

1 GALENA WEST
Chief of Enforcement
2 JENNA C. RINEHART
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
1102 Q Street, Suite 3000
Sacramento, CA 95811
4 Telephone: (916) 323-6302
5 Email: JRinehart@fppc.ca.gov

6 Attorneys for Complainant
7 Enforcement Division of the Fair Political Practices Commission

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

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 18/762

12 BETTER MILLBRAE and ALAN R.
13 WONG,

STIPULATION, DECISION AND ORDER

14 Respondents.
15
16

17 **INTRODUCTION**

18 Respondent, Better Millbrae (the “Committee”) (ID# 1405207), identified itself as a county
19 general purpose committee on its initial statement of organization. This statement also reported the
20 Committee was formed to “promote general awareness and civic involvement in order to promote a
21 better living environment for City of Millbrae and County of San Mateo.” At all relevant times,
22 Respondent, Alan R. Wong (“Wong”), served as the Committee’s treasurer.

23 The Political Reform Act (the “Act”)¹ requires committees and treasurers to amend its statement
24 of organization whenever there has been a change in the information reported and to timely file
25 campaign statements. The Committee and Wong violated the Act by failing to timely amend its
26

27 ¹ The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections
28 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 statement of organization to identify the Committee as a sponsored committee and by failing to timely
2 file a semi-annual campaign statement.

3 **SUMMARY OF THE LAW**

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

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

8 When enacting the Act, the people of California found and declared that previous laws regulating
9 political practices suffered from inadequate enforcement by state and local authorities.² Thus, it was
10 decreed the Act “should be liberally construed to accomplish its purposes.³ A central purpose of the Act
11 is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully
12 and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ Another
13 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously
14 enforced.”⁵

15 **Statement of Organization**

16 If there is a change in any of the information contained in a statement of organization, an
17 amendment shall be filed within 10 days to reflect the change.⁶ The committee shall file the original of
18 the amendment with the Secretary of State and shall also file a copy of the amendment with the local
19 filing officer with whom the committee is required to file its campaign statements.⁷

20 In the case of a sponsored committee, the name of the committee shall include the name of its
21 sponsor.⁸ Under the Act, “sponsored committee” means a committee that has one or more sponsors.⁹ A
22 person sponsors a committee if the committee receives 80 percent or more of its contributions from the

23 ///

24
25 ² Section 81001, subdivision (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subdivision (a).

28 ⁵ Section 81002, subdivision (f).

⁶ Section 84103.

⁷ *Id.*

⁸ Section 84102, subdivision (a) and Regulation 18419, subdivision (b)(1).

⁹ Section 82048.7, subdivision (a).

1 person.¹⁰ “Person” means an individual, company, corporation, limited liability company, and any other
2 organization or group of persons acting in concert.¹¹

3 **County vs. City General Purpose Committee**

4 A *county* general purpose committee is a committee to support or oppose candidates or measures
5 voted on in only one county, or in more than one jurisdiction within one county.¹² A *city* general purpose
6 committee is a committee to support or oppose candidates or measures voted on in only one city.¹³

7 **Campaign Statements; Where to File**

8 City general purpose committees shall file the original and one copy of the campaign statements
9 with the clerk of the city and are not required to file with the local elections official of the county in
10 which they are domiciled.¹⁴

11 **Period Covered**

12 “Period covered” by a campaign statement means the period beginning the day after the closing
13 date of the most recent campaign statement which was required to be filed and ending with the closing
14 date of the statement in question.¹⁵ If a person has not previously filed a campaign statement within the
15 calendar year, the period covered begins on January 1.¹⁶

16 **Semi-Annual Campaign Statements**

17 A recipient committee shall file semi-annual campaign statements each year no later than July 31
18 for the period ending June 30, and no later than January 31 for the period ending December 31.¹⁷

19 **Contents of Campaign Statements**

20 If the cumulative amount of contributions received from a person is \$100 or more and a
21 contribution has been received from that person during the period covered by the campaign statement,
22 then the campaign statement shall contain the following contributor information: full name; street

23 ///

24
25 ¹⁰ Section 82048.7, subdivision (b)(1).

