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

10 In the Matter of:

11 COMMITTEE FOR A STRONG
12 SISKIYOU ECONOMY, NO ON
MEASURE H SPONSORED BY
13 CRYSTAL GEYSER WATER
COMPANY, KELLY LAWLER, JILL
14 HARRIS, AND CRYSTAL GEYSER
WATER COMPANY,

15 Respondents.
16

FPPC Case No. 17/00123

STIPULATION, DECISION AND ORDER

17 **INTRODUCTION**

18 Committee for a Strong Siskiyou Economy, No on Measure H Sponsored by Crystal Geysers Water
19 Company (“Committee”) is a primarily formed ballot measure committee that opposed a local ballot
20 measure, Measure H, in Siskiyou County during the November 8, 2016 General Election. Kelly Lawler
21 (“Lawler”) is the treasurer for the Committee. Jill Harris, in her capacity as an employee of Crystal Geysers
22 Water Company (“Crystal Geysers”), served as a principal officer for the Committee. Crystal Geysers
23 qualified as a sponsor of the committee in 2016 by providing 80% or more of the contributions to the
24 Committee, by providing nearly all of the administrative services of the Committee, and by setting the
25 policies for soliciting contributions and making expenditures of committee funds. Measure H was
26 unsuccessful at the ballot.
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1 Respondents Committee, Lawler, and Harris violated the Political Reform Act (the “Act”)¹ by
2 failing to identify Crystal Geysler as the sponsor of the committee, failing to include an accurate disclosure
3 statement on mass mailings and advertisements, failing to accurately disclose activity on campaign
4 statements, and failing to timely file 24-hour contribution reports. Crystal Geysler, in qualifying as a major
5 donor, failed to timely file a campaign statement and 24-hour contribution reports.

6 SUMMARY OF THE LAW

7 The Act and its regulations are amended from time to time. The violations in this case occurred in
8 2016. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
9 existed at that time—unless otherwise noted.

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

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

14 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
15 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
16 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵
17 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
18 “vigorously enforced.”⁶

19 **Recipient Committee**

20 A recipient committee includes any person who directly or indirectly receives contributions totaling
21 \$2,000 or more in a calendar year.⁷ A committee must file a statement of organization with the Secretary
22 of State within 10 days of qualifying as a committee.⁸

24 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections
25 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission
are to this source.

26 ² Section 81001, subdivision (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subdivision (a).

⁵ Sections 84200, et seq.

⁶ Section 81002, subdivision (f).

⁷ Section 82013, subdivision (a).

⁸ Section 84101, subdivision (a).

1 **Major Donor Committee**

2 A major donor committee refers to a person, or combination of persons, who directly or indirectly
3 makes contributions totaling ten thousand or more in a calendar year to or at the behest of candidates or
4 committees.⁹ A major donor committee shall file campaign statements each year no later than July 31 for
5 the period ending June 30, and no later than January 31 for the period ending December 31, if they have
6 made contributions or independent expenditures, including payments to a slate mailer organization, during
7 the six-month period before the closing date of the statements.¹⁰

8 **Sponsored Committee**

9 A “sponsored committee” is defined as a committee, other than a candidate-controlled committee,
10 with one or more sponsors.¹¹ Any person, except a candidate or other individual, may sponsor a committee.
11 “Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust,
12 company, corporation, limited liability company, association, committee, and any other organization or
13 group of persons acting in concert.¹²

14 A person, including a corporation or company, is considered to be a sponsor of a committee if any
15 of the following apply: (1) the committee receives 80 percent or more of its contributions from the
16 organization; (2) the organization collects contributions for the committee by use of payroll deduction or
17 dues; (3) the organization provides all or nearly all of the administrative services for the committee; or (4)
18 the organization sets the policies for soliciting contributions or making expenditures of committee funds.¹³

19 The name of the committee is required to include the name of the sponsor.¹⁴ Whenever
20 identification of a sponsored committee is required, such as on a sender identification on mass mailings,
21 the identification shall include the full name of the committee as required in its statement of organization.¹⁵

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26 ⁹ Section 82013.

27 ¹⁰ Section 84200, subdivision (b).

28 ¹¹ 82048.7, subdivision (a).

¹² Section 82047.

¹³ Section 82048.7, subdivision (b).

¹⁴ Section 84102.

¹⁵ Section 84106.

1 **Advertisement**

2 “Advertisement” means any general or public advertisement which is authorized and paid for by a
3 person or committee for the purpose of supporting or opposing a candidate for elective office or a ballot
4 measure or ballot measures.¹⁶ Any committee that supports or opposes one or more ballot measures shall
5 print or broadcast its name as part of any advertisement or other paid public statement.¹⁷

6 A “mass mailing” is defined as over two hundred substantially similar pieces of mail sent in a
7 calendar month, not including form letters or other mail which is sent to an unsolicited request, letter or
8 other inquiry.¹⁸ All mass mailings sent by a single committee are required to disclose the full name, street
9 address, and city of the committee on the outside of each piece of mail.¹⁹

