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

11
12 In the Matter of:

FPPC No. 17/287

13 COMMITTEE FOR COLLEGE OF THE
CANYONS – YES ON MEASURE E and
14 ROBERT McCARTY,

STIPULATION, DECISION, AND ORDER

15 Respondents.
16

17 **INTRODUCTION**

18 Respondent Committee for College of the Canyons – Yes on Measure E (the “Committee”) was a
19 primarily formed committee. Respondent Robert McCarty (“McCarty”), was the Committee’s treasurer
20 and principal officer. The Committee and McCarty violated the Political Reform Act (the “Act”)¹ by
21 failing to comply with advertisement disclosure requirements, failing to timely file one pre-election and
22 two semi-annual campaign statements, failing to timely file 24-hour contribution reports for 17 late
23 contributions, and failing to provide sufficient notice to potential major donors.

24 **SUMMARY OF THE LAW**

25 The violations in this case occurred in 2016 and 2017, and all legal references and discussions of
26 law pertain to the Act’s provisions as they existed at that time.

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28 ¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014, and 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, and all regulatory references are to this source.

1 Need for Liberal Construction and Vigorous Enforcement of the Act

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

9 Primarily Formed Committee

10 One of the ways a committee qualifies as a committee under the Act is by receiving \$2,000 or
11 more in contributions during a single calendar year.⁶ A committee is primarily formed when it is formed
12 or exists primarily to support or oppose a single measure.⁷

13 Advertisement Disclosure

14 An advertisement is any general or public communication that is authorized and paid for by a
15 committee for the purpose of supporting or opposing one or more candidates for elective office or one or
16 more ballot measures.⁸ Any advertisement for or against any ballot measure must include a disclosure
17 statement identifying any person whose cumulative contributions are \$50,000 or more.⁹ The disclosure
18 statement also must include the words “Paid for by” immediately preceding the committee name.¹⁰ The
19 disclosure must explicitly indicate that the contributor was a major donor to the committee by stating, for
20 example, “major funding by” “committee contributors:” or “top contributors:”¹¹

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24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (a).

27 ⁵ Section 81002, subd. (f).

28 ⁶ Section 82013, subd. (a).

⁷ Section 82047.5.

⁸ Section 84501.

⁹ Section 84503, subd. (a), and Regulation 18450.4, subd. (b)(1).

¹⁰ Regulation 18450.4, subd. (b)(1).

¹¹ *Id.*

1 Pre-Election Campaign Statements

2 A primarily formed committee that supports or opposes a measure appearing on the ballot to be
3 voted on at the next election must file two pre-election campaign statements before that election.¹² A
4 committee must file a first pre-election campaign statement for the period ending 45 days before the
5 election no later than 40 days before the election.¹³ A committee must also file a second pre-election
6 campaign statement for the period ending 17 days before the election no later than 12 days before the
7 election.¹⁴

8 Semi-Annual Campaign Statements

9 A primarily formed committee must file two semi-annual campaign statements each year no later
10 than July 31 for the period ending June 30 and no later than January 31 for the period ending
11 December 31.¹⁵

12 24-Hour Contribution Reports

13 A late contribution is a contribution that totals in the aggregate \$1,000 or more that is made to or
14 received by a candidate, a controlled committee, or a primarily formed committee during the 90-day
15 period preceding the date of the election, or on the date of the election.¹⁶ Each candidate or committee
16 that makes or receives a late contribution must report it to its filing officer within 24 hours of the time it
17 is made or received.¹⁷ The 90-day period prior to the June 7, 2016 Primary Election began on
18 March 9, 2016.

19 Notice to Potential Major Donor Committees

20 A committee that receives contributions of \$5,000 or more from any person must inform the
21 contributor within two weeks of receipt of the contribution that he or she may be required to file campaign
22 reports.¹⁸ However, a committee that receives a contribution of \$10,000 or more from any person during

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26 ¹² Section 84200.5, subd. (a).

27 ¹³ Section 84200.8, subd. (a).

28 ¹⁴ Section 84200.8, subd. (b).

¹⁵ Section 84200, subd. (a).

¹⁶ Section 82036, subd. (a).

¹⁷ Section 84203.

¹⁸ Section 84105 and Regulation 18427.1.