26 ¹¹ Section 82047.

27 ¹² Section 82027.5, subdivision (c).

28 ¹³ Section 82027.5, subdivision (d).

¹⁴ Section 84215, subdivision (d).

¹⁵ Section 82046, subdivision (b).

¹⁶ *Id.*

¹⁷ Section 84200.

1 address; occupation; name of employer; date and amount received; and cumulative amount of
2 contributions.¹⁸

3 For each person to whom an expenditure of \$100 or more has been made during the period
4 covered by the campaign statement, the campaign statement shall contain the following information: full
5 name; street address; amount of expenditure; description of expenditure.

6 “Street address” means the street name and building number, and the city, state, and zip code.¹⁹

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

8 It is the duty of a committee treasurer to ensure the committee complies with the Act.²⁰ A
9 treasurer may be held jointly and severally liable, along with the committee and candidate, for violations
10 committed by the committee.²¹

11 **Liability for Violations**

12 Any person who violates any provision of the Act, who purposely or negligently causes any
13 other person to violate any provision of the Act, or who aids and abets any other person in the violation
14 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.²²

15 **SUMMARY OF THE FACTS**

16 This case was opened as a result of two sworn complaints alleging the Committee did not file
17 certain campaign statements. After reviewing the Committee’s campaign filings, the Enforcement
18 Division discovered other reporting deficiencies that were later corrected in amended statements filed in
19 conjunction with this settlement.

20 On April 20, 2018, the Committee and Wong filed an initial statement of organization with the
21 Secretary of State. According to the Committee’s campaign statements, the Committee received
22 approximately \$27,950 in contributions and paid approximately \$26,981 in expenditures throughout
23 2018.

24
25 ///

26
27 ¹⁸ Section 84211, subdivision (f).

¹⁹ Regulation 18421.2.

²⁰ Sections 81004, 84100, and Regulation 18427.

²¹ Sections 83116. 5 and 91006.

²² Sections 83116 and 83116. 5.

1 **STATEMENT OF ORGANIZATION**

2 **Failure to Timely File Amended Statement of Organization**

3 On April 20, 2018, the Committee and Wong filed an initial statement of organization with the
4 Secretary of State reporting the Committee had not yet qualified as a committee and had no sponsors.
5 This statement reported the Committee as a county general purpose committee active in San Mateo and
6 San Francisco County.

7 On September 10, 2018, the Committee and Wong filed an amended statement of organization
8 with the Secretary of State reporting the Committee qualified as a committee on May 22, 2018. This
9 statement reported the Committee as a county general purpose committee active in the City of Millbrae
10 and sponsored by Boca Lake Retail, Inc.

11 Since the Committee qualified as a committee on May 22, 2018, it was required to file a
12 qualifying statement of organization by June 1, 2018. The Committee and Wong were 101 days late in
13 filing the qualifying statement of organization with the Secretary of State. This violation will not be
14 charged separately, for purposes of settlement, but will be used as aggravating circumstances.

15 **Failure to File Amended Statement of Organization to Include Sponsor in Committee's Name**

16 On the Committee's semi-annual campaign statement for the reporting period of January 1, 2018
17 through June 30, 2018, the Committee reported receiving a total of \$25,100 in contributions as follows:

18

DATE	CONTRIBUTOR	AMOUNT
05/07/2018	Wong	\$100
05/22/2018	Boca Lake Retail, Inc	\$10,000
06/05/2018	Boca Lake Retail, Inc	\$15,000
TOTAL:		\$25,100

19
20
21
22

23 On the Committee's semi-annual campaign statement for the reporting period of July 1, 2018
24 through December 31, 2018, the Committee reported receiving a total of \$2,850 in contributions. Boca
25 Lake Retail, Inc. did not make any contributions during this reporting period.