10 **Reporting of Contributions and Expenditures**

11 “Contribution” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or
12 an enforceable promise to make a payment except to the extent that full and adequate consideration is
13 received, unless it is clear from the circumstances that it is not made for political purposes.²⁰ A payment
14 received by or made at the best of a committee is a contribution to the committee unless full and adequate
15 consideration is received from the committee for making this payment.²¹

16 The payment of salary, reimbursement for personal expenses, or other compensation by an
17 employer to an employee who spends more than 10% of his or her compensated time in any one month
18 rendering services for political purposes is a contribution.²²

19 A nonmonetary contribution is “received” by the committee on the earlier of the following dates:
20 1) the date that funds are expended by the contributor for goods or services, if the specific expenditure is
21 made at the behest of the committee; or 2) the date that the committee obtains possession or control of the
22 goods or services, or the date that the committee otherwise receives the benefit of the expenditure.²³

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26 ¹⁶ Section 84501.

27 ¹⁷ Section 84504, subdivision (c) and Regulation 18405.4.

28 ¹⁸ Section 82041.5 and Regulation 18435.

¹⁹ Section 84305.

²⁰ Section 82015.

²¹ Regulation 18215.

²² Regulation 18423.

²³ Regulation 18421.1.

1 “Expenditure” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or
2 an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is
3 not made for political purposes. An expenditure is made on the date the payment is made or on the date of
4 consideration, if any, is received, whichever is earlier.²⁴

5 Committees have a duty to file periodic campaign statements to disclose the activity of the
6 committee.²⁵ Each campaign statement must include information specified in the Act. For contributions
7 totaling \$100 or more from a single source during a statement period, committees must identify the name,
8 address, occupation and/or employer, the date and amount received for each contribution.²⁶

9 **24-Hour Contribution Reports**

10 A committee, including a recipient committee or a major donor committee, that makes or receives
11 a late contribution shall report the late contribution within 24 hours of the time it is made.²⁷ A late
12 contribution is defined as a contribution that totals in the aggregate \$1,000 or more and is made to or
13 received by a candidate, a controlled committee, or a committee formed or existing primarily to support or
14 oppose a candidate or measure during the 90-day period preceding the date of the election or on the date
15 of the election at which the candidate or measure is to be voted on.²⁸ A report filed by the recipient of a
16 non-monetary contribution during the 90-day period shall be deemed timely if it is received by the filing
17 officer within 48 hours of the time the contribution is made.²⁹ In connection with the election held on
18 November 8, 2016, the 90-day reporting period commenced on August 10, 2016.

19 **Joint and Several Liability**

20 Any person who has a filing or reporting obligation under the Act may be found liable for violating
21 any provision of the Act, or who purposely or negligently cause any person to violate any provision of the
22 Act, or who aids and abets any other person in the violation of any provision of the Act.³⁰ If two or more
23 persons are responsible for any violation, they shall be held jointly and severally liable.³¹

24 Section 82025.

25 84200, *et seq.*

26 84200, subdivision (f)

27 Section 84203.

28 Section 82036.

29 Regulation 18425.24, subdivision (c).

30 Section 83116.5.

31 Sections 83116.5 and 91006.

1 Every committee must have a treasurer.³² Committees must also identify a principal officer.³³ This
2 individual is primarily responsible for approving the political activities of the committee, including, but
3 not limited to, authorizing the content of communications, authorizing expenditures, including
4 contributions, on behalf of the committee, and determining the committee’s campaign strategy.³⁴ It is the
5 duty of the treasurer and the principal officer to ensure that the committee complies with all the
6 requirements of the Act.³⁵

7 For campaign reporting/filing obligations, the treasurer and the principal officer are liable, along
8 with the committee, for violations of the Act.³⁶ For advertising violations, the committee placing the
9 advertisements—and all persons acting in concert with the committee—are liable.³⁷

10 SUMMARY OF THE FACTS

11 This case was opened pursuant to a sworn complaint alleging, generally, that a committee primarily
12 formed to oppose Measure H and operating during the November 8, 2016 General Election was actually
13 organized, funded, and controlled by Crystal Geysler. The complaint alleged that the committee lacked
14 disclosure on advertisements and on campaign statements regarding the true role of Crystal Geysler. The
15 Enforcement Division’s investigation found that Crystal Geysler spent funds to mount an opposition
16 campaign; caused a primarily formed ballot measure committee to be formed; had an employee, Harris,
17 serve as a principal officer of the committee; and qualified as the sponsor of the committee. The violations
18 described herein deprived voters of information regarding the true backers of the opposition committee.

19 Measure H

20 Measure H was titled, “Groundwater Management Initiative Seeking to Amend Siskiyou County
21 Code,” and appeared on the November 8, 2016 General Election in Siskiyou County. If passed, the ballot
22 measure would have extended the requirement to obtain a groundwater extraction permit to all other
23 groundwater sources in the County not currently defined as a groundwater basin when groundwater was
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25 ³² Section 84100.

26 ³³ Section 84102, subdivision (c).

27 ³⁴ Section 82047.6.

28 ³⁵ Sections 81004, 84100, 84104, and 84213, and Regulation 18427.

³⁶ Section 83116.5 and Regulation 18316.6.

