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Enforcement Division of the Fair Political Practices Commission

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of:

FPPC Case No. 18/1546

FORD GREENE, COMMITTEE TO  
RE-ELECT FORD GREENE SAN  
ANSELMO TOWN COUNCIL 2015,  
and LAURIE BERGER,

**STIPULATION, DECISION AND ORDER**

Respondents.

**INTRODUCTION**

Respondent, Ford Greene (“Greene”), was a successful candidate for San Anselmo Town Council in the November 3, 2015 General Election. Respondent, Committee to Re-Elect Ford Greene San Anselmo Town Council 2015 (ID# 1380265) (the “Committee”), was Greene’s controlled committee. Respondent, Laurie Berger (“Berger”), served as the Committee’s treasurer from August 24, 2015 to September 13, 2019. Greene served as the Committee’s treasurer from September 13, 2019 to present. Additionally, Greene was a successful candidate for re-election to the San Anselmo Town Council in the November 5, 2019 local election.

The Political Reform Act (the “Act”)<sup>1</sup> requires committees and treasurers to timely file semi-annual campaign statements and to file an amended statement of organization with the Secretary of State to redesignate a committee.

<sup>1</sup>The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections



1 **Semi-Annual Campaign Statements**

2 Candidates and recipient committees shall file semiannual campaign statements each year no  
3 later than July 31 for the period ending June 30, and no later than January 31 for the period ending  
4 December 31.<sup>8</sup>

5 **Redesignation of Controlled Committee**

6 A controlled committee and campaign bank account established for a specific office may be  
7 redesignated as a campaign bank account for a future election if: (1) the future election is for the same  
8 elective office; (2) the funds in the campaign bank account are not considered surplus campaign funds;  
9 (3) the candidate amends the Statement of Organization for the committee to reflect the redesignation  
10 for the future election; (4) the candidate files a new statement of intention to be a candidate for a specific  
11 future election; and (5) redesignation of committee/bank account is not otherwise prohibited by law.<sup>9</sup>

12 If there is a change in any of the information contained in a statement of organization, an  
13 amendment shall be filed within 10 days to reflect the change.<sup>10</sup>

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

15 It is the duty of a committee treasurer to ensure the committee complies with the Act.<sup>11</sup> A  
16 treasurer may be held jointly and severally liable, along with the committee and candidate, for violations  
17 committed by the committee.<sup>12</sup>

18 **Liability for Violations**

19 Any person who violates any provision of the Act, who purposely or negligently causes any  
20 other person to violate any provision of the Act, or who aids and abets any other person in the violation  
21 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.<sup>13</sup>

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26 <sup>8</sup> Section 84200.

27 <sup>9</sup> Regulation 18521, subdivision (b).

<sup>10</sup> Section 84103, subdivision (a).

<sup>11</sup> Sections 81004, 84100, and Regulation 18427.

28 <sup>12</sup> Sections 83116. 5 and 91006.

<sup>13</sup> Sections 83116 and 83116. 5.

1 **SUMMARY OF THE FACTS**

2 On September 24, 2015, the Committee filed the initial statement of organization with the  
3 Secretary of State, reporting the Committee qualified as a committee on August 24, 2015. According to  
4 filed campaign statements, the Committee reported approximately \$12,995 in contributions received and  
5 \$14,998 in expenditures. To date, the Committee remains open and active.

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

7 Following the November 3, 2015 General Election, the Committee was required to file a semi-  
8 annual campaign statement for the reporting period of October 18, 2015 to December 31, 2015, by the  
9 February 1, 2016 due date.

10 On September 5, 2019, 1,312 days late, the Committee filed a semi-annual campaign statement  
11 for the reporting period of October 18, 2015 to December 31, 2015. This statement reported \$5,865 in  
12 contributions and \$5,282.10 in expenditures.