26 As of May 22, 2018, Boca Lake Retail, Inc. contributed 99% of the total contributions received
27 by the Committee ($\$10,000 / \$10,100 = 0.990$). Throughout, 2018, the Committee received
28 approximately 89% of its total contributions from Boca Lake Retail, Inc. ($\$25,000 / \$27,950 = 0.894$).

1 Since the Committee met the 80% threshold to be considered a sponsored committee on May 22,
 2 2018, it was required to file an amended statement of organization to change the Committee's name to
 3 include the name of its sponsor, Boca Lake Retail, Inc., by the June 1, 2018 deadline. On September 10,
 4 2018, the Committee filed an amended statement of organization with the Secretary of State reporting
 5 the Committee was sponsored by Boca Lake Retail, Inc. but failed to change the Committee's name to
 6 include the name of its sponsor. However, an amended statement of organization has been filed as part
 7 of this settlement agreement to include the sponsor's name in the Committee's name.

8 **County vs. City General Purpose Committee**

9 Following the Committee's establishment, all expenditures made were to oppose a city
 10 development, the Gateway at Millbrae Station Project. Throughout 2018, the Committee reported the
 11 following expenditures made:

PAYEE	DESCRIPTION	AMOUNT
Bern Steves	Professional Services	\$5,631
CA Business Law Office		\$13,554
Andre Charles	Campaign consultants	\$4,000
Damon Suen	Petition circulating	\$120
MJ Zanzonella		\$417
R. Finley		\$432
R. Usitald		\$1,256
C. Lueng		\$120
A. Zhang		\$120
Amy Wong		\$120
Eugenia Wong		\$120
Charles Mee		\$360
B. Suon		Campaign literature
Freeman Peng	Polling and survey research	\$125
TOTAL:		\$26,831

22 In 2019, the Committee reported receiving \$0 in contributions and spending \$50 on
 23 expenditures. The \$50 expenditure is reported as being for "State FPPC Annual Fee."

24 Since all of the expenditures made to date have been to oppose a local city development project,
 25 the Committee is a *city* general purpose committee rather than a *county* general purpose committee. An
 26 amended statement of organization has been filed as part of this settlement agreement to change the
 27 Committee's jurisdiction. This violation will not be charged separately, for purposes of settlement, but

28 ///

1 will be used as aggravating circumstances since this distinction changes where the Committee's
2 statements are filed.

3 **SEMI-ANNUAL CAMPAIGN STATEMENT**

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

5 On September 6, 2018, 37 days late, the Committee and Wong filed the semi-annual campaign
6 statement for the reporting period of April 22, 2018 through June 30, 2018 with the City of Millbrae.
7 This statement reported \$25,100 received in contributions and \$12,702 spent on expenditures. On
8 September 25, 2018, the Committee filed an amended semi-annual campaign statement correcting the
9 reporting period to January 1, 2018 through June 30, 2018.

10 On January 8, 2019, the Committee and Wong timely filed the semi-annual campaign statement
11 for the reporting period of July 1, 2018 through December 31, 2018. On July 31, 2019, the Committee
12 and Wong timely filed the semi-annual campaign statement for the reporting period of January 1, 2019
13 through June 30, 2019.

14 **Failure to Report Required Contributor Information**

15 Throughout 2018, the Committee reported receiving approximately \$27,950 in contributions.
16 The Committee failed to report required contributor information for four contributions received totaling
17 \$2,306. This amounts to approximately 8% of the total contributions received ($\$2,306 / \$27,950 =$
18 0.083).

19 Throughout 2018, the Committee reported spending approximately \$26,981 on expenditures.
20 The Committee failed to report required vendor information for 12 expenditures made totaling \$3,771.
21 This amounts to approximately 14% of the total expenditures made ($\$3,771 / \$26,981 = 0.139$).

22 For purposes of settlement, this violation will not be charged separately but will be used as
23 aggravating circumstances. Also, amended semi-annual campaign statements have been filed as part of
24 this settlement agreement to include the missing contributor/vendor information.

