

1 ANGELA J. BRERETON
Chief of Enforcement
2 THERESA GILBERTSON
Senior Commission Counsel
3 Fair Political Practices Commission
1102 Q Street, Suite 3000
4 Sacramento, CA 95811

5 Telephone: (916) 323-6421
6 Email: tgilbertson@fppc.ca.gov

7 Attorneys for Complainant

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

11 In the Matter of:

12 RENTERIA FOR GOVERNOR 2018,
13 AMANDA RENTERIA, AND GARY
CRUMMITT,

14 Respondents.

FPPC Case No. 22/201

STIPULATION, DECISION AND ORDER

15
16 **INTRODUCTION**

17 Respondent Amanda Renteria (“Renteria”) was a candidate for Governor during the June 5, 2018
18 Primary Election. Her controlled committee was Renteria for Governor 2018 (“Committee”) and the
19 treasurer was Gary Crummitt (“Crummitt.”) Renteria was not successful and did not proceed to the
20 general election. Renteria’s spouse was Patrick Brannelly (“Brannelly.”)

21 This case arose from an audit conducted by the Franchise Tax Board (“FTB”). The FTB audit
22 report covered the audit period of January 1, 2018 through June 30, 2018. During the audit period, the
23 Committee reported receiving contributions totaling \$111,271 and reported making expenditures totaling
24 \$93,131. The FTB’s audit found, and the Enforcement Division of the Fair Political Practices
25 Commission confirmed, that the Committee, Renteria, and Crummitt violated the Political Reform Act¹

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28 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 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 (“Act”) by failing to make all expenditures from the designated campaign bank account erroneously
2 using campaign funds to pay personal expenses and failing to disclose activity on campaign statements.

3 **SUMMARY OF THE LAW**

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

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

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

14 **Designated Campaign Bank Account**

15 A candidate is required to establish a designated campaign contribution bank account.⁷ Money in
16 the account shall be spent only on expenses associated with the candidate’s election to the specific
17 elective office designated in the statement of intention.⁸ All contributions or loans made to the
18 candidate, to a person on behalf of the candidate, or to the candidate’s-controlled committee shall be
19 deposited in the account.⁹ All campaign expenditures shall be made from the account.¹⁰

20 A candidate may establish one or more credit card accounts for the campaign bank account.¹¹
21 Expenditures for payment of charges incurred on each card shall be made only from the campaign bank
22 account. The credit card account shall only be used for expenses associated with the candidate’s election
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25 ² Section 81001, subdivision (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subdivision (a).

28 ⁵ Sections 84200, *et seq.*

⁶ Section 81002, subdivision (f).

⁷ Section 85201, subdivision (a).

⁸ Section 18524,

⁹ Section 85201, subdivision (c).

¹⁰ Section 85201, subdivision (e).

¹¹ Regulation 18524.

1 to the specific elective office designated in the statement of intention. While the Commission has
2 advised that a personal credit card account may be used, the candidate must establish a zero balance
3 prior to dedicating the use to the campaign's expenditures.¹² The account may not be used for non-
4 campaign purposes. The account can be used for personal expenses once the balance for the campaign
5 has been paid for from the committee's designated campaign bank account.

6 **Prohibition Against Personal Use of Committee Funds**

7 The Act holds that contributions deposited into a campaign bank account are held in trust for
8 expenses associated with the election of the candidate or for expenses associated with holding office.¹³
9 An expenditure to seek office is within the lawful execution of the trust if it is reasonably related to a
10 political purpose.¹⁴

11 **Report Activity on Campaign Statements**

12 The Act requires candidates and their controlled committees to file campaign statements at
13 specific times disclosing information regarding contributions received and expenditures made by the
14 campaign committees.¹⁵

15 A contribution means a payment, a forgiveness of a loan, a payment of a loan by a third party, or
16 an enforceable promise to make a payment, except to the extent that full and adequate consideration is
17 received or if it is clear from the surrounding circumstances that the payment is not made for political
18 purposes.¹⁶

19 An expenditure is defined as a payment, a forgiveness of a loan, a payment of a loan by a 3rd
20 party, or an enforceable promise to make a payment, unless it is clear from the surrounding
21 circumstances that it is not made for political purposes. An expenditure is made on the date the payment
22 is made or on the date consideration, if any, is received, whichever is earlier.¹⁷

23 Each campaign statement required by the Act must contain all the information specified in
24 Section 84211. With respect to contributions, including loans, from a person is \$100 or more, this
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26 ¹² See, for example, Campaign Manual 1, version published June 2020, Chapter 9.33, available:
27 https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Manuals/Manual_1/Entire-Manual-1.pdf

28 ¹³ Section 89510.