³⁷ Section 82047 [“person” includes any group of persons acting in concert] and 84510, subdivision (a) [imposing liability on any “person” who violations an advertising provision of the Act.] See also, Section 84505 [which applies not just to the committee placing the advertisement, but also to any “persons acting in concert with that committee.”]

1 extracted for use outside the County. The measure would have removed the existing permitting exemption
2 for commercial water bottling enterprises. The measure was targeted directly at restricting Crystal Geysers
3 operations in the County. Measure H was defeated.

4 **Crystal Geysers controlled and directed the primarily formed committee opposing Measure H**

5 The evidence shows that Crystal Geysers conceived of, budgeted for, and began implementing a
6 plan to defeat Measure H in August of 2016. The motivation to defeat Measure H was that Crystal Geysers
7 would have to shut down their water extraction operations in Siskiyou County if the ballot measure passed.
8 Crystal Geysers formed, funded, and controlled the Committee. Crystal Geysers planned to create and
9 provide funding for a committee to oppose Measure H. According to campaign statements for the reporting
10 period ending December 31, 2016, the Committee raised approximately \$25,790 and spent approximately
11 \$29,942.

12 Crystal Geysers contends that the company had never before been involved in a ballot measure
13 campaign in California and therefore, the company hired Lawler, an experienced professional treasurer, to
14 prepare the paperwork to open the committee, "Committee for a Strong Siskiyou Economy, No On
15 Measure H." On the statement of organization, Lawler was listed as the treasurer and five individuals were
16 named as principal officers: Daralyn Reed, Joan Smith Freeman, Dorian Aiello, John Kennedy, and Harris.
17 Joan Smith Freeman was the Mayor of the City of Yreka. John Kennedy was a Councilmember of City of
18 Mount Shasta. Daralyn Reed and Dorian Aiello lived in the county. These individuals were consulted and
19 included for their local contacts, knowledge, and they provided on-the-ground support for the campaign.
20 However, these individuals did not control or direct the expenditures of the Committee and are therefore
21 not included in the stipulation for this reason. Harris was a Communications Manager employed with
22 Crystal Geysers. Harris was the principal officer most involved. Harris had authority to make expenditures
23 on behalf of the Committee and coordinated or directed advertisement efforts, including working with
24 Crystal Geysers graphic designers and hiring outside vendors to design, produce, and disseminate
25 advertisements.

26 On May 22, 2017, after the election, the Committee filed amended campaign statements to
27 acknowledge Crystal Geysers role in the Committee. Crystal Geysers contends that the company relied on
28 Lawler to properly file all reports. Upon learning of the complaint, the company instructed Lawler to file

1 the amended reports. The name of the Committee was changed to, Committee for a Strong Siskiyou
2 Economy, No on Measure H, sponsored by Crystal Geysers Water Company. In addition, campaign
3 statements were amended to report that the expenditures previously disclosed as accrued expenses were
4 actually nonmonetary contributions paid for by Crystal Geysers.

5 Additionally, Crystal Geysers filed campaign statements as a major donor and filed past-due 24-
6 hour contribution reports.

7 **Violations of the Committee**

8 *Failure to Name Crystal Geysers as the Sponsor of the Committee*

9 Crystal Geysers qualified as the sponsor of the Committee from the outset. Crystal Geysers
10 administered the Committee by authorizing the content of communications made by the committee,
11 authorizing expenditures, and determining the committee’s campaign strategy. Crystal Geysers also
12 provided the funds for approximately 98% of the reported activity for the committee. Therefore, the name
13 “Crystal Geysers” was required to be included in the name of the committee on campaign statements and
14 on any advertisement of the committee. The Committee filed the following campaign statements with the
15 local filing officer without including the name of the sponsor:

16 Filing	Reporting Period	Date Filed	Date Due
17 Form 410: Initial	Initial	09/28/2016 ³⁸	09/11/2016 ³⁹
18 Form 460: Pre-election	01/01/2016 to 09/24/2016	09/30/2016	09/29/2016
19 Form 460: Pre-election	09/25/2016 to 10/22/2016	10/28/2016	10/27/2016
20 Form 460: Semi-annual	10/23/2016 to 12/31/2016	02/02/2017	01/31/2017

21 *Failure to Include Accurate Disclosure on Advertisements*

22 The Committee caused two mass mailings and several forms of advertisements to be distributed
23 with the disclosure, “Paid for by the Committee for a Strong Siskiyou Economy, No on Measure H.”
24 However, the proper disclosure should have included the name of the sponsor of the Committee, Crystal
25 Geysers Water Company. The Committee caused the following advertisements to be distributed without the
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28 ³⁸ The Form 410 was filed with the Secretary of State’s office on September 27, 2016.