13 **Failure to Timely File Amended Statement of Organization for Redesignation**

14 On August 9, 2019, Greene timely filed a Candidate Intention Statement with the Town of San  
15 Anselmo reporting his intention to run for re-election to the San Anselmo Town Council in the  
16 November 5, 2019 local election. As Greene was an incumbent candidate up for re-election, Greene was  
17 required to hold a separate committee/bank account for his 2019 campaign or redesignate the  
18 Committee.

19 As of June 30, 2019, the Committee reported having \$844.28 in its campaign bank account.  
20 These funds were not considered “surplus funds” because Greene was a successful candidate in the  
21 November 3, 2015 General Election. Instead of terminating the Committee, Greene attempted to  
22 redesignate the Committee for his 2019 campaign.

23 On September 13, 2019, Greene timely filed an amended statement of organization with the  
24 Town of San Anselmo reporting the redesignation of the Committee as the Committee to Re-Elect Ford  
25 Greene San Anselmo Town Council 2019. However, Greene failed to timely file an amended statement  
26 of organization with the Secretary of State to report the redesignation.

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1 **VIOLATIONS**

2 **Count 1: Failure to Timely File Semi-Annual Campaign Statement**

3 Greene, the Committee, and Berger failed to timely file a semi-annual campaign statement for  
4 the reporting period ending on December 31, 2015, by the February 1, 2016 due date, in violation of  
5 Government Code Section 84200.

6 **Count 2: Failure to Timely File Amended Statement of Organization for Redesignation**

7 Greene and the Committee failed to timely file an amended statement of organization with the  
8 Secretary of State to report the redesignation of the Committee for the 2019 election, in violation of  
9 Government Code Section 84103 and Regulation 18521.

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.<sup>14</sup>

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.<sup>15</sup>

20 The public harm inherent in campaign reporting violations is that the public is deprived of  
21 important, time-sensitive information regarding campaign activity. Generally, these types of violations  
22 are considered more serious when the public is deprived of information that was required to be disclosed  
23 prior to an election because this has the potential to affect how votes are cast. The Committee's  
24 campaign activity reported on the semi-annual campaign statement was not required to be disclosed  
25 prior to the election. Additionally, the amended statement of organization to redesignate the Committee  
26 was filed prior to the November 5, 2019 local election, with the Town of San Anselmo.

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28 <sup>14</sup>Section 83116, subdivision (c).

<sup>15</sup>Regulation 18361. 5, subdivision (d).

1 In this case, the evidence supports there was no intent to conceal, deceive or mislead the public  
2 as to the Committee's campaign activity. However, the violation appears to be negligent as Greene is  
3 sophisticated with the Act, having maintained an open election committee since August 24, 2015. The  
4 violations committed here were isolated as Greene, the Committee, and Berger have not had prior  
5 enforcement history.

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

8 **Count 1: Failure to Timely File Semi-Annual Campaign Statement**

9 *In the Matter of Janet McClean for SMUSD School Board 2012 and Janet McClean*; FPPC Case  
10 No. 17/274. Respondents, a successful candidate for re-election onto the San Marcos Unified School  
11 District Governing Board and her controlled-committee, failed to timely file a post-election semi-annual  
12 campaign statement. This statement was filed approximately 30 months after the statement was due and  
13 reported minimal campaign activity. Respondents also had prior enforcement history for the same  
14 violation. On September 18, 2019, the Commission approved a penalty of \$1,000.

15 A higher penalty than that approved in the *McClean* case is recommended. Similar to *McClean*,  
16 Greene, Berger and the Committee failed to timely file a post-election semi-annual campaign statement.  
17 This statement was filed approximately 43 months after the statement was due and, unlike *McClean*,  
18 reported receiving \$5,865 in contributions and spending \$5,282.10 in expenditures. In aggravation,  
19 Greene, Berger and the Committee failed to timely file seven additional semi-annual campaign  
20 statements that reported minimal campaign activity. Therefore, a penalty of \$2,000 is recommended.