1 any period in which late contribution reports are required to be filed must provide the information to the
2 contributor within one week.¹⁹

3 Joint and Several Liability

4 It is the duty of a committee treasurer to ensure that the committee complies with the Act.²⁰ A
5 treasurer may be held jointly and severally liable, along with the committee, for violations committed by
6 the committee.²¹

7 **SUMMARY OF THE FACTS**

8 Measure E asked voters if the Santa Clarita Community College District should increase its debt
9 by \$230 million to fund updates to College of the Canyons by issuing general obligation bonds. Measure
10 E passed with 58.46 percent of the votes.

11 The Committee qualified on March 22, 2016 and was primarily formed to support the passage of
12 Measure E. The College of the Canyons Foundation (the “Foundation”) was its sole major funder of
13 \$50,000 or more since the Committee’s inception and contributed a total of \$150,000 to the campaign.
14 Leading up to the June 7, 2016 Primary Election, the Committee received \$412,375 in total contributions
15 and made \$363,577 in total expenditures.

16 Advertisement Disclosure

17 The Committee purchased a large banner that stated the following:

18 YES ON E
19 for
20 COLLEGE OF THE CANYONS
21 Excellence in Education
22 www.E4COC.com

23 The banner did not contain a “Paid for by” statement nor identify the Foundation as a contributor that had
24 contributed \$50,000 or more to the Committee. However, the banner included the Committee’s website
25 on the bottom, so anyone who saw the banner at least could have figured out that the Committee was the
26 true source of that advertisement.

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¹⁹ *Id.*

²⁰ Sections 81004, 84100, and 84104; Regulation 18427.

²¹ Section 83116.5.

1 Campaign Statements

2 Although the Committee engaged in many campaign activities, the Committee and McCarty also
3 failed to timely file campaign statements and reports to disclose those activities. The following is a chart
4 showing campaign statements filed by the Committee and McCarty:

Type	Reporting Period	Activities	Due Date	Filed Date
Pre-election	January 1, 2016 – April 23, 2016	\$133,975 contributions \$16,060 expenditures	April 28, 2016	April 29, 2016 (late 1 day)
Pre-election	April 24, 2016 – May 21, 2016	\$215,900 contributions \$283,493 expenditures	May 26, 2016	May 31, 2016 (late 5 days)
Semi-annual	May 22, 2016 – June 30, 2016	\$62,500 contributions \$116,720 expenditures	August 1, 2016	August 31, 2016 (late 30 days)
Semi-annual	July 1, 2016 – December 31, 2016	\$30,000 contributions \$61,520 expenditures	January 31, 2017	April 6, 2017 (late 65 days)
Semi-annual	January 1, 2017 – June 30, 2017	\$30 contributions \$62 expenditures	July 31, 2017	July 28, 2017
Semi-annual	July 1, 2017 – December 31, 2017	\$295 contributions \$0 expenditures	January 31, 2018	January 8, 2018

13 McCarty faxed a copy of the pre-election campaign statement for the reporting period ending on
14 April 23, 2016 to the Los Angeles County Registrar (the “LA Registrar”) by April 28, 2016. McCarty
15 explained that a paper copy was not timely filed because he was not aware that campaign statements
16 required paper filings and that pre-election campaign statement was the first one the Committee and
17 McCarty were required to file. The Committee and McCarty contend that the late-filing was inadvertent
18 and due to their inexperience with the Act.

19 The pre-election campaign statement for the reporting period ending on May 21, 2016 was shipped
20 on May 27, 2016, a day after it was due. Delivery of the campaign statement was delayed due to the
21 weekend and the LA Registrar being closed the following Monday on Memorial Day, May 30, 2016.

22 The Committee and McCarty contend that the semi-annual campaign statements for the reporting
23 periods ending on June 30, 2016 and December 31, 2016 were late-filed because they were not aware that
24 campaign statements were required to be filed after the election. The Committee and McCarty further
25 contend that they promptly filed those semi-annual campaign statements as soon as they learned of the
26 obligation to file campaign statements until the Committee is terminated. The Committee and Mr.
27 McCarty filed all subsequent statements early until terminating.

