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8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**
10

11 In the Matter of) FPPC Case No. 16/125
12)
13)
14 UPLAND TEACHERS ASSOCIATION) **STIPULATION, DECISION AND ORDER**
FUND FOR QUALITY EDUCATION,)
15 GREG LANDER, AND JOHN)
MCNALLY,)
16)
Respondents.)
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18 **INTRODUCTION**

19 Respondent Upland Teachers Association for Quality Education (“Upland Teachers
20 Association”) is a local general-purpose committee. Respondent Greg Lander (“Lander”) served as the
21 treasurer from January 30, 2012 through September 29, 2016. Respondent John McNally (“McNally”)
22 began serving as treasurer on or around September 29, 2016 and is still serving in that role. The Political
23 Reform Act (“Act”),¹ requires committees and treasurers to timely file campaign statements and reports.
24 The Upland Teachers Association, Lander, and McNally violated the Act by failing to timely semi-
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26 _____
27 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
28 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.

1 annual campaign statements, pre-election campaign statements, 24-hour contribution reports, and 24-
2 hour independent expenditure reports.

3 **SUMMARY OF THE LAW**

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

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

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

10 There are many purposes of the Act. One purpose is to ensure that receipts and expenditures in
11 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
12 practices are inhibited.⁴ Another is to provide adequate enforcement mechanisms so that the Act will be
13 “vigorously enforced.”⁵

14 Duty to File Semi-Annual Campaign Statements

15 The Act requires all committees to file semi-annual campaign statements no later than July 31 for
16 the period ending June 30 and no later than July 31 for the period ending December 31.⁶

17 Duty to File Preelection Campaign Statements

18 Under the Act’s campaign reporting system, a county general purpose committee is required to
19 file the applicable preelection statement if it makes contributions or independent expenditures totaling
20 \$500 or more in connection with the statewide primary or general election during the period covered
21 by the preelection statement.⁷

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25 ² Section 81001, subdivision (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subdivision (a).

28 ⁵ Section 81002, subdivision (f).

⁶ Section 84200.

⁷ Sections 84200.5, subdivision (c) and 84200.8.

1 In 2016, the applicable preelection reporting periods⁸ were as follows:

Type of Report	Reporting Period	Statement Due Date	Date of Election
Preelection statement	July 1, 2016 – September 24, 2016	September 29, 2016	November 8, 2016
Preelection statement	September 25, 2016 – October 22, 2016	October 27, 2016	November 8, 2016

6 In 2018, the preelection reporting periods⁹ were as follows:

Type of Report	Reporting Period	Statement Due Date	Date of Special Election
Preelection statement	July 1, 2018 – September 22, 2018	September 27, 2018	November 6, 2018
Preelection statement	September 23, 2018 – October 20, 2018	October 25, 2018	November 6, 2018

11 Duty to File 24-Hour Contribution Reports

12 Under the Act, a late contribution “... means any of the following:...a contribution, including a
13 loan, that totals in the aggregate one thousand dollars (\$1,000) or more and is made to or received by a
14 candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a
15 candidate or measure during the 90-day period preceding the date of the election, or on the date of the
16 election...”¹⁰ The Act requires that a “late contribution shall be reported by facsimile transmission,
17 guarantee overnight, or personal delivery within 24 hour of the time it is made in the case of a candidate
18 or committee that makes the contribution...”¹¹

20 Duty to File 24-Hour Independent Expenditure Reports

21 Under the Act, a late independent expenditure is an “...independent expenditure that totals \$1,000
22 (\$1,000) or more in the aggregate and is made for or against a specific candidate or measure involved in
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25 ⁸ Fair Political Practices Commission <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Filing%20Schedules/2016/Local-11-8-2016-GP-MD-IE.pdf> (Last visited June 27, 2019).

26 ⁹ Fair Political Practices Commission, http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Filing%20Schedules/2018/2018_10_City_and_County_Nov_6_GP.pdf (Last visited June 27, 2019).

27 ¹⁰ Section 82036.

28 ¹¹ Section 8203, subdivision (b).

