

1 GALENA WEST
Chief of Enforcement
2 ANGELA J. BRERETON
Assistant Chief Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
1102 Q Street, Suite 3000
4 Sacramento, CA 95811
Telephone: (916) 322-5771
5 Email: abrereton@fppc.ca.gov

6 Attorneys for Complainant
Enforcement Division of the Fair Political Practices Commission
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8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**
10

11 In the Matter of

FPPC Case No. 17/846

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13 POLITICAL ACTION BY PEST
CONTROL OPERATORS (ID#790454),
14 and WAYNE L. ORDOS,

STIPULATION, DECISION AND ORDER

15
16 Respondents.

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18 **INTRODUCTION**

19 Respondent Political Action by Pest Control Operators (ID#790454) (the Committee) is a general
20 purpose committee sponsored by Pest Control Operators of California (PCOC). Wayne L. Ordos has been
21 the Committee’s treasurer since 2008. The Committee has been open and active since 1979.

22 This case arose from a Franchise Tax Board (“FTB”) audit of the Committee. The FTB audit
23 report covered the audit period of January 1, 2013 through December 31, 2014. During the audit period,
24 the Committee reported receiving contributions of approximately \$100,765 and making expenditures of
25 approximately \$117,547.

26 Additionally, the Enforcement Division reviewed the Committee’s campaign statements and
27 campaign records for January 1, 2015 through December 31, 2017. During this time frame, the

1 Committee reported receiving contributions of approximately \$235,123 and making expenditures of
2 approximately \$224,932.

3 Under the Political Reform Act (the “Act”)¹, the Committee and Ordos had a duty to timely
4 disclose required information regarding contributions and expenditures, and to properly maintain
5 campaign records. In this matter, the Committee and Ordos failed to properly disclose all contributions
6 received and expenditures made during reporting periods in 2014 and 2015, and failed to properly
7 maintain campaign records.

8 SUMMARY OF THE LAW

9 All legal references and discussions of the law refer to the Act’s provisions as they existed at the
10 time of the stated violations.

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

12 When enacting the Political Reform Act, the people of the state of California found and declared
13 that previous laws regulating political practices suffered from inadequate enforcement by state and local
14 authorities.² To that end, the Act must be liberally construed to achieve its purposes.³

15 There are many purposes of the Act. One purpose is to ensure that receipts and expenditures in
16 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
17 practices are inhibited.⁴ To achieve this purpose, the Act includes a comprehensive campaign reporting
18 system.⁵ Another purpose is to provide adequate enforcement mechanisms so that the Act will be
19 “vigorously enforced.”⁶

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24 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
25 are to this code. The regulations of the Fair Political Practices Commission are contained in §§ 18110 through 18997 of Title
2 of the California Code of Regulations, and all regulatory references are to this source.

26 ² § 81001, subd. (h).

27 ³ § 81003.

28 ⁴ § 81002, subd. (a).

⁵ §§ 84200, *et seq.*

⁶ § 81002, subd. (f).

1 **Duty to File Campaign Statements**

2 The Act requires general purpose committees to file campaign statements at specific times
3 disclosing information regarding contributions received and expenditures made by the campaign
4 committees.⁷

5 **Duty to File Semi-Annual Campaign Statements**

6 A general purpose committee must file two semi-annual campaign statements each year no later
7 than July 31 for the period ending June 30 and no later than January 31 for the period ending December
8 31.⁸ When the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for such
9 a statement is extended to the next regular business day.⁹ All filing obligations continue until the recipient
10 committee is terminated by filing a statement of termination with the SOS and a copy with the local filing
11 officer receiving the committee's original campaign statements.¹⁰

12 **Required Reporting on Campaign Statements: Contributions**

13 A contribution is a payment made for political purposes.¹¹ Committees must provide information
14 regarding the amounts and sources of campaign contributions on campaign statements. Specifically, the
15 Act requires committees to disclose the total amount of contributions received during the period covered
16 by the statement.¹² Committees must disclose the total amount of contributions received from persons
17 who have given \$100 or more during the period covered by the statement.¹³ For contributors of \$100 or
18 more, committees must disclose the following: (1) the contributor's full name; (2) the contributor's street
19 address; (3) the contributor's occupation; (4) the name of the contributor's employer, or if self-
20 employed, the name of the contributor's business; (5) the date and amount of each contribution received
21 from the contributor during the reporting period; and (6) the cumulative amount of contributions
22 received from the contributor.¹⁴

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24 ⁷ See § 84200, et seq.