21 **Count 2: Failure to Timely File Amended Statement of Organization for Redesignation**

22 *In the Matter of Fred Garcia, Fred Garcia for Sheriff 2014, and Jeff Davis*; FPPC Case No.  
23 14/299. Respondents, an unsuccessful candidate for re-election for Monterey County Sheriff, his  
24 controlled committee, and its treasurer, failed to timely file an amended statement of organization with  
25 the Secretary of State to redesignate the 2010 committee (Fred Garcia for Sheriff 2010) for the 2014  
26 election (Fred Garcia for Sheriff 2014). Respondents filed the amended statement of organization with  
27 the local filing officer on March 7, 2013 but failed to file the form with the Secretary of State until  
28 termination of the committee on June 8, 2016. Additionally, Garcia failed to timely file his statement of

1 intention and first two campaign statements, including a semi-annual and pre-election campaign  
2 statement. On July 21, 2016, the Commission approved a penalty of \$2,500.

3 A lesser penalty than that approved in the *Garcia* case is recommended. Similar to *Garcia*,  
4 Greene and the Committee failed to timely file an amended statement of organization with the Secretary  
5 of State to redesignate the Committee for the 2019 election. Also, similar to *Garcia*, Greene and the  
6 Committee filed an amended statement of organization with the local filing officer, Town of San  
7 Anselmo, to redesignate the Committee for the 2019 election. Unlike *Garcia*, Greene and the Committee  
8 timely filed a statement of intention and both pre-election campaign statements for the 2019 election.  
9 Therefore, a penalty of \$1,000 is recommended.

10 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty  
11 in the amount of \$3,000 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Failure to Timely File Semi-Annual Campaign Statement	\$2,000
2	Failure to Timely File Amended Statement of Organization for Redesignation	\$1,000
	<b>TOTAL:</b>	<b>\$3,000</b>

### 16 CONCLUSION

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
18 Respondents, Ford Greene, Committee to Re-Elect Ford Greene San Anselmo Town Council 2015, and  
19 Laurie Berger, hereby agree as follows:

- 20 1. Respondents violated the Act as described in the foregoing pages, which are a true and accurate  
21 summary of the facts in this matter.
- 22 2. This stipulation will be submitted for consideration by the Fair Political Practices Commission at  
23 its next regularly scheduled meeting – or as soon thereafter as the matter may be heard.
- 24 3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose  
25 of reaching a final disposition without the necessity of holding an administrative hearing to  
26 determine the liability of Respondents pursuant to Section 83116.
- 27 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all  
28 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through

1 18361.9. This includes, but is not limited to the right to appear personally at any administrative  
2 hearing held in this matter, to be represented by an attorney at Respondents' own expense, to  
3 confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to  
4 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a  
5 hearing officer, and to have the matter judicially reviewed.

6 5. Respondents agree to the issuance of the decision and orders set forth below. Also,  
7 Respondents agree to the Commission imposing against them an administrative penalty in the  
8 amount of \$3,000. One or more cashier's checks or money orders totaling said amount – to be  
9 paid to the General Fund of the State of California – is/are submitted with this stipulation as full  
10 payment of the administrative penalty described above, and same shall be held by the State of  
11 California until the Commission issues its decision and order regarding this matter.

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

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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  
3 transmitted via fax or as a PDF email attachment, is as effective and binding as the original.  
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5 Dated: \_\_\_\_\_  
6 Galena West, Chief of Enforcement  
7 Fair Political Practices Commission  
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9 Dated: \_\_\_\_\_  
10 Ford Greene, individually and on behalf of  
11 Committee to Re-Elect Ford Greene San Anselmo Town  
12 Council 2015, Respondents

13 Dated: \_\_\_\_\_  
14 Laurie Berger, Respondent  
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17 The foregoing stipulation of the parties "In the Matter of Ford Greene, Committee to Re-Elect  
18 Ford Greene San Anselmo Town Council 2015, and Laurie Berger," FPPC Case No. 18/1546, is hereby  
19 accepted as the final decision and order of the Fair Political Practices Commission, effective upon  
20 execution by the Chair.  
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22 IT IS SO ORDERED.  
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24 Dated: \_\_\_\_\_  
25 Richard C. Miadich, Chair  
26 Fair Political Practices Commission  
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