1 an election during the 90-day period preceding the date of the election...”¹²
2 Per the Act, “A committee that makes a late independent expenditure...shall report the late independent
3 expenditure by facsimile, transmission, guaranteed overnight delivery, or personal delivery within 24-
4 hours of the time it is made.”¹³

5 Filing Dates for Reports and Statements

6 Per the Act, “...whenever the Political Reform Act requires that a statement or report be filed
7 prior to or not later than a specified date or during or within a specified period, and the deadline falls on
8 a Saturday, Sunday, or official state holiday, the filing deadline for such a statement or report shall be
9 extended to the next regular business day.”¹⁴

10 Liability of Committee Treasurers

11 Every committee must have a treasurer.¹⁵ It is the duty of a committee’s treasurer to ensure that
12 the committee complies with all of the requirements of the Act concerning the receipt and expenditure
13 of funds and the reporting of such funds.¹⁶ A committee’s treasurer may be held jointly and severally
14 liable with the committee for any reporting violations.¹⁷

15 **SUMMARY OF THE FACTS**

16 In 2016, the Upland Teachers Association reported receiving approximately \$8,310 in
17 contributions and making approximately \$13, 924 in expenditures in connection with the November 8,
18 2016 General Election. In 2018, the Upland Teachers Association reported receiving approximately
19 \$8,081 in contributions and making approximately \$22,719 in expenditures towards the 2018 General
20 Election. The Enforcement Division determined that the Upland Teachers Association failed to timely
21 file eight semi-annual campaign statements, four preelection campaign statements, six 24-hour
22 contribution reports, and three 24-hour independent expenditure reports.

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25 ¹² Section 82036.5.

26 ¹³ Section 84204.

27 ¹⁴ Regulation 18116.

28 ¹⁵ Section 84100.

¹⁶ Section 84104 and Reg. 18427, subdivision (a).

¹⁷ Sections 83116.5 and 91006.

The chart below details the late-filed semi-annual campaign statements:

Late Filed Semi-Annual Campaign Statements

Reporting Period	Date Due	Date Filed	Days Late	Reported Contributions	Reported Expenditures
January 1, 2014 – June 30, 2014	July 31, 2014	March 14, 2019	1,687	\$2,819	\$0
July 1, 2014 – December 31, 2014	February 2, 2015	March 14, 2019	1,501	\$1,939	\$0
January 1, 2015 – June 30, 2015	July 31, 2015	March 14, 2019	1,322	\$3,008	\$150
July 1, 2015 – December 31, 2015	February 1, 2016	March 14, 2019	1,377	\$2,054	\$0
January 1, 2016 – June 30, 2016	August 1, 2016	March 14, 2019	955	\$3,122	\$0
October 23, 2016 – December 31, 2016	January 31, 2017	March 14, 2019	772	\$4,984	\$4,984
January 1, 2017 – June 30, 2017	July 31, 2017	March 14, 2019	591	\$2,624	\$0
July 1, 2017 - December 31, 2017	January 31, 2018	February 1, 2018	1	\$2,094	\$50
			Totals:	\$22,644	\$5,184

The chart below details the late-filed preelection campaign statements:

Late Filed Preelection Campaign Statements

Date of Election	Reporting Period	Date Due	Date Filed	Days Late	Reported Contributions	Reported Expenditures
November 8, 2016	July 1, 2016 – September 24, 2016	September 29, 2016	October 17, 2019	18	\$522	\$7,499
November 8, 2016	September 25, 2016 – October 22, 2016	October 27, 2016	March 14, 2019	868	\$520	\$1,441
November 6, 2018	July 1, 2018 – September 22, 2018	September 27, 2018	December 27, 2018	91	\$519	\$600
November 6, 2018	September 23, 2018 – October 20, 2018	October 25, 2018	January 4, 2019	71	\$3,400	\$18,988
				Totals:	\$4,961	\$28,528

The chart below details the un-filed 24-hour contribution reports:

24-Hour Contribution Reports Required to be Filed in 2016

Date of Election	Recipient	Date Made	Due Date	Date Filed	Amount	Recipient Reported Prior to Election
November 8, 2016 ¹⁸	Committee to Elect Jeffrey Hackbarth	September 19, 2016	September 20, 2016	Not filed.	\$7,284	No
November 8, 2016	Committee to Elect Jeffrey Hackbarth	November 1, 2016	November 2, 2016	Not Filed	\$1,000	No
November 8, 2016	Jack Young for Upland School Board	November 2, 2016	November 3, 2016	Not Filed	\$1,000	No
				Total:	\$9,284	