³⁹ A website was commissioned and paid for at least by September 1, 2016. Therefore, the Committee should have filed a Form 410 by September 11, 2016.

proper disclosure: a website, flyers, two mass mailings distributed to approximately 8,500 recipients, a radio spot aired 24 times, newspaper ads in three local newspapers, and 25 large signs or billboards.⁴⁰

Advertisement Type	Description	Cost
Website	A website first appearing online on or around September 1, 2016. The vendor for this advertisement was Silver Rockets	\$4,560
Flyers	8.5 by 11-inch flyers, quantity: 350 The vendor for this advertisement was Siskiyou Laser Products	\$228
Mass Mailings	“Don’t be fooled! NO on Measure H, protect our jobs & our way of life.” Two mass mailings were sent, the first to approximately 8,500 recipients and was mailed on or around September 29, 2016; and the second to approximately 8,296 recipients and was mailed on or around October 28, 2016. The vendor for this advertisement was Gold Nugget Printing	\$7,581
Radio	Radio spot airing 24 times in October and November 2016 The vendor for this advertisement was Buffalo Broadcasting	\$528
Newspaper	Newspaper advertisements appearing in local newspapers. The payments were made to Klamath Pub LLC, Mount Shasta Area News, and Siskiyou Daily News “Vote NO to keep our Siskiyou Economy Strong & Growing”	\$10,420
Billboard / Large Signs	25 large signs measuring 4’ by 8’ and read, “No on Measure H; Protect our jobs & our way of life” The vendor for this advertisement was Dragon Graphics	\$1,437
	TOTAL	\$24,754

The content of the advertisements was focused on the effect of the measure on the County as a whole, not just Crystal Geyser written in a manner that suggested that the Committee was a grassroots and local led group. For example, in several forms of advertisement, the message was, “Protect our jobs and our way of life.” Multiple advertisements included language similar to, “The initiative is not just directed

⁴⁰ In addition to large signs, the Committee also purchased 100 yard signs. At the time of the violations, the disclosure requirements were only applicable when the quantity of yard signs totaled 200 or more. Therefore, this cost is referenced and included in the counts regarding 24-hour reporting but are not included as advertisements that required disclosure statements.

1 at water bottlers. The truth is, any producer ‘using’ water in Siskiyou County for their end product could
2 be subject to the permitting requirement. This could include breweries, wineries, food producers, hay
3 producers, timber products, and nurseries.” And “Do we really want to drive more business out of our
4 County?” By not including the reference to the sponsor and actual payor for the advertisements, voters
5 were deprived of information regarding the true backers of the opposition committee.

6 *Failure to Report Contributions and Expenditures on Campaign Statements*

7 The Committee and Lawler failed to report several expenditures, including advertisements, the
8 personal services of Harris, and consultant fees. In addition, the Committee and Lawler reported
9 expenditures as if they were accrued expenses.

10 The Committee and Lawler filed the first pre-election campaign statement on September 30, 2016
11 for the reporting period ending September 24, 2016. The campaign statement reported \$1,100 in
12 contributions, including a loan from Lawler (made to open the committee bank account) and a \$1,000
13 monetary contribution from Crystal Geysler. The statement did not report any payments made or any other
14 contributions. However, records show that the Committee had already received the benefit of an
15 expenditure, namely a website opposing Measure H, and that Crystal Geysler had paid \$2,250 to the vendor
16 by September 1, 2016. In addition, the Committee had received the benefit of flyers printed by Siskiyou
17 Laser Products. This expenditure should have been reported as an accrued expense of \$164. The payment
18 was made in the next reporting period, but the flyers were invoiced on September 6, 2016 and were received
19 at least by September 20, 2016. In addition, Crystal Geysler had begun paying a consultant to assist with
20 the campaign strategy. Internal records confirm that the Committee was receiving the benefit of these
21 services as early as September 8, 2016. Additionally, the Committee and Lawler should have reported
22 some portion of Harris’ salary as a nonmonetary contribution, as she was working on the Committee nearly
23 full time. The consulting services and Crystal Geysler staff time were not disclosed in the amended reports.

24 The Committee and Lawler filed the second pre-election campaign statement on October 28, 2016
25 for the reporting period ending October 22, 2016. The campaign statement reported \$400 in monetary
26 contributions from three sources, a \$50 nonitemized payment, and approximately \$15,861 in accrued
27 expenses. However, in an amended campaign statement filed May 22, 2017, the statement reported \$20,495
28 in nonmonetary contributions from Crystal Geysler, including the \$2,250 expense paid to the website

1 vendor, Silver Rockets, that should have been reported as received in the prior reporting period. Records
2 show that the statement should have also reported a \$1,935 invoice paid by Crystal Geysler on October 19,
3 2016 to Klamath Pub LLC & LCE for newspaper ads. Additionally, internal records confirm that the
4 Committee was receiving the benefit of campaign consulting services and staff time during this reporting
5 period. The consulting services and Crystal Geysler staff time were not disclosed in the amended reports.
6 In mitigation, the Committee and Lawler initially reported some of the accrued expenses naming Crystal
7 Geysler as the payor and reported a payment on Schedule G, naming Crystal Geysler as an agent who made
8 a payment on behalf of the Committee. While this disclosure gave some indication of Crystal Geysler's
9 role, the evidence suggests that these payments should have been reported as nonmonetary contributions
10 from Crystal Geysler in the first place.