¹⁴ Section 89512

¹⁵ Section 84200, *et seq.*

¹⁶ Section 82015.

¹⁷ Section 82025.

1 contribution must be reported during the period covered by the campaign statement.¹⁸ With respect to
2 expenditures, for each person to whom an expenditure of \$100 or more has been made, the filer must
3 disclose this information on the campaign statement in which the payment was made or the consideration
4 was incurred, whichever is first.¹⁹ Accrued expenses must be reported until extinguished.²⁰ This includes
5 payments made by means of a campaign credit card. Filers must also disclose subvendor payments where
6 the subvendor was paid \$500 or more.²¹

7 Expenditures that are made at the behest of the candidate for goods, services or travel expenses
8 payable from the campaign bank account may be reimbursed and will be deemed expenditures from the
9 campaign bank account if all the following apply: the person to be reimbursed is a volunteer or paid
10 employee of the candidate's controlled committee or is an agent or independent contractor and the
11 expenditures are made pursuant to a written contract, the treasurer of the committee is provided with a
12 dated receipt and a written description of each expenditure prior to reimbursement, and the
13 reimbursement is made within 45 calendar days after the expenditures are paid.²² When a candidate or
14 committee controlled by a candidate is notified that expenditures totaling \$100 or more in a filing period
15 have been made by a person who is to be reimbursed, the Committee must report this on the relevant
16 statement.²³ If the reimbursement is not paid within the time permitted, the expenditure shall be reported
17 on the campaign statement as a nonmonetary contribution received on the 45th day after the expenditures
18 are paid by the person to be reimbursed.²⁴

19 **Joint and Several Liability of Committee, Candidate, and Treasurer**

20 It is the duty of a committee treasurer and the candidate to ensure that the committee complies
21 with the Act's campaign reporting.²⁵ A treasurer and candidate may be held jointly and severally liable
22 with the committee for violations committed by the committee.²⁶

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25 ¹⁸ Section 84211, subdivision (f).

26 ¹⁹ Section 84211, subdivision (k) and Regulation 18421.6, subdivision (b).

27 ²⁰ Regulation 18421.6, subdivision (a).

28 ²¹ Section 84211, subdivision (k)(6).

²² Regulation 18526, subdivision (a) and (b).

²³ Regulation 18526, subdivision (c).

²⁴ Regulation 18526, subdivision (d).

²⁵ Sections 81004, 84100, 84104, and Regulation 18427.

²⁶ Sections 83116.5 and 91006.

1 **SUMMARY OF THE FACTS**

2 The Committee qualified as a committee on or around February 20, 2018 and qualified as an
3 electronic filer on or around February 22, 2018 when the Committee received over \$25,000 in
4 contributions. The Committee remains open.

5 **One Bank Account and Use of Campaign Funds**

6 As required by the Act, the Committee established a designated bank account for the campaign.
7 In addition, Renteria utilized a personal credit card account to make approximately \$20,775 worth of
8 expenditures for the campaign. The account had a zero balance when Renteria began using it for
9 campaign purposes. The credit card statements show that the credit card account consisted of two credit
10 cards: Renteria was issued a card ending in -4590 and Brannelly, her spouse, was issued a card ending in
11 -0692. This meant that the credit card was not dedicated to the campaign and was an improper use of a
12 credit card, a violation of the Act’s one bank account requirement.