24-Hour Contribution Reports Required to be Filed in 2018

Date of Election	Recipient	Date Made	Due Date	Date File	Amount	Recipient Reported Prior to Election
November 6, 2018	Locke & Hackbarth	October 1, 2018	October 2, 2018	Not Filed	\$13,923 (non-monetary contribution)	No
November 6, 2018	Hackbarth for Upland Unified School Board District Governing Board 2018	October 12, 2018	October 15, 2018 ¹⁹	Not Filed	\$1,000 (monetary)	No
November 6, 2018	Lock & Hackbarth	October 12, 2018	October 15, 2018 ²⁰	Not Filed	\$2,995 (aggregated)	No

¹⁸ The reporting period for late contributions in 2016 was between August 10, 2016 – November 8, 2016.

¹⁹ Filing deadline for this report fell on a Saturday, which extends the deadline to Monday, October 15, 2018.

²⁰ Filing deadline for this report fell on a Saturday, which extends the deadline to Monday, October 15, 2018.

Date of Election	Recipient	Date Made	Due Date	Date File	Amount	Recipient Reported Prior to Election
					non-monetary contribution)	
November 6, 2018	Mary Lock for Upland School Board 2018	October 17, 2018	October 18, 2018	Not Filed	\$1,000 (monetary)	No
				Total:	\$18,918	

The chart below details the un-filed 24-hour independent expenditure reports:

24-Hour Independent Expenditure Reports Required to be filed in 2016

Date of Election	Reporting Period	Expenditure in support of:	Date Made	Due Date	Date File	Amount	Reported Prior to Election
November 8, 2016	August 10, 2016 – November 8, 2016	Young & Hackbarth Upland School Board	August 23, 2016	August 24, 2016	Not Filed	\$6,080	Yes (preelection statement)
November 8, 2016	August 10, 2016 – November 8, 2016	Young & Hackbarth Upland School Board	September 6, 2016	September 7, 2016	Not Filed	\$1,204	Yes (preelection)
November 8, 2016	August 10, 2016 – November 8, 2016	Young & Hackbarth Upland School Board	October 5, 2016	October 6, 2016	Not Filed	\$1,248 (aggregated)	Yes
					Total:	\$8,532	

VIOLATIONS

Count 1: Failure to Timely File Semi-Annual Campaign Statements

The Upland Teachers Association and Lander failed to timely file semi-annual campaign statements covering the reporting periods ending on June 30, 2014, December 31, 2014, June 30, 2015, December 31, 2015, and June 30, 2016.

1 The Upland Teachers Association and McNally failed to timely file semi-annual campaign
2 statements covering the reporting periods ending on December 31, 2016, June 30, 2017, and December
3 31, 2017.

4 In this way, the Upland Teachers Association, Lander, and McNally violated Government Code
5 Section 84200.

6 Count 2: Failure to Timely File Preelection Campaign Statements in 2016

7 The Upland Teachers Association and McNally failed to timely file preelection campaign
8 statement covering the reporting periods ending on September 24, 2016 and October 27, 2016, in
9 violation of Government Code Section 84200.5.

10 Count 3: Failure to Timely File Preelection Campaign Statements in 2018

11 The Upland Teachers Association and McNally failed to timely file preelection campaign
12 statement covering the reporting periods ending September 27, 2018, and October 20, 2018, in violation
13 of Government Code Section 84200.5.

14 Count 4: Failure to Timely File 24-Hour Contribution Reports in 2016

15 The Upland Teachers Association and Lander failed to timely file a 24-hour contribution report
16 to disclose a non-monetary contribution of \$7,284 made on or around September 19, 2016 to Committee
17 to Elect Jeffrey Hackbarth.

18 The Upland Teachers Association and McNally failed to timely file a 24-hour contribution report
19 to disclose contributing \$1,000 (monetary) to the Committee to Elect Jeffrey Hackbarth on or around
20 November 1, 2016.

21 The Upland Teachers Association and McNally failed to file a 24-hour late contribution report to
22 disclose contributing \$1,000 (monetary) to Jack Young for Upland School Board on or around November
23 2, 2016.

24 In the ways described above, the Upland Teachers Association, Lander, and McNally violated
25 Government Code Section 84203 and 84203.3

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1 Count 5: Failure to Timely File 24-Hour Contribution Reports in 2018

2 The Upland Teachers Association and McNally failed to timely file a 24-hour late contribution
3 report within 48 hours of making a non-monetary contribution of \$13,923 to Locke & Hackbarth on or
4 around October 1, 2018.