11 *Failure to Timely File 24-Hour Contribution Reports for the Committee*

12 The Committee received approximately \$26,196 in the form of nonmonetary contributions from
13 Crystal Geysler in the 90-day period prior to the election.⁴¹ The campaign statements filed provided some
14 disclosure of this activity before the election by reporting most of the activity on campaign statements;
15 however, as discussed above, the disclosure was not complete and was misleading at times. The Committee
16 and Lawler timely filed one 24-hour report to disclose a \$1,000 contribution from Crystal Geysler. In
17 summary, the Committee and Lawler failed to timely file the following 24-hour contribution reports to
18 report nonmonetary contributions from Crystal Geysler:

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Report #	Date Due	Report Total
1	09/02/2016	\$2,250
2	09/29/2016	\$6,923
3	10/20/2016	\$13,258
4	10/31/2016	\$3,765
	TOTAL	\$26,196

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28 ⁴¹ In addition to the advertisements listed in the table above, Crystal Geysler also paid for smaller items to be distributed, including bumper stickers and yard signs that did not require disclosure under the advertisement regulations in effect at the time.

1 **Violations of Crystal Geysler**

2 *Failure to Timely File as a Major Donor*

3 The evidence shows that Crystal Geysler qualified as a major donor committee, having contributed
4 at least \$10,000 in monetary and nonmonetary contributions, qualifying as a major donor on or around
5 September 28, 2016. Crystal Geysler was required to file a semiannual campaign statement to disclose the
6 activity no later than January 31, 2017. The major donor campaign statement was filed on April 25, 2017,
7 a total of 84 days late.

8 *Failure to Timely File 24-hour Contribution Reports for Crystal Geysler, as a major donor*

9 The evidence shows that Crystal Geysler was required to timely file three 24-hour contribution
10 reports for the following nonmonetary contributions made to oppose Measure H. As discussed above, some
11 of this activity was reported by the Committee but primarily as an accrued expense of the Committee or as
12 payments made on behalf of the Committee, rather than the proper characterization of a nonmonetary
13 contribution from Crystal Geysler. The details regarding the contributions are summarized in the table
14 below:

Report #	Date Due	Report Total
1	09/29/2016	\$10,173
2	10/20/2016	\$13,258
3	10/31/2016	3,765
	TOTAL	\$27,196

21 **VIOLATIONS**

22 **Count 1: Failure to Include an Accurate Disclosure Statement on Advertisements**

23 The Committee and Harris failed to include an accurate disclosure statement on advertisements on
24 a website, during radio advertisements, on newspaper advertisements, on flyer advertisements, and on two
25 mass mailings, in violation of Government Code sections 84106, 84504, subdivision (c), and 84305. The
26 total cost of these advertisements was \$24,754.

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1 **Count 2: Failure to Report Contributions on a Campaign Statement**

2 The Committee and Lawler failed to timely report nonmonetary contributions from Crystal Geysler
3 on the pre-election campaign statement for the reporting period of July 1, 2016 through September 24,
4 2016, in violation of Government Code section 84211.

5 **Count 3: Failure to Report Contributions on a Campaign Statement**

6 The Committee and Lawler failed to timely report nonmonetary contributions from Crystal Geysler
7 on the pre-election campaign statement for the reporting period of September 25, 2016 through October
8 22, 2016, in violation of Government Code section 84211.

9 **Count 4: Failure to Timely a File 24-hour Contribution Reports**

10 The Committee and Lawler failed to timely file four 24-hour contribution reports totaling \$26,196
11 from Crystal Geysler, in violation of Government Code section 84203.

12 *As to Crystal Geysler Water Company, only*

13 **Count 5: Failure to Timely File a Campaign Statement**

14 Crystal Geysler failed to timely file a major donor campaign statement for the reporting period of
15 January 1, 2016 through December 31, 2016, in violation of Government Code section 84200.

16 **Count 6: Failure to Timely File 24-hour Contribution Reports**

17 Crystal Geysler failed to timely file three 24-hour contribution reports to report a total of \$27,196
18 in contributions, in violation of Government Code section 84203.

19 **PROPOSED PENALTY**

20 This matter consists of 6 total counts. The maximum penalty that may be imposed for Counts 2-6
21 is \$5,000 per count for a total of \$25,000.⁴² In addition to this authority, the Commission may impose a
22 fine of up to three times the cost of an advertisement when it finds an advertisement disclosure violation.⁴³
23 The Committee spent \$24,754 on advertisements that did not conform to the required disclosure statements.
24 Therefore, the maximum penalty that may be imposed for Count 1 is \$74,262. In total, the maximum
25 penalty in this matter is \$99,262.

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28 ⁴² See Section 83116, subdivision (c).

⁴³ Section 84510, subdivision (a)—as in effect in 2016 (at the time of the violation in this case).

1 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
2 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
3 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers
4 the facts and circumstances of the violation in the context of the following factors set forth in Regulation
5 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the specific
6 violation; (2) The level of experience of the violator with the requirements of the Political Reform Act;
7 (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence or absence of
8 any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate, negligent or
9 inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission staff or any
10 other governmental agency in a manner not constituting complete defense under Government Code Section
11 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the violator has a prior
12 record of violations of the Political Reform Act or similar laws; and (8) Whether the violator, upon learning
13 of a reporting violation, voluntarily filed amendments to provide full disclosure.