25 ⁸ § 84200, subd. (a).

26 ⁹ Reg. 18116.

27 ¹⁰ § 84214; Reg. 18404.

28 ¹¹ § 82015.

¹² § 84211, subd. (a).

¹³ § 84211, subd. (c).

¹⁴ § 84211, subd. (f).

1 Committees must also disclose the total amount of contributions received during the period
2 covered by the campaign statement from persons who have given a cumulative amount of less than
3 \$100.¹⁵

4 **Required Reporting on Campaign Statements: Expenditures**

5 An expenditure is any payment, unless it is clear from the surrounding circumstances that it is
6 not made for political purposes.¹⁶ Committees must disclose the total amount of expenditures made
7 during the period covered by the statement.¹⁷ Committees must also disclose the total amount of
8 expenditures made to persons who have received \$100 or more, and separately, the total amount of
9 expenditures made to persons who have received less than \$100, during the period covered by the
10 statement.¹⁸ For expenditures of \$100 or more, committees must disclose the following: (1) the
11 recipient's full name; (2) the recipient's street address; (3) the amount of each expenditure; (4) the
12 description of the consideration for which each expenditure was made.¹⁹

13 **Duty to Maintain Campaign Records**

14 To ensure accurate campaign reporting, the Act imposes a mandatory duty on each candidate,
15 treasurer, principal officer, and elected officer to maintain detailed accounts, records, bills, and receipts
16 necessary to prepare campaign statements, to establish that campaign statements were properly filed, and
17 to comply with the campaign provisions.²⁰ This requirement includes a duty to maintain detailed
18 information and original source documentation for all contributions and expenditures.²¹

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

20 Every committee must have a treasurer.²² It is the duty of a committee's treasurer to ensure that
21 the committee complies with all of the requirements of the Act concerning the receipt and expenditure of
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24 ¹⁵ § 84211, subd. (d).

¹⁶ § 82025.

¹⁷ § 84211, subd. (b).

¹⁸ § 84211, subd. (i) and (j).

¹⁹ § 84211, subd (k).

²⁰ § 84104.

²¹ Reg. 18401.

²² § 84100.

1 funds and the reporting of such funds.²³ A committee's treasurer may be held jointly and severally liable
2 with the committee for violations committed by the committee.²⁴

3 **Liability for Violations**

4 Any person who violates any provision of the Act, who purposely or negligently causes any other
5 person to violate any provision of the Act, or who aids and abets any other person in the violation of any
6 provision of the Act, is liable for administrative penalties up to \$5,000 per violation.²⁵

7 **SUMMARY OF THE FACTS**

8 **Committee Fundraisers – Recordkeeping and Reporting**

9 FTB's audit found, and the Enforcement Division confirmed, that the Committee and Ordos did
10 not comply with the Act's recordkeeping requirements during the audit period.

11 In 2014 and 2015, PCOC member districts held fundraisers to generate funds for the Committee.
12 Fundraisers included golf tournaments, a fishing trip, and tickets to a professional sporting events such
13 as an ice hockey match of the Los Angeles Kings and a minor league baseball game for the Inland Empire
14 66ers. The districts were reported on the Committee's campaign statements. The districts were the
15 intermediaries for the funds collected for the fundraisers, but campaign records were not properly
16 maintained to identify the persons who contributed the funds collected. The evidence showed that the
17 Committee received the following contributions related to fundraisers:

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| 2014 | | | | |
|------------|--------------------------------|------------------------|---------------------|----------------|
| Date | Event | Intermediary Reported | Records Maintained? | Total Received |
| 10/7/2014 | Tri-District Golf Tournament | PCOC Tri-District Golf | No | \$7,000.00 |
| 12/11/2014 | Golf Tournament (Palm Springs) | PCOC | No | \$4,006.25 |
| 2014 Total | | | | \$11,006.25 |

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26 ²³ § 84104 and Reg. 18427, subd. (a).

27 ²⁴ §§ 83116.5 and 91006.