5 The Upland Teachers Association and McNally failed to file a 24-hour late contribution report to
6 disclose contributing \$1,000 (monetary) to Hackbarth for Upland Unified School Board District
7 Governing Board 2018 and a non-monetary contribution of \$2,995 (aggregated) to Lock and Hackbarth
8 on or around October 12, 2018.

9 The Upland Teachers Association and McNally failed to file a 24-hour late contribution report to
10 disclose contributing \$1,000 to Mary Lock for Upland School Board 2018 on or around October 18,
11 2018.

12 In the ways described above, the Upland Teachers Association and McNally violated Government
13 Code Section 84203 and 84203.3.

14 Count 6: Failure to File 24-Hour Independent Expenditure Reports

15 The Upland Teachers Association and Lander failed to timely file 24-hour independent
16 expenditures reports for expenditures made on or around August 23, 2016 (\$6,080) and on or around
17 September 6, 2016 (\$1,204).

18 The Upland Teachers Association and McNally failed to timely file 24-hour independent
19 expenditure reports for expenditures made on or around October 5, 2016 (\$1, 248 aggregated).

20 In this way, Upland Teachers Association, Lander, and McNally violated Government Code
21 Section 84204.

22 **PROPOSED PENALTY**

23 This matter consists of six counts of violating the Act, which carries a maximum administrative
24 penalty of \$5,000 per count, totaling \$30,000.²¹

25 In determining the appropriate penalty for a particular violation of the Act, the Commission
26 considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis

27 ²¹ Section 83116, subdivision (c).

1 on serving the purposes and intent of the Act. Additionally, the Commission considers the facts and
2 circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d):
3 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3)
4 whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated
5 good faith in consulting with Commission staff; 5) whether there was a pattern of violations and whether
6 the violator has a prior record of violations of the Act or similar laws; and 6) whether, upon learning of
7 the violation, the violator voluntarily provided amendments to provide full disclosure.²²

8 The Enforcement Division did not find evidence of intent to conceal. Upland Teachers
9 Association's failure to timely file their campaign statements and reports appears to be the result of
10 negligence, which resulted in a pattern of not filing campaign statements and reports. Upland Teachers
11 Association filed all statements as requested by the Enforcement Division and was cooperative
12 throughout the process. Neither the Upland Teachers Association, Lander, or McNally have penalized by
13 the Commission in the past.

14 The Commission recently approved a penalty for failing to timely file semi-annual campaign
15 statements in the following matter: *In the Matter of Privacy for All Students, Karen England, and John*
16 *Fugatt* (approved Aug. 16, 2018), the Commission approved a penalty of \$3,500 against the respondents
17 for failing to timely file four semi-annual campaign statements that if filed would have disclosed that the
18 committee received approximately \$508,868 in contributions and made expenditures totaling
19 approximately \$494,832.83.

20 Regarding Count 1, a lower penalty than the one imposed by the Commission in the comparable
21 case is recommended. In *Privacy for All Students*, the amount of contributions and expenditures that
22 would have been disclosed if the semi-annual campaign statements had been timely filed is significantly
23 greater than in the current matter. In the comparable case, the respondents failed to file four statements
24 that if filed would have disclosed that the committee received approximately \$508,868 in contributions
25 and made expenditures totaling approximately \$494,832.83. Whereas, in the current matter, the
26 respondents failed to timely file eight semi-annual campaign statements that if timely filed would have

27 ²² Reg. 18361.5, subdivision (d).

1 disclosed that it received approximately \$22,644 in contributions and made approximately \$5,184 in
2 expenditures. Based on the difference in the amount of activity, a penalty of \$2,000 is recommended.

3 The Commission recently approved a penalty for failing to timely file preelection campaign
4 statements in the following matter: *In the Matter of Robert G. Jones, Robert G. Jones for Los Rios Trustee*
5 *2010, and Julianne C. Jones*, FPPC Case No. 16339 (approved Mar. 22, 2018), the Commission approved
6 a penalty against the respondents of \$2,000 for failing to timely file two preelection campaign statements
7 and one semi-annual campaign statement. The preelection statements were both filed almost three years
8 late and the semi-annual was filed over a year late. The total activity over three reporting periods was
9 approximately \$48,981.