14 With respect to the first factor, the extent and gravity of the public harm here is significant. A vital
15 purpose of the Act is to ensure transparency in campaign contributions and the influence of large campaign
16 contributors in ballot measure elections.⁴⁴ Therefore, the Act requires campaigns to fully and truthfully
17 disclose information about receipts and expenditures.⁴⁵ Here, the Respondents failed to uphold this duty to
18 the electorate by failing to identify Crystal Geysler as a sponsor of the Committee and when Crystal Geysler
19 failed to file as a major donor committee. The violations discussed herein deprived voters of knowing that
20 an interested party, Crystal Geysler, was the key player behind the opposition campaign against a ballot
21 measure that could have negatively impacted Crystal Geysler's business. The Respondents contend that it
22 was generally known during the election cycle that Crystal Geysler opposed the measure and Harris, an
23 employee with Crystal Geysler, was publicly listed as a principal officer. There was some disclosure before
24 the election that Crystal Geysler was involved in supporting the activities of the Committee. For example,
25 on the first pre-election campaign statement, the Committee reported receiving \$1,000 in the form of a
26 monetary contribution from Crystal Geysler. On the second pre-election campaign statement, the

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28 ⁴⁴ Section 81001, subdivisions (d) and (g).

⁴⁵ Section 81002.

1 Committee reported accrued expenses owed to Crystal Geysler and reported Crystal Geysler as having made
2 payments as an agent of the Committee.

3 With respect to the second factor regarding the level of experience of the violators, the treasurer,
4 Lawler, is a professional campaign treasurer. The Committee was formed for purposes of the election at
5 issue and has no prior experience with the Act. Harris and Crystal Geysler have no experience with the
6 Political Reform Act and contend that they relied on Lawler to comply with all reporting requirements.

7 With respect to the third factor, comparable cases will be discussed below and with respect to
8 individual counts.

9 With respect to the fourth factor, regarding the presence or absence of any intention to conceal,
10 deceive or mislead: the Enforcement Division contends that there is evidence that Crystal Geysler had an
11 intention to conceal their role in the Committee and that this evidence suggests that the penalty should be
12 higher in order to promote the highest level of transparency by political actors. However, there is also
13 evidence to suggest that Crystal Geysler assumed or had an understanding that it was acting within the
14 confines of the law. Crystal Geysler contends that there is no evidence of any intent to conceal or deceive.
15 The evidence shows that the company sought to comply with the Act and hired a professional treasurer for
16 this purpose. Respondents and the Enforcement Division agree that intent to minimize Crystal Geysler's
17 role in the committee is not evidence of a deliberate violation of the Act.

18 With respect to the fifth factor regarding whether violations were deliberate, negligent, or
19 inadvertent, the Enforcement Division contends that there is no direct evidence of a deliberate violation of
20 the Act. Additionally, there is evidence to suggest that the violations were negligent, as respondents failed
21 to exercise reasonable diligence in the preparation of statements. There is evidence that Harris sought
22 advice from an attorney and from Lawler regarding various aspects of compliance with the Act, including
23 the sponsorship status and advertisement disclosure rules. In addition, there is evidence to suggest that
24 Harris had an understanding that if Crystal Geysler accrued the expenses, instead of paying for them
25 outright, the Committee was not obligated to disclose Crystal Geysler as the payor. This assumption is not
26 consistent with the law that requires that expenses be reported at the time the consideration is received, not
27 just when payment is made.

1 Lawler asserts that she did not know that certain invoices provided to her by Harris were intended
2 to be nonmonetary contributions. She explained that she assumed they would eventually be reimbursed
3 when the Committee raised additional funds. Lawler told an Enforcement Division investigator that she
4 thought that Crystal Geysler did not qualify as the sponsor because the Committee had not received
5 sufficient monetary contributions from the company.

6 Crystal Geysler contends that the evidence supports a finding that the violations were inadvertent.
7 Crystal Geysler argues that Harris acted reasonably in relying on Lawler to properly and accurately report
8 activity for the Committee. Harris provided documents to Lawler, stating, “We have accrued and paid some
9 expenses through [Crystal Geysler] – do I need to forward all to you?” After receiving the relevant records,
10 Lawler reported the unpaid expense as accrued by the Committee and the expenses marked paid were
11 reported as paid for by the committee through an agent, Crystal Geysler. Crystal Geysler argues that the
12 hiring of Lawler, the reliance on Lawler for advice, and Harris’ email communication with Lawler
13 demonstrates that the failing to correctly report was the responsibility of the treasurer and that the
14 company’s error was therefore inadvertent.

15 With respect to the sixth factor, there is no evidence that Respondents sought advice from the
16 Commission or another governmental agency. Therefore, this factor was not considered.

17 With respect to the seventh factor regarding prior history or whether the violations were isolated or
18 part of a pattern, Lawler has been named in four prior matters in the last five years for campaign reporting
19 violations and has received nine warning letters. The Committee, Crystal Geysler, and Harris have no prior
20 enforcement history. The violations in this matter were confined to a single election and were corrected
21 after the election. The Committee has not been active in a subsequent election.

