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8  
9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
STATE OF CALIFORNIA

10  
11 In the Matter of:

12 STANDING COMMITTEE ON  
POLITICAL EDUCATION OF THE  
13 CALIFORNIA LABOR FEDERATION,  
AFL-CIO and ART PULASKI,

14 Respondents.

FPPC Case No. 2018/00145

15 STIPULATION, DECISION AND ORDER

16 INTRODUCTION

17 Standing Committee on Political Education of the California Labor Federation AFL-CIO (the  
18 “Committee”) is a sponsored general purpose committee and has been active since at least 1974. Art  
19 Pulaski (“Pulaski”) served as the Committee’s treasurer.

20 This case arose from audits conducted by the Franchise Tax Board (“FTB”). The initial FTB audit  
21 report covered the audit period of January 1, 2013 through December 31, 2014. During the audit period,  
22 the Committee reported receiving contributions of approximately \$2,528,345 and making expenditures of  
23 approximately \$1,521,853. A subsequent FTB audit report covered the audit period of January 1, 2015  
24 through December 31, 2016. During this audit period, the Committee reported receiving contributions of  
25 approximately \$2,165,420 and making expenditures of approximately \$838,641.

1 The FTB’s audit found, and the Enforcement Division of the Fair Political Practices Commission  
2 confirmed, that the Committee and Pulaski violated the Political Reform Act (the “Act”)<sup>1</sup> by failing to  
3 report accurate cash balances on campaign statements, failing to report contributions, and failing to file 24-  
4 hour contribution reports.

### 5 SUMMARY OF THE LAW

6 All statutory references and discussions of law pertain to the Act’s provisions as they existed at the  
7 time of the violations.

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

9 When enacting the Political Reform Act, the people of California found and declared that previous  
10 laws regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup>  
11 Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”<sup>3</sup>

12 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in  
13 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper  
14 practices are inhibited.<sup>4</sup> Along these lines, the Act includes a comprehensive campaign reporting system.<sup>5</sup>  
15 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be  
16 “vigorously enforced.”<sup>6</sup>

#### 17 **Duty to Report Cash Balance**

18 For each campaign statement a committee files, the committee must report the balance of cash and  
19 cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.<sup>7</sup>  
20 The cash balance at the beginning and ending of the reporting period is reported as the “Beginning Cash  
21 Balance” and “Ending Cash Balance” on the “Summary Page.” This provides an overview of a committee’s  
22 finances. For the purposes of computing the Beginning and the Ending cash balance, a committee must  
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24 <sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 81000  
25 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission are  
26 contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to  
27 this source.

28 <sup>2</sup> Section 81001, subdivision (h).

<sup>3</sup> Section 81003.

<sup>4</sup> Section 81002, subdivision (a).

<sup>5</sup> Sections 84200, *et seq.*

<sup>6</sup> Section 81002, subdivision (f).

<sup>7</sup> Section 84211, subdivision (e).

1 verify the cash balance on hand for the committee, must accurately report cash receipts (i.e., monetary  
2 contributions) and cash payments on the Summary Page for each reporting period.

### 3 **Duty to Report Contributions**

4 The Act provides that each campaign statement must contain certain information about the  
5 campaign's financial activity, including total contributions, total expenditures, and identifying information  
6 about sources of contributions and recipients of expenditures.<sup>8</sup>

7 Campaign contributions include payments, forgiveness of a loan, payment of a loan by a third party,  
8 or an enforceable promise to make a payment, including non-monetary or in-kind contributions.<sup>9</sup> For  
9 contributions of \$100 or more, including loans, the statement must include the name, street address,  
10 occupation, employer, and amount received from each source.<sup>10</sup> For loans, the statement must include the  
11 original date and amount of each loan, the due date and interest rate of the loan, the cumulative payment  
12 made or received to date, the outstanding balance at the end of the reporting period, and the cumulative  
13 amount of contributions.<sup>11</sup>

### 14 **Duty to File 24-Hour Contribution Reports**

15 Each committee that makes or receives a late contribution must file a report within 24 hours of  
16 making or receiving the contribution.<sup>12</sup> A "late contribution" includes a contribution that totals or in the  
17 aggregate totals \$1,000 or more and is made to or received by a political party committee within 90 days  
18 before the date of a state election.<sup>13</sup> In addition to these contributions, a "late contribution" also includes  
19 contributions made to or received by a candidate, a controlled committee, or a committee formed or  
20 existing primarily to support or oppose a candidate or measure.<sup>14</sup>

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26 <sup>8</sup> Section 84211.

