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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
STATE OF CALIFORNIA

10  
11 In the Matter of:

12 HENRY JONES FOR CALPERS 2015  
(ID# 1297427) and HENRY JONES,

13 Respondents.

FPPC Case No. 2018/00109

14 STIPULATION, DECISION AND ORDER

15  
16 **INTRODUCTION**

17 Henry Jones for CalPERS 2015 (“Committee”), identification number 1297427, was the candidate-  
18 controlled committee of Henry Jones (“Jones”) during his candidacy to represent retired members of the  
19 California Public Employees’ Retirement System (“CalPERS”) Board of Administration. Jones served as  
20 treasurer for the Committee at all relevant times. Jones was first elected to this office in 2007 and has been  
21 in office since. Presently, Jones serves as the Board President.

22 This case arose from two mandatory audits conducted by the Fair Political Practices Commission  
23 (“FPPC”) pursuant to Section 90001 of the Political Reform Act (the “Act”).<sup>1</sup> The FPPC conducted two  
24 audits related to Jones’ candidacy in 2011 and 2015, and both audits focused on campaign activity during  
25 the period of January 1, 2014 through June 30, 2015. The first audit for the 2011 candidacy concluded that  
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28 <sup>1</sup> 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 Jones' controlled committee reported receiving \$0 in contributions and reported making \$247 in  
2 expenditures during the audit period. The second audit for the 2015 candidacy concluded that Jones'  
3 controlled committee reported receiving \$10,500 in contributions and reported making \$1,001 in  
4 expenditures during the audit period.

5 The FPPC's audits found, and the Enforcement Division confirmed, that the Committee and Jones  
6 violated the Act by failing to open a separate controlled committee and a separate designated campaign  
7 bank account for Jones' 2015 campaign for elective state office.

### 8 **SUMMARY OF THE LAW**

9 All statutory references and discussions of law pertain to the Act's provisions as they existed at the  
10 time of the violations.

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

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

15 One purpose of the Act is to promote transparency by ensuring 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.<sup>4</sup> Along these lines, the Act includes a comprehensive campaign reporting system.<sup>5</sup>  
18 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be  
19 "vigorously enforced."<sup>6</sup>

#### 20 **One Bank Account**

21 Upon filing a statement of intention to be a candidate for elective state office,<sup>7</sup> including members  
22 elected to the Board of Administration of the Public Employees' Retirement System, the candidate shall  
23 establish one campaign contribution account at an office of a financial institution located in the state.<sup>8</sup>

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

26 <sup>3</sup> Section 81003.

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

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

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

<sup>7</sup> Section 82024

<sup>8</sup> Section 85201.

1 **Statement of Organization**

2 A committee means any person or combination of persons who receives contributions totaling  
3 \$1,000 or more in a calendar year.<sup>9</sup> A committee shall file a statement of organization.<sup>10</sup> A candidate who  
4 is required to file a statement of organization for a controlled committee shall establish a separate controlled  
5 committee and campaign bank account for each specific office identified in statements filed by the  
6 candidate.<sup>11</sup> The Act prohibits the redesignation of committees by candidates for elective state office.<sup>12</sup>

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

8 It is the duty of a committee treasurer to ensure that the committee complies with the Act’s  
9 campaign reporting.<sup>13</sup> A treasurer and candidate may be held jointly and severally liable with the committee  
10 for violations committed by the committee.<sup>14</sup>

11 **SUMMARY OF THE FACTS**

12 The Committee and Jones first filed a statement of organization on April 6, 2007 to establish a  
13 committee formed to support Jones’ candidacy for elective state office, namely to represent retired  
14 members for the CalPERS Board of Administration, in 2007. The Committee was assigned identification  
15 number “1297427.” Jones filed an amended statement of organization on May 2, 2011 and redesignated  
16 the Committee for his campaign for reelection in 2011.

17 On or around April 7, 2015, Jones filed a candidate statement of intention to run for re-election in  
18 2015. Jones filed an amended statement of organization on April 7, 2015 and redesignated the Committee  
19 for his campaign for reelection in 2015. Jones received an \$8,500 contribution on April 24, 2015. The Act  
20 requires candidates to establish one campaign contribution bank account upon the filing of a statement of  
21 intention, but Jones failed to open a new account. Jones was unopposed and his election to the CalPERS  
22 Board of Administration was certified on May 27, 2015 by the Secretary of State. At all relevant times,  
23 Jones used a single committee and a single designated campaign bank account for his elections in 2007,  
24 2011, and 2015. The Committee terminated on December 3, 2018.

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<sup>9</sup> Section 82013.

27 <sup>10</sup> Section 84101.

28 <sup>11</sup> Regulation 18521, subdivision (a).

<sup>12</sup> Regulation 18521, subdivision (c).

<sup>13</sup> Sections 81004, 84100, 84104, and Regulation 18427.

<sup>14</sup> Sections 83116.5 and 91006.