22 With respect to the eighth factor, Crystal Geysler, upon learning of the complaint, immediately
23 directed Lawler to file corrective amendments and Crystal Geysler immediately filed major donor campaign
24 statements.

25 The Commission also considers penalties assessed in comparable cases. These will be discussed
26 with respect to each count.

27 As Crystal Geysler qualified as the sponsor of the committee on the basis of the company’s
28 administering of the campaign committee, in addition to its monetary support, Crystal Geysler has been

1 included in this stipulation as a party for failing to timely file campaign statements and reports. In addition,
2 the Enforcement Division is recommending charging the advertisement counts under Government Code
3 Section 84510 to allow for an increase in the penalty for failing to include reference to the sponsor, Crystal
4 Geysler, in mass mailings and other advertisements.

5 With respect to Count 1, regarding failure to include an accurate disclosure statement on
6 advertisements: the Enforcement Division recommends imposing a penalty under Section 84510 but lower
7 than the maximum penalty that could be imposed (up to three times the cost of the advertisement).

8 A comparable case involving Section 84510 is *In the Matter of Carlos Villapuadua; Steve*
9 *Bestolarides; and Central Valley PAC – California, Yes on Measure D*; FPPC Case No. 12/798 (approved
10 July 2016), the Commission imposed a penalty in the amount of \$26,000 for a one-count advertising
11 violation, an amount comparable to the total spent on advertisements. The respondents were two county
12 supervisors who were running out of time to remain in office under local term limits. They secretly
13 controlled a committee to campaign in support of changing term limits, so that they would be able to remain
14 in office longer. As controlling candidates, their last names were required to be included as part of the
15 committee's name in the advertising disclosures. However, they failed to comply with this requirement,
16 which served to downplay/conceal their involvement as controlling candidates on an issue that impacted
17 them as office holders. In that case, the maximum penalty that could have been imposed was \$79,395 or
18 three times the total cost of the advertisements that caused the violation. The maximum was not sought
19 because the respondents cooperated and agreed to an early settlement, respondents did not have a prior
20 history of similar violations, the respondents maintained that they had limited prior experience with ballot
21 measure campaigns and the legal requirements that applied, and the respondents were publicly known to
22 support the measure.

23 Here, the maximum penalty that can be imposed for Count 1 is \$74,262. In both this matter and in
24 the comparable case, advertisements were released that lacked reference to a sponsor or controlling
25 candidate of the committee. In mitigation and similar to the *Central Valley PAC* case, Respondents do not
26 have a history of prior enforcement actions for similar violations. In addition, Crystal Geysler contends that
27 it relied on a professional treasurer to comply with the Act's reporting requirements. Respondents were
28 cooperative during the investigation, corrective amendments were filed after contact from Enforcement,

1 and the Respondents have agreed to a settlement in lieu of litigating any factual or legal disputes. The
2 Committee and Harris had no prior experience with compliance with the Act. In assessing the public harm
3 and determining the appropriate penalty, the overall amount this Committee raised and spent was
4 considered. In addition, unlike the comparable case, the Enforcement Division is recommending a penalty
5 for additional violations beyond the advertisement count. Finally, the Commission has expressed a desire
6 to pursue an elevated penalty in this case, due to the high degree of public harm. Under these circumstances,
7 the Enforcement Division recommends a penalty that is twice the amount of funds spent on the
8 advertisements without disclosure. The Committee and Harris were responsible for a total of \$24,754 in
9 advertisement expenditures, including mass mailings. Therefore, a penalty of \$49,508 is recommended for
10 Count 1.

11 With respect to Counts 2-3, failure to report contributions on a campaign statement: [In the Matter](#)
12 [of Ocean View Teachers Association PAC, Tanysia Sanchez \(a.k.a. Phillips\), Margaret Friedmann, and](#)
13 [Pauline Wong](#); FPPC Case No. 16/705 (approved September 2020). The Commission imposed a penalty
14 of \$3,000 for failing to report a photoshoot and two mailers as nonmonetary contributions on three
15 campaign statements. The respondent committee reported the expenditures as independent expenditures.
16 Additionally, the respondent committee's mischaracterization of the payments caused other committees to
17 fail to report nonmonetary contributions.

18 Here, the Committee failed to timely report nonmonetary contributions from Crystal Geysler on two
19 pre-election campaign statements and mischaracterized some payments as being accrued expenses or as
20 being payments that Crystal Geysler had made payments on behalf of the Committee (implying that the
21 Committee would eventually reimburse the cost.) The first pre-election campaign statement failed to
22 disclose payments that had already been made by Crystal Geysler, including a down payment for a website
23 and payment for flyers. The Committee disclosed a \$1,000 contribution from Crystal Geysler but failed to
24 file a 24-hour contribution report. In mitigation, there was some disclosure of Crystal Geysler's role in the
25 Committee on the second pre-election campaign statement, including that Crystal Geysler had made
26 payments on behalf of the Committee.