27 <sup>9</sup> Section 82015.

28 <sup>10</sup> Section 84211, subdivision (f).

<sup>11</sup> Section 84211, subdivision (g).

<sup>12</sup> Section 84203.

<sup>13</sup> Section 82036, subdivision. (b).

<sup>14</sup> Section 82036, subdivision (a).

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

2 It is the duty of a committee treasurer to ensure that the committee complies with the Act’s  
3 campaign reporting.<sup>15</sup> A treasurer may be held jointly and severally liable with the committee for violations  
4 committed by the committee.<sup>16</sup>

5 **PROCEDURAL HISTORY**

6 An administrative action for a violation of the Political Reform Act has a five-year statute of  
7 limitations.<sup>17</sup> The statute of limitations is tolled upon the service of a probable cause report, as required by  
8 Section 83115.5.<sup>18</sup> In this matter, a probable cause report was served upon Respondents’ attorney on or  
9 around September 30, 2019 by certified mail.

10 **SUMMARY OF THE FACTS**

11 The Committee registered with the Secretary of State on or around August 22, 1974. Pulaski  
12 became treasurer on or around August 7, 1996 and has served continuously to the present day. The audit  
13 for the 2013-2014 period found and the Enforcement Division confirmed, that the Committee and Pulaski  
14 failed to accurately report beginning and ending cash balances on campaign statements, as detailed in the  
15 chart below:

Reporting Period	Date Filed Original/Amended	Original Cash Balance	Amended Cash Balance	Difference
07/01/2014- 09/30/2014	O: 10/03/14 A: 04/04/17	\$2,558,989	\$3,337,184	\$778,195
10/01/2014- 10/18/2014	O: 10/23/14 A: 04/04/17	\$2,443,288	\$3,187,326	\$744,038
10/19/2014- 12/31/2014	O: 01/27/15 A: 04/04/17	\$2,460,128	\$3,229,774	\$769,646

21 When given the opportunity to comment on the findings of the FTB audit, the Committee’s  
22 representative stated that the discrepancy was caused by staff who were not familiar with the nuances of  
23 campaign finance reporting. An investigation determined that the error was not related to significant under-  
24 or over-reporting contributions or expenditures during the audit period, but rather appears to be caused by  
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27 <sup>15</sup> Sections 81004, 84100, 84104, and Regulation 18427.

28 <sup>16</sup> Sections 83116.5 and 91006.

<sup>17</sup> Section 91000.5.

<sup>18</sup> Id.

1 relying on prior filed statements for the cash balance. The error causing the discrepancy appears to pre-  
 2 date the audit period. The cash balance of the Committee was not verified when the Committee filed its  
 3 campaign statements, causing the error to be repeated even as the Committee otherwise substantially  
 4 complied with the requirements to report contributions and expenditures during the audit period.

5 In addition to those errors found in the audit period, the Enforcement Division found that the  
 6 Committee continued to have cash balance errors on campaign statements until around February 1, 2016.  
 7 On a campaign statement for the period ending December 31, 2015, the Committee reported a beginning  
 8 cash balance that was based on prior erroneous reporting. The Committee made a line item correction to  
 9 manually add the cash balance that was previously understated and to reconcile the reported cash balance  
 10 with the Committee's actual cash balance. Subsequently, the Committee filed a series of amendments to  
 11 statements on or around April 4, 2017 to make corrections to the cash balance reporting.