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1 24-Hour Contributions Reports

2 Since the Committee reported that it qualified within the 90 days prior to the election, all
3 contributions of \$1,000 or more received by the Committee should have been reported on 24-hour
4 contribution reports. The Committee and McCarty timely filed 24-hour contribution reports for eight late
5 contributions. The following chart shows the 17 late contributions what were not timely disclosed on 24-
6 hour contribution reports by the Committee and McCarty:

Date Made	Contributor	Amount	Due Date	Filed Date
March 22, 2016	Santa Clarita Community College District	\$50,000	March 23, 2016	April 18, 2016
March 23, 2016	NE Systems, Inc.	\$10,000	March 24, 2016	April 18, 2016
March 25, 2016	Lundgren Management Corp.	\$25,000	March 28, 2016	April 18, 2016
March 28, 2016	RC Becker & Son, Inc.	\$10,000	March 29, 2016	April 18, 2016
March 29, 2016	IPBWS Architects, Inc.	\$5,000	March 30, 2016	April 18, 2016
March 29, 2016	Subsurface Design, Inc.	\$10,000	March 30, 2016	April 18, 2016
March 31, 2016	Westfield Valencia Town Center	\$12,500	April 1, 2016	-
April 11, 2016	Little Diversified Architectural Consulting	\$1,000	April 12, 2016	April 27, 2016
April 22, 2016	Westberg + White, Inc.	\$10,000	April 25, 2016	April 27, 2016
April 30, 2016	Westfield Valencia Town Center	\$12,500	May 2, 2016	-
May 9, 2016	Sharon K. Willcox	\$6,000	May 10, 2016	May 20, 2016
May 9, 2016	d'Autremont-Helms & Associates	\$18,800	May 10, 2016	May 20, 2016
May 9, 2016	Dorothy Duncan & Steve Dowty	\$6,000	May 10, 2016	May 20, 2016
May 9, 2016	Todd & Laura Jespersen	\$6,000	May 10, 2016	May 20, 2016
May 9, 2016	Dawn Ziemer & Brett Larson	\$6,000	May 10, 2016	May 20, 2016
	Total:	\$176,300		

19 The Committee and McCarty contend that information regarding late contributions were not
20 transmitted to McCarty from campaign volunteers consistently within 24 hours of receipt. Further,
21 McCarty stated that he filed 24-hour contribution reports within 24 hours of learning about them from the
22 volunteers. All late contributions received by the Committee and McCarty were disclosed on pre-election
23 campaign statements prior to the election.

24 Major Donor Notices

25 Additionally, the Committee and McCarty should have provided notice to 16 potential major donor
26 committees who contributed a total of \$405,750 to the Committee. The Committee did not send notices
27 to those potential major donor committees. 15 of those potential major donor committees qualified as
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1 major donor committees due to their contributions to the Committee and were required to file campaign
2 reports.

3 The Committee terminated as of December 31, 2017.

4 **VIOLATIONS**

5 Count 1: Failure to Comply with Disclosure Requirements

6 The Committee and McCarty failed to include a “Paid for by” disclaimer on an advertisement and
7 to include a statement identifying any person whose cumulative contributions are \$50,000 or more, in
8 violation of Government Code Sections 84503, subdivision (a), and Regulation 18450.4, subdivision (b).

9 Count 2: Failure to Timely File Campaign Statements

10 The Committee and McCarty failed to timely file one pre-election campaign statement for the
11 reporting period covering April 24, 2016 through May 21, 2016 by May 26, 2016 and two semi-annual
12 campaign statements for the reporting periods covering May 22, 2016 through June 30, 2016 by
13 August 1, 2016, and July 1, 2016 through December 31, 2016 by January 31, 2016, in violation of
14 Government Code Sections 84200, 84200.5, and 84200.8.

15 Count 3: Failure to Timely File 24-Hour Contribution Reports

16 The Committee and McCarty failed to timely file 24-hour contribution reports for 17 late
17 contributions totaling \$176,300 that were received between March 9, 2016 and June 7, 2016, in violation
18 of Government Code Section 84203.

19 Count 4: Failure to Provide Sufficient Notice to Potential Major Donor Committees

20 The Committee and McCarty failed to provide notice to 16 potential major donor committees that
21 contributed a total of \$405,750 to the Committee, in violation of Government Code Section 84105 and
22 Regulation 18427.1.