25
26
27
28 ///

1 **VIOLATIONS**

2 **Count 1: Failure to Timely File Amended Statement of Organization**

3 The Committee and Wong failed to timely file an amended statement of organization to change
4 the Committee’s name to include the name of its sponsor by the June 1, 2018 deadline, in violation of
5 Government Code Sections 84102 and 84103 and Regulation 18419.

6 **Count 2: Failure to Timely File Semi-Annual Campaign Statement**

7 The Committee and Wong failed to timely file the semi-annual campaign statement, for the
8 reporting period of January 1, 2018 through June 30, 2018, by the July 31, 2018 deadline, in violation of
9 Government Code Section 84200.

10 **PROPOSED PENALTY**

11 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
12 count. Thus, the maximum penalty that may be imposed here is \$10,000.²³

13 In determining the appropriate penalty for a particular violation of the Act, the Commission
14 considers the facts of the case, the public harm involved, and the purposes of the Act. Further, the
15 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
16 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
17 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
18 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
19 record of violations.²⁴

20 The public harm inherent in failing to disclose a sponsor of a committee is that the public is
21 deprived of information regarding who is providing the committee financial support. The seriousness of
22 failing to timely file an amended statement of organization to include the sponsor’s name in the
23 Committee’s name here is mitigated because the Committee did file an amended statement of
24 organization and reported Boca Lake Retail, Inc. as the Committee’s sponsor. However, this statement
25 was filed late and the Committee failed to change its name so the sponsorship would not be obvious to
26 the public.

27
28 ²³ Section 83116, subdivision (c).

²⁴ Regulation 18361. 5, subdivision (d).

1 The public harm inherent in campaign reporting violations is that the public is deprived of
2 important, time-sensitive information regarding campaign activity. Generally, these types of violations
3 are considered more serious when the public is deprived of information that was required to be disclosed
4 prior to an election because this has the potential to affect how votes are cast. The seriousness of failing
5 to timely file a campaign statement here is mitigated because the Committee failed to timely file a post-
6 election semi-annual campaign statement and the information was not required to be disclosed prior to
7 an election.

8 In this case, there was no evidence to support an intent to conceal, deceive or mislead the public
9 as to the Committee's status as a sponsored committee or to the Committee's receipts and expenditures.
10 The violations here do not appear to be deliberate as the Committee and Wong were not sophisticated
11 with the Act. The violations committed here were isolated as the Committee and Wong have not had
12 prior enforcement history. Respondents state they did not have the benefit of a professional treasurer or
13 campaign consultant. Also, the Committee and Wong cooperated with the Enforcement Division and
14 filed all required statements.

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

17 **Count 1: Failure to Timely File Amended Statement of Organization**

18 *In the Matter of Apple Valley Professional Firefighters Association Local 4742, James Peratt,*
19 *and Larry Soper*; FPPC Case No. 16/19935. Respondents, a city general purpose committee, its
20 principal officer, and treasurer, committed numerous violations of the Act including failing to properly
21 name and identify the committee as primarily formed to support a local ballot measure, Measure A. In
22 2016, the Committee reported receiving \$20,334 in contributions and making \$32,816 in expenditures.
23 At the end of September of 2016, the Committee had spent more than 70% of its expenditures on
24 Measure A and so was required to file an amended statement of organization to change the Committee
25 type to primarily formed ballot measure committee and to include that information in the Committee's
26 name. The Committee failed to file an amended statement of organization. On August 15, 2019, the
27 Commission approved a penalty of \$3,500 for this count.

28 ///

1 A lesser penalty than that approved in the *Firefighters* case is recommended. Similar to
2 *Firefighters*, the Committee and Wong failed to file an amended statement of organization to change the
3 Committee's name to include the Committee's sponsor. In mitigation, the Committee and Wong did file,
4 71 days late, an amended statement of organization to disclose the Committee's sponsor information but
5 failed to change the Committee's name. In aggravation, the Committee and Wong were 101 days late in
6 filing its qualifying statement of organization. Therefore, a penalty of \$2,500 is recommended.

