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

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 20/241

12 **STRONGER FMSD SCHOOLS - YES**  
13 **ON MEASURE R and JASON VANN,**

**STIPULATION, DECISION AND ORDER**

14 Respondents.  
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16

17 **INTRODUCTION**

18 Respondent, Stronger FMSD Schools - Yes on Measure R (ID# 1424216) (the “Committee”),  
19 was a ballot measure committee primarily formed to support the approval of Measure R in the March 3,  
20 2020 Primary Election. Measure R was a bond issue on the ballot for Franklin-McKinley School District  
21 voters in Santa Clara County which was approved with 65.72% of the votes. Respondent, Jason Vann  
22 (“Vann”), served as the Committee’s treasurer.

23 The Political Reform Act (the “Act”)<sup>1</sup> requires committees and treasurers to timely file certain  
24 campaign statements and reports. The Committee and Vann violated the Act by failing to timely file a  
25 24-hour contribution report.  
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27 <sup>1</sup> 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 **SUMMARY OF THE LAW**

2 The violations in this case occurred in 2020. For this reason, all legal references and discussions  
3 of law pertain to the Act’s provisions as they existed at that time.

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

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

8 A central purpose of the Act is to promote transparency by ensuring that receipts and  
9 expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed  
10 and improper practices are inhibited.<sup>4</sup> Another purpose of the Act is to provide adequate enforcement  
11 mechanisms so that the Act will be “vigorously enforced.”<sup>5</sup>

12 **Committee**

13 “Committee” means any person or combination of persons who directly or indirectly receives  
14 contributions totaling \$2,000 or more in a calendar year. This type of committee is generally referred to  
15 as a recipient committee.

16 **Primarily Formed Committee**

17 A “primarily formed committee” is a recipient committee which is formed or exists primarily to  
18 support or oppose a single candidate or measure or a group of candidates or measures.<sup>6</sup>

19 **24-Hour Contribution Reports**

20 A “late contribution” is a contribution that totals in the aggregate \$1,000 or more and is made to  
21 or received by a candidate, a controlled committee, or a committee formed or existing primarily to  
22 support or oppose a candidate or measure during the 90-day period preceding the date of the election, or  
23 on the date of the election, at which the candidate or measure is to be voted on.<sup>7</sup> Each committee that  
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26 <sup>2</sup> Section 81001, subdivision (h).

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

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

<sup>5</sup> Section 81002, subdivision (f).

<sup>6</sup> Section 82047.5.

<sup>7</sup> Section 82036, subdivision (a).

1 makes or receives a late contribution shall report the late contribution within 24 hours of the time it is  
2 made or received.<sup>8</sup>

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

4 It is the duty of a committee treasurer to ensure the committee complies with the Act.<sup>9</sup> A  
5 treasurer may be held jointly and severally liable, along with the committee and candidate, for violations  
6 committed by the committee.<sup>10</sup>

7 **Liability for Violations**

8 Any person who violates any provision of the Act is liable for administrative penalties up to  
9 \$5,000 per violation.<sup>11</sup>

10 **SUMMARY OF THE FACTS**

11 The Committee and Vann were successful in their campaign to support the approval of Measure  
12 R in the March 3, 2020 Primary Election. Measure R was approved with 65.72% of the votes.

13 According to the Committee's campaign statements, the Committee qualified as a committee on  
14 February 3, 2020 and raised and spent approximately \$44,750 throughout its campaign. The Committee  
15 terminated as of March 14, 2020.

16 **Failure to Timely File 24-Hour Contribution Report**

17 The 90-day period preceding the March 3, 2020 Primary Election began on December 4, 2019.  
18 The Committee's semi-annual campaign statement for the reporting period of February 16, 2020 to  
19 March 14, 2020, revealed a late contribution received that required a 24-hour contribution report which  
20 was never filed.

21 On March 2, 2020, the Committee reported receiving a \$5,000 contribution from Urban Futures.  
22 According to Santa Clara County, the Committee and Vann did not file a 24-hour contribution report to  
23 disclose this late contribution by March 3, 2020. This late contribution was not reported on any  
24 statement or report filed by the Committee prior to the election.

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27 <sup>8</sup> Section 84203, subdivisions (a)-(b).

<sup>9</sup> Sections 81004, 84100, and Regulation 18427.

<sup>10</sup> Sections 83116. 5 and 91006.

<sup>11</sup> Sections 83116 and 83116. 5.

1 **VIOLATIONS**

2 **Count 1: Failure to Timely File 24-Hour Contribution Reports**

3 Prior to the March 3, 2020 Primary Election, the Committee and Vann failed to timely file a 24-  
4 hour contribution report for a late contribution received totaling \$5,000 by the March 3, 2020 due date,  
5 in violation of Government Code Section 84203.