23 **PROPOSED PENALTY**

24 This matter consists of four counts. The maximum penalty that may be imposed is \$5,000 per
25 count. Thus, the maximum penalty that may be imposed is \$20,000.

26 In determining the appropriate penalty for a particular violation of the Act, the Commission
27 considers the facts of the case, the public harm involved, and the purpose of the Act. Also, the Commission
28 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention

1 to conceal, deceive, or mislead; (c) whether the violation was deliberate, negligent, or inadvertent;
2 (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily
3 were filed to provide full disclosure; and (f) whether the violator has a prior record of violations.²²

4 These violations resulted in delayed transparency for the public into the Committee’s campaign.
5 As for the advertising violations, the public was not properly notified of who had paid for the banner.
6 Furthermore, the amount of activity not timely disclosed exceeded \$200,000. However, the Enforcement
7 Division did not find evidence of any intention to conceal, deceive, or mislead, particularly since the
8 Committee and McCarty filed campaign statements and reports prior to the election and included the
9 Committee’s website on the banner in question.

10 Additionally, the Committee and McCarty filed amendments to correct minor discrepancies on
11 some campaign statements and fully cooperated with the Enforcement Division’s investigation. McCarty
12 was a first-time volunteer treasurer who did not have prior experience with the Act, so the violations were
13 negligent and unintentional. McCarty contends that he made a good faith effort to comply with the
14 reporting requirements as he understood them at the time based on form instructions and materials that he
15 reviewed. Further, McCarty has stated that he does not intend to serve as treasurer or assume other
16 positions that would require him to file campaign statements and reports in California in the future. The
17 Committee and McCarty paid \$110 in penalties to the LA Registrar for late filing. Finally, the Committee
18 and McCarty both do not have prior enforcement history. In the interest of settlement, the Enforcement
19 Division is not counting as a violation the Committee and McCarty’s failure to identify the economic or
20 other special interest of the Foundation, its sole major funder of \$50,000 or more, in its name.

21 The Commission also considers penalties in prior cases with comparable violations. Recent cases
22 with similar violations include the following:

23 Count 1

24 *In the Matter of Yes on Prop. 57, Californians and Governor Brown for Public Safety and*
25 *Rehabilitation*; FPPC No. 16/19684. (The Commission approved a stipulated agreement on
26 August 16, 2018.) Respondents maintained a website which showed a “Paid for by” disclaimer that was
27 contained in a lined box with the text printed in blue text on a darker blue background, rendering the
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²² Regulation 18361.5, subd. (d).

1 disclaimer difficult to read. Furthermore, the disclaimer only listed one top contributor of \$50,000 or more
2 when it should have listed two. The Commission approved a penalty of \$2,500 for failure to identify a top
3 contributor and failing to present the advertisement disclosure in a clear and conspicuous manner.

4 As in *Yes on Prop. 57*, the Committee and McCarty failed to list a top contributor on a banner.
5 Unlike *Yes on Prop. 57*, the Committee and McCarty failed to have any disclosure statement on its banner
6 other than the Committee’s website, and they received contributions and made expenditures that totaled
7 a smaller amount. Therefore, a penalty of \$2,500 is recommended for this violation.

8 Count 2

9 *In the Matter of Cheryl Hansen for County Superintendent of Schools 2018; Cheryl Hansen; and*
10 *William Beemer*; FPPC No. 18/586. (The Commission approved a stipulated agreement on
11 September 19, 2019.) Respondents late-filed a semi-annual campaign statement for the reporting period
12 ending on December 31, 2017. Respondents late-filed two pre-election campaign statements for the 2018
13 Primary Election after receiving contact from the Enforcement Division but then again late-filed the
14 subsequent semi-annual campaign statement and two pre-election campaign statements for the 2018
15 General Election. According to campaign statements, Respondents reported receiving a total of around
16 \$83,475 in contributions and making \$97,732 in expenditures in 2018. Respondent Hansen had run for
17 office previously and was familiar with her duty to file campaign statements. The Commission approved
18 a penalty of \$2,000 for failure to timely file a semi-annual campaign statement and two pre-election
19 campaign statements.