7 **Count 2: Failure to Timely File Semi-Annual Campaign Statement**

8 *In the Matter of Mister Phillips for School Board 2016 and Mister Phillips*; FPPC Case No.
9 17/944. Respondents, a successful candidate for a school board of education and his controlled
10 committee, failed to timely file two semi-annual campaign statements. The first late-filed semi-annual
11 campaign statement, for the reporting period of October 23, 2016 to December 31, 2016, was filed 252
12 days late and reported \$17,058 in contributions and \$28,571 in expenditures. The second late-filed semi-
13 annual campaign statement, for the reporting of January 1, 2017 to June 30, 2017, was filed 71 days late
14 and reported -\$234 in contributions and \$2,670.45 in expenditures. Throughout 2016, the Committee
15 received a total of \$48,097 in contributions and made a total of \$49,808 in expenditures. On November
16 15, 2018, the Commission approved a penalty of \$2,000.

17 A lesser penalty than that approved in the *Phillips* case is recommended. Unlike *Phillips*, the
18 Committee and Wong failed to timely file only one semi-annual campaign statement and failed to report
19 contributor/vendor information for contributions received and expenditures made. Similar to *Phillips*,
20 the late-filed semi-annual campaign statement was filed 37 days late and reported \$25,100 received in
21 contributions and \$12,702 spent on expenditures. In aggravation, the Committee and Wong failed to
22 report required vendor information for seven expenditures worth approximately \$2,926. This amounts to
23 approximately 23% of the total expenditures made for this reporting period. Therefore, a penalty of
24 \$1,500 is recommended.

25
26
27
28 ///

1 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
2 in the amount of \$4,000 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Failure to Timely File Amended Statement of Organization	\$2,500
2	Failure to Timely File Semi-Annual Campaign Statement	\$1,500
	TOTAL:	\$4,000

7 **CONCLUSION**

8 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
9 Respondents, Better Millbrae and Alan R. Wong hereby agree as follows:

- 10 1. Respondents violated the Act as described in the foregoing pages, which are a true and accurate
11 summary of the facts in this matter.
- 12 2. This stipulation will be submitted for consideration by the Fair Political Practices Commission at
13 its next regularly scheduled meeting – or as soon thereafter as the matter may be heard.
- 14 3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose
15 of reaching a final disposition without the necessity of holding an administrative hearing to
16 determine the liability of Respondents pursuant to Section 83116.
- 17 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all
18 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through
19 18361.9. This includes, but is not limited to the right to appear personally at any administrative
20 hearing held in this matter, to be represented by an attorney at Respondents’ own expense, to
21 confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to
22 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a
23 hearing officer, and to have the matter judicially reviewed.
- 24 5. Respondents agree to the issuance of the decision and orders set forth below. Also,
25 Respondents agree to the Commission imposing against them an administrative penalty in the
26 amount of \$4,000. One or more cashier’s checks or money orders totaling said amount – to be
27 paid to the General Fund of the State of California – is/are submitted with this stipulation as full

28 ///

1 payment of the administrative penalty described above, and same shall be held by the State of
2 California until the Commission issues its decision and order regarding this matter.

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

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

13
14 Dated: _____
15 Galena West, Chief of Enforcement
16 Fair Political Practices Commission

17 Dated: _____
18 Alan R. Wong, individually and on behalf of
19 Better Millbrae, Respondents

20
21 The foregoing stipulation of the parties “In the Matter of Better Millbrae and Alan R. Wong,”
22 FPPC Case No. 18/762, is hereby accepted as the final decision and order of the Fair Political Practices
23 Commission, effective upon execution by the Chair.

24
25 IT IS SO ORDERED.

26
27 Dated: _____
28 Richard C. Miadich, Chair
Fair Political Practices Commission