivision (a).

¹⁴ Sections 84203, subdivisions (a) and (b), and 84203.3, subdivision (b).

1 **Joint and Several Liability of Committee and Treasurer**

2 It is the duty of a committee treasurer to ensure the committee complies with the Act.¹⁵ A
3 treasurer may be held jointly and severally liable, along with the committee, for violations committed by
4 the committee.¹⁶

5 **Liability for Violations**

6 Any person who violates any provision of the Act, who purposely or negligently causes any
7 other person to violate any provision of the Act, or who aids and abets any other person in the violation
8 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.¹⁷

9 **SUMMARY OF THE FACTS**

10 This case was opened in response to a sworn complaint alleging the Issues Committee had major
11 donor committees who failed to file required campaign statements. Major donor committees are required
12 to file campaign statements as follows:

Statement Type	Reporting Period	Due Date
Semi-annual	07/01/2016 – 12/31/2016	01/31/2017
24-hour report	08/10/2016 – 11/08/2016	Within 24 hours

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17 **Failure to Timely File Semi-Annual Campaign Statement**

18 Between July 1, 2016 and December 31, 2016, Schonfeld made two contributions. The first
19 contribution, made on August 8, 2016, was a monetary contribution to the Issues Committee for
20 \$49,000. The second contribution, made on November 2, 2016, was a non-monetary contribution to the
21 Santa Monica Forward Supporting Terry O’Day, Gleam Davis, Ted Winterer and Tony Vazquez for
22 City Council 2016 committee (the “SMF Committee”) (ID# 1390043) for t-shirts valued at \$2,278.50.
23 These contributions triggered Schonfeld’s filing obligations and required him to file a semi-annual
24 campaign statement for the reporting period of July 1, 2016 through December 31, 2016, due by January
25 31, 2017.

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28 ¹⁵ Sections 81004, 84100, and Regulation 18427.

¹⁶ Sections 83116. 5 and 91006.

¹⁷ Sections 83116 and 83116. 5.

1 Schonfeld contends he was actively involved in the Issues Committee campaign and worked
2 with other major donors and the campaign attorney to create and draft the major donor notification
3 memorandum. Also, Schonfeld contends that it was his understanding the campaign attorney for the
4 Issues Committee would complete the required campaign statements for Schonfeld.

5 On January 10, 2019, after receiving contact from the Enforcement Division, Schonfeld filed the
6 outstanding semi-annual campaign statement with the Santa Monica City Clerk. Schonfeld properly
7 reported his contributions for the correct reporting period.

8 Both the Issues Committee and the SMF Committee properly reported the contributions they
9 received from Schonfeld on semi-annual campaign statements timely filed after the election. Also, the
10 Issues Committee properly reported the contribution from Schonfeld on its pre-election campaign
11 statement timely filed prior to the election.

12 **Failure to Timely File 24-Hour Contribution Report**

13 On November 2, 2016, six days before the election, Schonfeld made a non-monetary
14 contribution to the SMF Committee in the amount of \$2,278.50 for the production of t-shirts. Schonfeld
15 did not file a 24-hour contribution report for this non-monetary contribution. The SMF Committee
16 timely filed a 24-hour contribution report on November 3, 2016, properly reporting the contribution
17 received from Schonfeld.

18 **VIOLATIONS**

19 **Count 1: Failure to Timely File Semi-Annual Campaign Statement**

20 Schonfeld failed to timely file a semi-annual campaign statement for the reporting period of July
21 1, 2016 through December 31, 2016, in violation of Government Code Section 84200, subdivision (b).

22 **Count 2: Failure to Timely File 24-Hour Contribution Report**

23 Schonfeld failed to file a 24-hour contribution report for a non-monetary contribution made, in
24 violation of Government Code Section 84203.

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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 here is \$10,000.¹⁸

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. Further, 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.¹⁹

11 A central purpose of the Act is to ensure receipts and expenditures in election campaigns are
12 fully and truthfully disclosed. The seriousness of the violation is increased when disclosure is not
13 completed prior to the election. Schonfeld did not provide disclosure of his campaign activity prior to
14 the election. Although, the recipient committees disclosed to the public Schonfeld’s contributions prior
15 to the election. In this case, the evidence supports there was no intent to conceal, deceive or mislead the
16 public as Schonfeld contends he believed the committees had the responsibility of filing any campaign
17 statements required for his contributions. The violations at issue here do not appear to be deliberate, as
18 Schonfeld was not sophisticated with the Act. As soon as Schonfeld received contact from the
19 Enforcement Division he complied with the Act’s requirements and filed the outstanding semi-annual
20 campaign statement. The violations committed here were isolated incidents as Schonfeld has not had
21 prior enforcement history.

22 The Commission considers penalties in prior cases with the same or similar violations and
23 comparable facts.

24 *In the Matter of KCRW Foundation*; FPPC Case No. 18/352. Respondent, an organization that
25 provides financial support and resources for the local public radio station, KCRW, failed to timely file a
26 semi-annual campaign statement. Respondent had made a \$125,000 contribution to a recipient
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28 ¹⁸ Section 83116, subdivision (c).