28 ²⁵ §§ 83116 and 83116. 5.

| 2015 | | | | |
|-------------------|--------------------------|--|---------------------|-------------------|
| Date | Event | Intermediary Reported | Records Maintained? | Total Received |
| 4/20/2015 | Fishing Trip | San Gabriel Valley District | No | \$1,000.00 |
| 4/20/2015 | Los Angeles Kings Match | San Gabriel Valley District | No | \$750.00 |
| 12/22/2015 | Golf Tournament | PCOC San Diego District | No | \$4,725.00 |
| 12/22/2015 | Inland Empire 66ers Game | PCOC San Bernardino/ Riverside District | No | \$437.50 |
| 2015 Total | | | | \$6,912.50 |

Additionally, campaign records were not maintained for expenses related to these fundraisers. After a fundraiser was held, the district members sent a check to Ordos net of expenses and did not maintain any records of the individual contributors or of the expenditures made to host the fundraisers. Because campaign records for the contributions and expenditures related to these fundraisers were not maintained by the districts, and after repeated requests for this information by Ordos without response, the Committee and Ordos could not accurately and completely report the Committee's campaign activity related to these fundraisers on the applicable campaign statements.

On October 17, 2016, the Committee and Ordos returned the \$7,000 contribution from PCOC Tri-District Golf.

In an interview with Enforcement Division staff, Ordos stated that due to changes in the Committee's administration, the Committee's procedures have improved. Currently the Committee is providing correct information with supporting records.

VIOLATIONS

Count 1: Failure to Maintain Campaign Records

The Committee and Ordos failed to maintain detailed accounts, records, bills and receipts necessary to prepare campaign statements and to establish campaign statements were properly filed for reporting periods occurring between October 1, 2014 and December 31, 2014, violating Government Code section 84104.

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1 **Count 2: Failure to Maintain Campaign Records**

2 The Committee and Ordos failed to maintain detailed accounts, records, bills and receipts
3 necessary to prepare campaign statements and to establish campaign statements were properly filed for
4 reporting periods occurring between January 1, 2015 and December 31, 2015, violating Government
5 Code section 84104.

6 **Count 3: Failure to Timely Report Campaign Contributions and Expenditures**

7 The Committee and Ordos failed to timely report contributions and expenditures, including
8 required totals, balances, and contributor and payee information, on campaign statements for reporting
9 periods occurring between October 1, 2014 and December 31, 2015, violating Government Code Section
10 84211, subdivisions (a), (b), (c), (d), (f), (i), (j), and (k).

11 **PROPOSED PENALTY**

12 This matter consists of three counts of violating the Act, which carries a maximum administrative
13 penalty of \$5,000 per count, totaling \$15,000.²⁶

14 In determining the appropriate penalty for a particular violation of the Act, the Commission
15 considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis
16 on serving the purposes and intent of the Act. Additionally, the Commission considers the facts and
17 circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d):
18 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3)
19 whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated
20 good faith in consulting with Commission staff; 5) whether there was a pattern of violations and whether
21 the violator has a prior record of violations of the Act or similar laws; and 6) whether, upon learning of
22 the violation, the violator voluntarily provided amendments to provide full disclosure.²⁷

23 Applying the factors to this case, accurate campaign disclosure fulfills a central purpose of the
24 Act, and the Committee and Ordos could not file corrective amendments with full disclosure due to their
25 failure to maintain sufficient campaign records. But the evidence did not reveal an intent to deceive the
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27 ²⁶ § 83116, subd. (c).

²⁷ Reg. 18361.5, subd. (d).

1 voting public because the Committee and Ordos filed all required campaign statements and disclosed
2 campaign activity that could be verified with available records. The evidence supports that the failure to
3 maintain all required records was negligent because the Committee and Ordos were experienced with the
4 Act and were aware of the Act's recordkeeping and disclosure requirements. And these violations are
5 part of a pattern because the Committee and Ordos failed to maintain accurate records for fundraisers
6 over several years. The Committee does not have a prior record of similar violations within the last five
7 years. Because of the lack of maintained campaign records in this case, the full nature and extent of the
8 campaign activity cannot be verified and amendments cannot be made to provide full disclosure.