10 Regarding Counts 2 and 3, the same penalty imposed by the Commission in the comparable case
11 is recommended based on the fact that the amount of the undisclosed activity is similar. In the comparable
12 case, approximately \$48,981 in total activity over three reporting periods would have been disclosed if
13 the statements were timely filed, which is similar to the current case where \$33,489 would have been
14 disclosed over four reporting periods if the statements had been filed. Therefore, a penalty of \$2,000 per
15 count is recommended.

16 The Commission recently approved a penalty for failing to file 24-hour contribution reports in the
17 following matter: *In the Matter of Alejo for Assembly 2014 and Luis Alejo*; FPPC Case No. 16/188
18 (approved Nov. 15, 2018), the Commission imposed a penalty of \$3,000 in Count 2 for the respondent's
19 failure to timely file three 24-hour contribution reports in the course of five months that would have
20 disclosed that the respondent made approximately \$36,000 in contributions. Of this amount, \$35,000 was
21 not disclosed before the election.

22 Regarding Count 4, a lower penalty than the one imposed by the Commission in the comparable
23 case is recommended. In the comparable case, the respondents failed to timely report that it made three
24 contributions totaling \$36,000. Whereas, in the current matter, the respondents failed to timely report that
25 it made three contributions totaling approximate \$8,532 – none of which the Committee reported prior to
26 the 2016 election. However, the un-reported amount is significantly lower. Therefore, a penalty of \$1,500
27 is recommended.

1 Regarding Count 5, a lower penalty than the one imposed by the Commission in the comparable
2 case is recommended. Whereas, in the current matter, the respondents failed to timely report that it made
3 three contributions totaling approximate \$18,918 – none of which the Committee reported prior to the
4 2018 election. However, the un-reported amount is lower. Therefore, a penalty of \$2,000 is
5 recommended.

6 The Commission recently approved a penalty for failing to file 24-hour independent expenditure
7 reports in the following matter: *In the Matter of Friends of Livermore, Leland Younker, and David Jonas*;
8 FPPC Case No. 16/19930 (approved Jan. 17, 2019), the Commission imposed a penalty of \$3,000 against
9 the respondents for failing to timely file 42 late independent expenditure reports totaling \$152,516.60.
10 All but one of the reports was filed the day before the election.

11 Regarding Count 6, a smaller penalty than the one imposed by the Commission in the comparable
12 case is warranted. A smaller penalty is warranted in the current matter because it involves a smaller
13 amount of money and all the independent expenditures were reported prior to the election on other
14 statements. Therefore, a penalty of \$1,500 is recommended.

15 **PROPOSED PENALTY**

Count	Amount
1	\$2,000
2	\$2,000
3	\$2,000
4	\$1,500
5	\$2,000
6	\$1,500
Total: \$11,000	

24 **CONCLUSION**

25 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
26 respondents, Upland Teachers Association, Lander, and McNally, 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
7 the liability of Respondents pursuant to Section 83116.

8 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all
9 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
10 This includes, but is not limited to the right to appear personally at any administrative hearing held in
11 this matter, to be represented by an attorney at Respondents’ own expense, to confront and cross-examine
12 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
13 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
14 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 it an administrative penalty in the amount of
17 \$11,000. 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
20 order regarding this matter.

21 6. If the Commission refuses to approve this Stipulation, this Stipulation shall become null
22 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
24 to Respondents. If this Stipulation is not approved by the Commission, and if a full evidentiary hearing
25 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
26 Director, shall be disqualified because of prior consideration of this Stipulation.

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

3 Dated: _____
4 Galena West, Chief, on Behalf of the Enforcement Division
5 Fair Political Practices Commission

6 Dated: _____
7 Greg Lander, individually and on behalf of
8 Upland Teachers Association for Quality Education Fund

9 Dated: _____
10 John McNally, individually, and on behalf of Upland Teachers
11 Association for Quality Education Fund

12 The foregoing Stipulation of the parties "In the Matter of Upland Teachers Association for Quality
13 Education Fund, Greg Lander, and John McNally," FPPC Case No. 16/125 is hereby accepted as the final
14 decision and order of the Fair Political Practices Commission, effective upon execution below by the
15 Chair.

16 IT IS SO ORDERED.

17 Dated: _____
18 Richard C. Miadich, Chair
19 Fair Political Practices Commission