¹⁹ Regulation 18361. 5, subdivision (d).

1 committee, Campaign for Safety & Modernization at Santa Monica College. As a result of the
2 contribution, Respondent qualified as a major donor committee and was required to file a semi-annual
3 campaign statement. The statement was filed on July 23, 2018, almost two years late and after receiving
4 contact from the Enforcement Division. On November 15, 2018, the Commission approved a penalty of
5 \$2,500.

6 *In the Matter of Burbank Hospitality Association*; FPPC Case No. 18/113. Respondent, a non-
7 profit corporation created to administer funds generated by a tax on hotel stays in Burbank, failed to
8 timely file a semi-annual campaign statement (Count 1) and failed to timely file a 24-hour contribution
9 report (Count 2). Respondent had made a \$50,000 contribution to a ballot measure committee,
10 Committee for Yes on Measure B, within the 90-day period prior to the election. As a result of the
11 contribution, Respondent qualified as a major donor committee and was required to file a semi-annual
12 campaign statement and 24-hour contribution report. On June 21, 2018, the Commission approved a
13 total penalty of \$5,000; \$2,500 for Count 1; \$2,500 for Count 2.

14 As to Count 1, regarding semi-annual campaign statements, a similar penalty than that approved
15 in the *KCRW* and *Burbank* case is recommended. Like *KCRW* and *Burbank*, Schonfeld qualified as a
16 major donor committee after he contributed \$49,000 to a city general purpose committee and failed to
17 file the required semi-annual campaign statement. Also, like *KCRW*, Schonfeld filed the statement on
18 January 10, 2019, almost two years late and after receiving contact from the Enforcement Division. In
19 mitigation, both of Schonfeld's contributions were reported on the receiving committees timely filed
20 semi-annual campaign statements. Additionally, the contribution to the SMF Committee was reported on
21 a 24-hour report filed by the SMF Committee prior to the election. Therefore, a penalty of \$2,500 is
22 recommended.

23 As to Count 2, regarding 24-hour contribution reports, a lesser penalty than that approved in the
24 *Burbank* case is recommended. Like *Burbank*, Schonfeld made an in-kind contribution to a primarily
25 formed candidate committee, within the 90-day period prior to the election and failed to file the required
26 24-hour contribution report. In mitigation, Schonfeld's contribution was approximately 22 times smaller
27 than the contribution in *Burbank*. Further, Schonfeld's contribution was reported prior to the election on

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1 a 24-hour contribution report timely filed by the SMF Committee. Therefore, a penalty of \$1,000 is
2 recommended.

3 Lastly, in mitigation to both counts, Schonfeld is an individual, acting alone to make
4 contributions unlike the Respondents in *KCRW* and *Burbank* who were both established organizations
5 making contributions. In aggravation to both counts, Schonfeld was aware of his filing obligations as
6 Schonfeld participated in drafting the major donor notification memorandum.

7 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
8 in the amount of \$3,500 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Failure to Timely File Semi-Annual Campaign Statement	\$2,500
2	Failure to Timely File 24-Hour Contribution Report	\$1,000
	TOTAL	\$3,500

13 CONCLUSION

14 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
15 Respondent Scott Schonfeld hereby agrees as follows:

16 1. Respondent violated the Act as described in the foregoing pages, which are a true and accurate
17 summary of the facts in this matter.

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

20 3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose
21 of reaching a final disposition without the necessity of holding an administrative hearing to
22 determine the liability of Respondent pursuant to Section 83116.

23 4. Respondent understands, and hereby knowingly and voluntarily waives, any and all
24 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through
25 18361.9. This includes, but is not limited to the right to appear personally at any administrative
26 hearing held in this matter, to be represented by an attorney at Respondent’s own expense, to
27 confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to

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1 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a
2 hearing officer, and to have the matter judicially reviewed.

3 5. Respondent agrees to the issuance of the decision and orders set forth below. Also,
4 Respondent agrees to the Commission imposing against him an administrative penalty in the
5 amount of \$3,500. One or more cashier's checks or money orders totaling said amount – to be
6 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
7 payment of the administrative penalty described above, and same shall be held by the State of
8 California until the Commission issues its decision and order regarding this matter.

9 6. If the Commission refuses to approve this stipulation – then this stipulation shall become
10 null and void, and within fifteen business days after the Commission meeting at which the
11 stipulation is rejected, all payments tendered by Respondent in connection with this stipulation
12 shall be reimbursed to Respondent. If this stipulation is not approved by the Commission, and if
13 a full evidentiary hearing before the Commission becomes necessary, neither any member of the
14 Commission, nor the Executive Director, shall be disqualified because of prior consideration of
15 this stipulation.

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

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20 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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23 Dated: _____

Scott Schonfeld, Respondent

1 The foregoing stipulation of the parties “In the Matter of Scott Schonfeld,” FPPC Case No.
2 17/1449, is hereby accepted as the final decision and order of the Fair Political Practices Commission,
3 effective upon execution 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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