27 In aggravation, the Committee filed a semiannual statement for the period ending December 31,
28 2016 that initially reported additional accrued expenses, though some had already been paid by Crystal

1 Geysler. However, this statement was due and filed after the election, and within two months, the
2 Committee had filed corrective amendments. Therefore, the semiannual statement is not being charged
3 separately for settlement purposes.

4 The Committee and Crystal Geysler relied on the treasurer to properly report all expenditures.
5 Lawler stated to an Enforcement Investigator that she did not know that certain accrued expenses were
6 going to be paid for by Crystal Geysler. However, the invoices Lawler relied on were provided to Lawler
7 by Harris. Lawler states her understanding was that the Committee would reimburse Crystal Geysler or pay
8 for all unpaid expenses, but she never confirmed her assumptions. After the complaint was filed with the
9 Enforcement Division, Crystal Geysler instructed Lawler to immediately amend statements to report some
10 of these expenditures as nonmonetary expenditures.

11 Based on the foregoing, a penalty of \$3,000 each is recommended for Counts 2-3.

12 With respect to Count 4, failure to timely file 24-hour contribution reports: *In the Matter of*
13 *Committee to Elect David Combellack Judge 2014, David W. Combellack, and Verne G. Sanders, Jr.,*
14 FPPC Case No. 17/077. The committee, candidate, and treasurer failed to timely file four 24-hour
15 contribution reports totaling \$41,000 in activity. The Commission imposed a penalty of \$2,500 for the four
16 reports on February 21, 2019.

17 Here, the Committee and Lawler failed to timely file four 24-hour contribution reports totaling
18 \$26,196 in activity. In aggravation, though a description of the activity was disclosed before the election,
19 the Committee and Lawler did not disclose on campaign statements that the payments were nonmonetary
20 contributions from Crystal Geysler. Instead, the Committee reported this activity as if the expenditures were
21 the Committee's accrued expenses or as payments made by an agent on behalf of the Committee.
22 Additionally, the Committee filed an initial statement of organization approximately 13 days late.
23 Therefore, a penalty of \$4,000 is recommended for Count 4.

24 With respect to Counts 5-6, failure to timely file a campaign statement and failure to timely file 24-
25 hour contribution reports, as against Crystal Geysler: *In the Matter of Burbank Hospitality Association,*
26 FPPC Case No. 18/113. The respondent qualified as a major donor committee after making a \$50,000
27 contribution. The committee failed to timely file a major donor campaign statement and failed to timely a
28

24-hour contribution report. The Commission imposed a penalty of \$2,500 for each violation on June 21, 2018.

The violations in Counts 5-6 would ordinarily qualify for the Streamline Settlement program, however, Crystal Geysers late filing of its major donor statement and failure to file 24-hour contribution reports deprived voters of disclosure about Crystal Geysers role in the campaign. As this is Crystal Geysers first time qualifying as a major donor, a penalty of \$4,000 each is recommended for Counts 5-6.

After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant facts, a penalty of \$67,508 is recommended. The penalty is broken down by violation and by individual Respondent below:

Count	Violation	Respondent	Amount
1	Failure to Include the Correct Name of the Committee on Advertisement Disclosures	Committee and Harris	\$49,508
2	Failure to Report Contributions on a Campaign Statement	Committee and Lawler	\$3,000
3	Failure to Report Contributions on a Campaign Statement	Committee and Lawler	\$3,000
4	Failure to Timely File 24-hour a Contribution Reports	Committee and Lawler	\$4,000
5	Failure to Timely File a Campaign Statement	Crystal Geysers	\$4,000
6	Failure to Timely File 24-hour Contribution Reports	Crystal Geysers	\$4,000
Total Penalty			\$67,508

CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondents, Committee for a Strong Siskiyou Economy, No on Measure H; Kelly Lawler; Jill Harris; and Crystal Geysers Water Company, hereby agree as follows:

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

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

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

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

14 5. Respondents agree to the issuance of the decision and order set forth below. Also,
15 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
16 \$67,508. One or more payments totaling said amount—to be paid to the General Fund of the State of
17 California—is/are submitted with this stipulation as full payment of the administrative penalty described
18 above, and same shall be held by the State of California until the Commission issues its decision and order
19 regarding this matter.

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

26
27 ///

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.
4

5 Dated: _____

Angela J. Brereton, Chief of Enforcement
Fair Political Practices Commission

6
7
8 Dated: _____

Kelly Lawler, Treasurer
Individually and on behalf of Committee for a Strong
Siskiyou Economy, No on Measure H Sponsored by
Crystal Geysers Water Company

9
10
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12 Dated: _____

Jill Harris, Principal Officer
Individually and on behalf of Committee for a Strong
Siskiyou Economy, No on Measure H Sponsored by
Crystal Geysers Water Company

13
14
15
16 Dated: _____

Representative for
Crystal Geysers Water Company

1 The foregoing stipulation of the parties “Committee for a Strong Siskiyou Economy, No on
2 Measure H, Kelly Lawler, Jill Harris, and Crystal Geyser Water Company,” FPPC Case No. 2017-00123,
3 is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon
4 execution below by the Chair.

5
6 IT IS SO ORDERED.

7
8 Dated: _____

Richard C. Miadich, Chair
Fair Political Practices Commission