1 **VIOLATIONS**

2 **Count 1: Failure to Open a Separate Controlled Committee**  
3 **and Separate Campaign Bank Account**

4 The Committee and Jones failed to open a separate controlled committee and separate campaign  
5 bank account in connection with Jones’ 2015 candidacy for CalPERS Board of Administration, on or by  
6 April 7, 2015, in violation of Government Code section 84101, 85201, and Regulation 18521.

7 **PROPOSED PENALTY**

8 This matter consists of one count. The maximum penalty that may be imposed is \$5,000.<sup>15</sup>

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

15 The Act requires candidates for elective state office to open separate controlled committees and  
16 separate bank accounts for each elective office. By failing to do so, either by a candidate opening general  
17 purpose committees or by redesignating a committee from a prior candidacy, the candidate causes public  
18 harm because this violation leads to difficulties in auditing and substantiating campaign reporting. Though  
19 the Act permits redesignation for other candidates, it is prohibited for elective state office candidates. The  
20 violation makes it difficult to prevent or to detect over-the-limit contributions.

21 The Commission considers penalties in prior cases with the same or similar violations and  
22 comparable facts. The Enforcement Division has not recently prosecuted this particular violation involving  
23 the prohibited redesignation of a controlled committee for elective state office, however, there are  
24 comparable cases that involve the violation of Government Code section 85201 that speak to the type of  
25 harm that the law is concerned with: *In the Matter of David Albanese for Oxnard City Council and David*  
26 *Albanese*, FPPC Case No. 16/19663. The Commission approved a stipulation in this matter on September  
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28 <sup>15</sup> Section 83116, subdivision (c).

<sup>16</sup> Regulation 18361.5, subdivision (d).

1 19, 2019. A first-time candidate and his controlled committee were found liable for violating Government  
2 Code section 85201. Though a designated campaign bank account was opened, all campaign expenditures  
3 were paid using the candidate's personal funds and took place outside of this designated account. In total  
4 his campaign reported raising \$5,162 in contributions and made a total of \$4,200 in expenditures. The  
5 Commission imposed a penalty of \$1,500.

6 In both cases, the actions of the respondents made auditing and verifying campaign activity  
7 difficult. Here, the harm is less egregious because the candidate used a dedicated bank account and avoided  
8 comingling funds and expenditures. Though redesignation is permissible for other candidacies, it is  
9 prohibited for the office Jones was a candidate for. Additionally, unlike the comparable case, Jones was  
10 not a first-time candidate and raised nearly twice as much money leading up to his election, totaling  
11 \$10,500.

12 In aggravation, the FPPC's audit also found that the Committee failed to file four semiannual  
13 campaign statements with CalPERS. Instead, the Committee and Jones only filed with the Secretary of  
14 State. The FPPC's audit also found that the Committee and Jones accepted a \$1,000 contribution on May  
15 29, 2015, after Jones had already been elected, in violation of the Act's prohibition on such a contribution.  
16 In mitigation, Jones was not elected on the date of the planned election or runoff election held on September  
17 28, 2015 and December 7, 2015 but was certified the winner by the Secretary of State on May 27, 2015  
18 after it was clear that he was unopposed and no other candidates could enter the race.

19 In response to the audit for the 2015 candidacy, Ms. Leilani Rudow Beaver, representative for the  
20 Committee and Jones, asserted that the violations found in the audit were inadvertent. She asserted that  
21 Jones identified the intended office and election year by amending the name of the committee and that he  
22 was permitted to carry over remaining funds from the 2007 and 2011 election to his 2015 election campaign  
23 pursuant to Government Code 85317.

24 Based on the foregoing, a penalty of \$2,000 is recommended.

### 25 CONCLUSION

26 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
27 Respondents, Henry Jones for CalPERS 2015 and Henry Jones, hereby agree as follows:  
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1           1.       Respondents violated the Act as described in the foregoing pages, which are a true and  
2 accurate summary of the facts in this matter.

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

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

8           4.       Respondents have consulted with their attorney, Leilani Rudow Beaver of the Kaufman  
9 Legal Group, and understand, and hereby knowingly and voluntarily waive, all procedural rights set forth  
10 in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not  
11 limited to the right to appear personally at any administrative hearing held in this matter, to be represented  
12 by an attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the  
13 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge  
14 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

15           5.       Respondents agree to the issuance of the decision and order set forth below. Also,  
16 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
17 \$2,000. One or more payments totaling said amount—to be paid to the General Fund of the State of  
18 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
19 above, and same shall be held by the State of California until the Commission issues its decision and order  
20 regarding this matter.

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

1           7.       The parties to this agreement may execute their respective signature pages separately. A  
2 copy of any party's executed signature page, including a hardcopy of a signature page transmitted via fax  
3 or as a PDF email attachment, is as effective and binding as the original.  
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5 Dated: \_\_\_\_\_

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Galena West, Chief of Enforcement  
Fair Political Practices Commission

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8 Dated: \_\_\_\_\_

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Henry Jones, individually and on behalf of  
Henry Jones for CalPERS 2015

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1           The foregoing stipulation of the parties “In the Matter of Henry Jones for CalPERS 2015 (ID  
2 #1297427) and Henry Jones,” FPPC Case No. 2018-00109 is hereby accepted as the final decision and  
3 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