9 The Commission also considers penalties in prior cases involving similar violations. Recent cases
10 with similar violations include:

11 **Counts 1 and 2: Failure to Maintain Campaign Records**

12 *In the Matter of Students for Sensible Drug Policy, David Bronner, Adam Eidinger, and Alan*
13 *Amsterdam Committee to Regulate Cannabis-Yes on 19 and Aaron Houston*; FPPC No. 14/603. This
14 matter arose out of an audit performed by the Political Reform Audit Program of the Franchise Tax
15 Board. Respondents, a sponsored primarily formed state ballot measure committee and its treasurer,
16 failed to maintain required campaign records for 48 expenditures totaling approximately \$35,000 for the
17 semiannual campaign statement for the reporting period October 17, 2010 through December 31, 2010,
18 in violation of Government Code Section 84104 (1 count). The respondents attempted to provide and
19 recreate the required records, although they were incomplete. In December 2015, the Commission
20 imposed a penalty of \$2,000 for this violation.

21 In this case, the Committee and Ordos failed to maintain campaign records related to fundraisers
22 for which the Committee received contributions of nearly \$18,000, which amounts to about half of the
23 total for contribution records not maintained in *Students*. In *Students*, the respondents attempted to
24 provide and recreate records. But in this case, full disclosure of the activity related to the fundraisers
25 cannot be disclosed because the records cannot be recreated or did not exist at all. In mitigation, the
26 Committee and Ordos filed all required campaign statements and disclosed the information that could be
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1 verified with available records, and the Committee updated its internal procedures. So a penalty of \$2,500
2 is recommended for each of Counts 1 and 2.

3 **Count 3: Failure to Timely Report Campaign Contributions and Expenditures**

4 *In the Matter of Privacy for All Students, Karen England, and John Fugatt*; FPPC No. 14/1111.
5 Respondents, a primarily formed ballot measure committee, its treasurer, and its principal officer failed
6 to timely report approximately \$43,000 in contributions, approximately \$55,000 in expenditures, and
7 approximately \$55,000 miscellaneous increase to cash on three campaign statements, in violation of
8 Section 84211, subdivisions (a), (b), (c), (f), (i), (k), and (l) (1 count). Respondents filed corrective
9 amendments. In August 2018, the Commission imposed a penalty of \$3,000 for this violation.

10 In this case, the Committee and Ordos failed to report itemized contributors and expenditures
11 related to fundraisers for which the Committee received contributions of nearly \$18,000, which is
12 considerably less than the amount of contributions not timely reported in *Privacy for All Students*. Unlike
13 *Privacy for All Students*, the campaign statements in this case cannot be amended to provide full
14 disclosure because campaign records were not maintained for the itemized contributors and for the total
15 amount of expenditures related to these fundraisers. In mitigation, the Committee and Ordos filed all
16 required campaign statements and disclosed the information that could be verified with available records.
17 So a penalty of \$2,000 is recommended for Count 3.

18 For the foregoing reasons, a total administrative penalty in the amount of \$7,000 is recommended:
19 \$2,500 for Count 1, \$2,500 for Count 2, and \$2,000 for Count 3.

20 **CONCLUSION**

21 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
22 Respondents, Political Action by Pest Control Operators (ID#790454) and Wayne L. Ordos, hereby agree
23 as follows:

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

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

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

4 4. Respondents have consulted with their attorneys, The Law Offices of Wayne Ordos, and
5 understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in
6 Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not
7 limited to the right to appear personally at any administrative hearing held in this matter, to be represented
8 by an attorney at Respondents’ own expense, to confront and cross-examine all witnesses testifying at
9 the hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
10 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

11 5. Respondents agree to the issuance of the decision and order set forth below. Also,
12 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
13 \$7,000. One or more payments totaling this amount, to be paid to the General Fund of the State of
14 California, is/are submitted with this Stipulation as full payment of the administrative penalty described
15 above, and they will be held by the State of California until the Commission issues its decision and order
16 regarding this matter.

17 6. If the Commission refuses to approve this Stipulation then this Stipulation shall become
18 null and void, and within fifteen business days after the Commission meeting at which the Stipulation is
19 rejected, all payments tendered by Respondents in connection with this Stipulation shall be reimbursed
20 to Respondents. If this Stipulation is not approved by the Commission, and if a full evidentiary hearing
21 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
22 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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Dated: _____
Galena West, Chief, on behalf of the Enforcement Division
Fair Political Practices Commission

Dated: _____
Wayne L. Ordos, Respondent, individually and on behalf of
Political Action by Pest Control Operators, Respondent

The foregoing Stipulation of the parties “In the Matter of Political Action by Pest Control Operators (ID#790454) and Wayne L. Ordos,” FPPC Case No. 17/846 is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: _____
Richard C. Maidich, Chair
Fair Political Practices Commission