12 The Committee made the following amendments to correct the cash balance misstatements, in  
 13 addition to those referenced in the previous chart:

Reporting Period	Date Filed Original/Amended	Original Cash Balance	Amended Cash Balance	Difference
01/01/2015- 06/30/2015	O: 07/06/2015 <sup>19</sup> A: 4/4/2017	\$3,000,436	\$3,770,082	\$769,646
07/01/2015- 12/31/2015	O: 02/01/2016 <sup>20</sup> A: 04/04/2017	\$3,337,133 <sup>21</sup>	\$4,094,779	\$757,646

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 19 In 2016, the Committee filed campaign statements and failed to report contributions. For the  
 20 statement filed September 29, 2016 for the reporting period of July 1, 2016 through September 24, 2016,  
 21 the Committee failed to report \$108,317 in contributions causing the cash balances to again be inaccurate.  
 22 For the next statement, filed October 27, 2016 for the reporting period of September 25, 2016 through  
 23 October 22, 2016, the Committee failed to report \$88,083 in contributions. The Committee amended these  
 24 statements on January 1, 2017 to report the previously omitted contributions.

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 26  
 27 <sup>19</sup> The Committee originally filed two quarterly statements for this period. The amendments consolidated the two reporting  
 periods and reported the entire first half of 2015.

28 <sup>20</sup> The Committee originally filed two quarterly statements for this period. The amendments consolidated the two reporting  
 periods and reported the entire first half of 2015.

<sup>21</sup> This line reflects the reported beginning cash balance.



1 and Pulaski failed to timely file three 24-hour contribution reports, including a report due on October 8,  
2 2014 to report \$25,000, a report due April 14, 2015 to report \$8,500, and a report due May 8, 2015 to report  
3 \$25,000 for a total of \$58,500, in violation of Section 84203.

#### 4 **PROPOSED PENALTY**

5 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per  
6 count.<sup>22</sup> Thus, the maximum penalty that may be imposed here is \$15,000.

7 In determining the appropriate penalty for a particular violation of the Act, the Commission  
8 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission  
9 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention  
10 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)  
11 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were  
12 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.<sup>23</sup>

13 When a candidate or committee fails to maintain accurate disclosures of cash on hand or to timely  
14 report contributions received, the harm is that the public is deprived of pertinent information regarding the  
15 financial status of a committee and the identity of its contributors. When a committee fails to file a late  
16 contribution report, the public is deprived of important, time-sensitive information regarding large  
17 contributions close to an election. The errors here appear to be the result of negligence; Enforcement found  
18 no evidence of intent to conceal, deceive, or mislead. The Committee has made corrective amendments to  
19 provide full disclosure. There is a pattern related to the failure to accurately report cash balance, as the  
20 error occurs on consecutive campaign statements, indicating a lack of internal procedures to verify actual  
21 cash on hand.

22 In determining a penalty, the Commission considers penalties in prior cases with comparable  
23 violations. For Count 1, the Commission has not considered this violation recently, but this comparable  
24 case still gives some guidance: *In the Matter of California Association of Highway Patrolmen and Jon H.*  
25 *Hamm*, FPPC Case No. 12/724. (The Commission approved a stipulation in this matter on November 14,  
26 2013.) From January 1, 2009 until December 31, 2010, the committee in *Highway Patrolmen* failed to state  
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28 <sup>22</sup> Section 83116, subdivision (c).

<sup>23</sup> Regulation 18361.5, subdivision (d).

1 the accurate cash balance on each of the ten campaign statements they filed during the audit period. At  
2 most, the committee misstated a balance by \$98,459. The committee admitted to one count for failing to  
3 accurately report cash balances, in addition to other counts including failure to file pre-election campaign  
4 statements, and failure to report contributions received. The Commission imposed a penalty of \$2,500 for  
5 the cash balance count.

6 Here, the Committee made an error, at some unknown period of time, and failed to maintain internal  
7 checks to verify the total cash balance on hand. The Committee continued to report an erroneous cash  
8 balance and compounded this error with each subsequent campaign statement until the error was found in  
9 or around early 2016. In addition, the amount the cash balances were off is substantially more than in the  
10 *Highway Patrolmen* case. Therefore, a penalty of \$3,000 is recommended for Count 1.