20 The Committee and McCarty also failed to timely file three campaign statements, although in a
21 different combination. Once the Committee and McCarty received contact from the Enforcement
22 Division, they reviewed their records and filed amendments to campaign statements to correct minor
23 discrepancies. Also unlike *Hansen*, the Committee and McCarty received contributions and made
24 expenditures totaling over \$400,000 for the 2016 Primary Election, but they did not have prior experience
25 with the Act. A penalty of \$2,000 is recommended for this violation.

26 Count 3

27 *In the Matter of Campaign for Kids – Yes on Measure I and Ruben Frutos*; FPPC No. 17/281. (The
28 Commission approved a stipulated agreement on February 20, 2020.) Respondents failed to timely file

24-hour reports for 17 late contributions totaling \$80,500.00 and five late independent expenditures totaling \$19,322.37. However, Respondents filed the 24-hour reports prior to receiving contact from the Enforcement Division and had paid \$930 in penalties to the LA Registrar for late-filing. The Commission approved a penalty of \$3,500 for failure to timely file 24-hour reports.

Although the Committee and McCarty failed to disclose a similar number of late contributions, the total amount of unreported activity is much higher than in *Campaign for Kids*. Like *Campaign for Kids*, the Committee and McCarty already paid a penalty to the LA Registrar for late-filing. In mitigation, the Committee and McCarty filed 24-hour contribution reports prior to receiving contact from the Enforcement Division and prior to the election itself. Furthermore, all late contributions were disclosed on pre-election campaign statements prior to the election. Therefore, a penalty of \$2,500 is recommended for this violation.

Count 4

In the Matter of Roger Aceves for Supervisor 2014, Roger S. Aceves, and Tony Vallejo; FPPC No. 17/145. (The Commission approved a stipulated agreement on June 21, 2018.) Respondents failed to provide sufficient written notice to all of its 21 potential major donor committees who contributed a total of \$208,320 to the committee. 10 of those potential major donors qualified as major donor committees with filing obligations, representing \$151,500 in contributions to the committee. None of the 10 filed as major donor committees in the appropriate year. The Commission approved a penalty of \$2,000 for failure to provide sufficient notice to potential major donor committees.

The Committee and McCarty failed to provide notices to a similar number of potential major donors. Therefore, a penalty of \$2,000 is recommended for this violation

Based on the foregoing, the following penalty is recommended:

Count #	Violation	Penalty
1	Failure to Properly Name the Committee and Comply with Disclosure Requirements	\$2,500
2	Failure to Timely File Campaign Statements	\$2,000
3	Failure to Timely File 24-Hour Reports	\$2,500
4	Failure to Provide Sufficient Notice to Potential Major Donor Committees	\$2,000
	Total:	\$9,000

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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondents Committee for College of the Canyons – Yes on Measure E and Robert McCarty hereby
4 agree as follows:

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

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

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

12 4. The Respondents have consulted with their attorney, Lacey Keys of Olson Remcho LLP,
13 and understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in
14 Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not
15 limited to the right to appear personally at any administrative hearing held in this matter, to be represented
16 by an attorney at the Respondents’ own expense, to confront and cross-examine all witnesses testifying at
17 the hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
18 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

19 5. The Respondents agree to the issuance of the decision and order set forth below. Also, the
20 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
21 \$9,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General
22 Fund of the State of California—is/are submitted with this stipulation as full payment of the administrative
23 penalty described above, and same shall be held by the State of California until the Commission issues its
24 decision and order regarding the matter.

25 6. If the Commission declines to approve this stipulation—then this stipulation shall become
26 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
27 rejected, all payments tendered by the Respondents in connection with this stipulation shall be reimbursed
28 to the Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing

1 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
2 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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8 Dated: _____
9 Galena West, Chief of Enforcement
10 Fair Political Practices Commission

11 Dated: _____
12 Robert McCarty, individually and on behalf of
13 Committee for College of the Canyons – Yes on
14 Measure E
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1 The foregoing stipulation of the parties “In the Matter of Committee for College of the Canyons – Yes on
2 Measure E and Robert McCarty,” FPPC No. 17/287, is hereby accepted as the final decision and order of
3 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: _____

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9 Richard C. Miadich, Chair
10 Fair Political Practices Commission
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