6 **PROPOSED PENALTY**

7 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per  
8 count. Thus, the maximum penalty that may be imposed here is \$5,000.<sup>12</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. Further, the  
11 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
12 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
13 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
14 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
15 record of violations.<sup>13</sup>

16 The public harm inherent in campaign reporting violations is that the public is deprived of  
17 important, time-sensitive information regarding campaign activity. Aside from the late contribution at  
18 issue here, totaling \$5,000, the Committee and Vann provided full disclosure of its campaign activities  
19 prior to the election. The late contribution at issue here was reported on the timely filed post-election  
20 semi-annual campaign statement.

21 In this case, there was no evidence to support an intent to conceal, deceive or mislead the public  
22 as to the Committee’s receipts and expenditures. The violation appears to be negligent as the Committee  
23 and Vann had previously timely filed 24-hour contribution reports for five other late contributions  
24 received and so knew of this filing obligation. The Committee and Vann do not have a prior  
25 enforcement history.

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28 <sup>12</sup> Section 83116, subdivision (c).  
<sup>13</sup> Regulation 18361. 5, subdivision (d).

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

3 *In the Matter of Inland Farmers Political Alliance, Jessica Mackenzie, and Deborah Tharp;*  
4 FPPC Case No. 2017/01222. Respondents, a primarily formed ballot measure committee and its  
5 treasurer and principal officer, failed to timely file a 24-hour contribution report for a late contribution  
6 received, in the form of a loan, totaling \$7,600. Respondents had timely filed five other 24-hour  
7 contribution reports for late contributions received. However, a 24-hour contribution report was not filed  
8 for the \$7,600 loan and the loan was not disclosed on another statement filed by Respondents prior to  
9 the pertinent election. In aggravation, Respondents committed other violations of the Act that were not  
10 charged separately for purposes of settlement, including failure to timely file pre-election and semi-  
11 annual campaign statements. On April 16, 2020, the Commission approved a penalty \$1,500 for this  
12 count.

13 A similar penalty than that approved in *Inland Farmers* is recommended. Similar to *Inland*  
14 *Farmers*, the Committee and Vann failed to timely file a 24-hour contribution report for a late  
15 contribution received totaling \$5,000. Also, the Committee and Vann had timely filed other 24-hour  
16 contribution reports for five late contributions received. The late contribution at issue here was not  
17 disclosed on another statement filed by the Committee and Vann prior to the pertinent election. In  
18 aggravation, after receiving contact from Enforcement, the Committee and Vann filed the second pre-  
19 election campaign statement one day late. Therefore, a penalty of \$1,500 is recommended.

20 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty  
21 in the amount of \$1,500 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Failure to Timely File 24-Hour Contribution Report	\$1,500
	<b>TOTAL:</b>	<b>\$1,500</b>

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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
3 Respondents, Stronger FMSD Schools - Yes on Measure R and Jason Vann, hereby agree as follows:

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

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

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

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

18 5. Respondents agree to the issuance of the decision and orders set forth below.  
19 Also, Respondents agree to the Commission imposing against them an administrative penalty in  
20 the amount of \$1,500. One or more cashier’s checks or money orders totaling said amount – to  
21 be paid to the General Fund of the State of California – is/are submitted with this stipulation as  
22 full payment of the administrative penalty described above, and same shall be held by the State  
23 of California until the Commission issues its decision and order regarding this matter.

24 6. If the Commission refuses to approve this stipulation – then this stipulation shall  
25 become null and void, and within fifteen business days after the Commission meeting at which  
26 the stipulation is rejected, all payments tendered by Respondents in connection with this  
27 stipulation shall be reimbursed to Respondents. If this stipulation is not approved by the  
28 Commission, and if a full evidentiary hearing before the Commission becomes necessary, neither

1 any member of the Commission, nor the Executive Director, shall be disqualified because of  
2 prior consideration of this stipulation.

3 7. The parties to this agreement may execute their respective signature pages  
4 separately. A copy of any party's executed signature page, including a hardcopy of a signature  
5 page transmitted via fax or as a PDF email attachment, is as effective and binding as the original.  
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7 Dated: \_\_\_\_\_  
8 Galena West, Chief of Enforcement  
9 Fair Political Practices Commission  
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11 Dated: \_\_\_\_\_  
12 Jason Vann, individually and on behalf of  
13 Stronger FMSD Schools - Yes on Measure R, Respondents  
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18 The foregoing stipulation of the parties "In the Matter of Stronger FMSD Schools - Yes on  
19 Measure R and Jason Vann," FPPC Case No. 20/241, is hereby accepted as the final decision and order  
20 of the Fair Political Practices Commission, effective upon 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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