11 For Count 2, a comparable case is *In the Matter of Privacy for All Students, Karen England, and*  
12 *John Fugatt*, FPPC Case No. 14/1111. (The Commission approved a stipulation in this matter on August  
13 16, 2018.) The committee failed to timely report contributions and expenditures over three different  
14 campaign statements. The committee failed to report \$23,438 in contributions on one statement and failed  
15 to report \$55,088 in expenditures on a statement for the period of July 1, 2013 through September 30, 2013.  
16 The committee failed to report a \$55,088 miscellaneous increase to cash on a subsequent statement. In  
17 2015, the committee failed to report \$900 in contributions on a statement. However, in context, these  
18 unreported amounts were not a large percentage of the overall activity as in 2013, the Committee reported  
19 receiving \$516,282 in contributions and making \$494,587 in expenditures. The Commission imposed a  
20 penalty of \$3,000 for this count.

21 Here, the amount of contributions that were not reported per statement is larger at over \$100,000  
22 for one statement and over \$80,000 for the subsequent statement. However, the overall relative portion of  
23 unreported activity of the Committee is similar to the comparable case: in 2016, the Committee reported  
24 receiving \$919,211 in contributions and making \$458,588 in expenditures. Therefore, a similar penalty is  
25 recommended of \$3,000.

26 For Count 3, a comparable case is *San Diego County Democratic Party and Xavier R. Martinez*,  
27 FPPC Case No. 17/1356 (The Commission approved a stipulation in this matter on September 19, 2019).  
28 In this comparable case, the committee, also subject to an FTB audit, failed to file eight 24-hour



1 contribution reports that would have reported \$32,000 in activity in the two-year audit period. The amount  
2 was relatively small compared to the activity in the same period, which was over \$2 million raised and  
3 spent. For this, the committee admitted to one count for failing to timely file 24-hour contribution reports  
4 and paid a \$2,500 penalty.

5 Here, the amount not reported was also relatively small compared to the overall activity, however,  
6 the \$25,000 contribution given in 2014 to the California Democratic Party was not reported on a campaign  
7 statement and was not disclosed by the Committee until three years later on a statement filed April 14,  
8 2017. This contribution was reported timely by the recipient of the contribution. In mitigation, the  
9 Committee timely filed 24-hour contribution reports for 34 other contributions totaling \$240,000, as noted  
10 in the audit report for 2015-2016. Therefore, a penalty of \$2,500 is recommended.

11 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases, a  
12 total penalty of \$8,500 is recommended.

### 13 CONCLUSION

14 Standing Committee on Political Education of the California Labor Federation AFL-CIO and Art  
15 Pulaski hereby agree as follows:

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

18 2. This stipulation will be submitted for consideration by the Fair Political Practices  
19 Commission at 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 determine the  
22 liability of Respondents pursuant to Section 83116.

23 4. Respondent has consulted with their attorney, Emily Andrews of Olson Remcho, LLP, and  
24 understands, and hereby knowingly and voluntarily waives, all procedural rights set forth in Sections  
25 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to the  
26 right to appear personally at any administrative hearing held in this matter, to be represented by an attorney  
27 at Respondent's own expense, to confront and cross-examine all witnesses testifying at the hearing, to  
28

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

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

9 6. If the Commission declines 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 stipulation is  
11 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to  
12 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before  
13 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,  
14 shall be disqualified because of prior consideration of this Stipulation.

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

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19 Dated: \_\_\_\_\_

\_\_\_\_\_  
Galena West, Chief of Enforcement  
Fair Political Practices Commission

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22 Dated: \_\_\_\_\_

\_\_\_\_\_  
Art Pulaski, individually and on behalf of Standing  
Committee on Political Education of the California Labor  
Federation AFL-CIO

1           The foregoing stipulation of the parties “In the Matter of Standing Committee on Political  
2 Education of the California Labor Federation AFL-CIO and Art Pulaski,” FPPC Case No. 2018/00145 is  
3 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon  
4 execution below by the Chair.

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6           IT IS SO ORDERED.

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8           Dated: \_\_\_\_\_

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Richard C. Miadich, Chair  
Fair Political Practices Commission