13 The credit card account statements listed charges for each credit card separately. Renteria
14 provided that all charges on her card were exclusively used for campaign purposes. However, the credit
15 card statement balance reflected the aggregate charges for both cards. Renteria provided the first credit
16 card statement to the committee treasurer by email and crossed out the charges accrued for Brannelly's
17 card. However, the treasurer erroneously paid the total balance for the credit card statement, including
18 Brannelly's personal charges. The statement provided by Renteria covered the period of February 6, 2018
19 through March 5, 2018 and the statement balance was \$3,613.30. On April 20, 2018, the Committee paid
20 a total of \$3,613.30 towards the credit card balance, a sum that included \$871.40 of credit card charges
21 by Brannelly. In making this payment, the Committee, Renteria, and Crummitt erroneously made a
22 campaign expenditure that was not reasonably related to a political purpose.

23 After this initial payment, the Committee did not make any additional payments towards the
24 credit card balance, despite incurring an additional \$18,033.65 in campaign expenditures.

25 The Act requires that all campaign credit card charges be paid for out of the designated campaign
26 bank account. Instead, Brannelly made payments toward the statement balance, paying for the
27 \$18,033.65 charges incurred by the Committee and for his personal charges. Because the campaign’s
28 credit card charges were paid for outside the campaign bank account, the Committee, Renteria, and

1 Crummitt failed to utilize a single designated campaign bank account for all expenditures. After the
2 election, the candidate requested that Brannelly be reimbursed for this payment from Committee funds.
3 In total, Brannelly was reimbursed \$18,033.56 in May of 2021.

4 **Failure to Accurately and Timely Report Activity on Statements**

5 The campaign statements had several errors related to correctly and timely reporting expenditures
6 made on a credit card, subvendor payments, and accrued expenses.

7 On the first pre-election statement for the reporting period of January 1, 2018 through April 21,
8 2018, the statement reported approximately \$60,098 in expenditures. Of that, the statement failed to
9 disclose accrued expenses totaling \$12,854. This includes an accrued expense reported as owed to
10 Patrick Brannelly for paying towards the balance of the campaign credit card. In addition, the statement
11 failed to report some of the credit card charges. The statement disclosed some charges, but the reporting
12 was limited to those expenses that were \$500 or more. However, the Act requires that all expenditures of
13 \$100 or more be itemized on statements, whether paid or accrued. Amended statements filed on August
14 29, 2018 and September 17, 2018 disclosed previously unreported accrued expenditures. In addition, this
15 statement was amended to reflect an overreporting of \$1,200 in contributions that were never deposited.
16 Finally, \$1,547 in subvendor payments were disclosed on subsequent amendments.

17 On the second pre-election statement for the reporting period of April 22, 2018 through May 19,
18 2018, the Committee had approximately \$20,607 in expenditures. Of that, the relevant statement failed to
19 timely report an accrued expense of \$8,460. A total of \$6,971 in subvendor payments were disclosed on
20 subsequent amendments.

21 On the post-election semiannual for the reporting period of May 20, 2018 through June 30, 2018,
22 the Committee had approximately \$12,424 in expenditures. Of that, the relevant statement failed to
23 timely report a total of \$7,634 in accrued expenses. In addition, \$1,453 was later disclosed as subvendor
24 payments.

27 **VIOLATIONS**

28 **Count 1: Failure to Make All Expenditures from a Designated Campaign Bank Account**

1 The Committee, Renteria, and Crummitt failed to make all expenditures from the designated
2 campaign bank account in violation of Government Code Section 85201 and Regulation 18524.

3 **Count 2: Prohibited Use of Campaign Funds**

4 The Committee, Renteria, and Crummitt made an expenditure of approximately \$871 using
5 committee funds and the expenditure was not reasonably related to a political purpose, in violation of
6 Government Code Section 89512.

7 **Count 3: Failure to Report Activity on Campaign Statements**

8 The Committee, Renteria, and Crummitt failed to timely report activity on campaign statements,
9 in violation of Section 84211.

10 **PROPOSED PENALTY**

11 This matter consists of three proposed counts. The maximum penalty that may be imposed is
12 \$5,000 per count.²⁷

13 This matter does not qualify for the streamline program because this matter involves misuse of
14 campaign funds, a violation that is not one of the eligible violations for the streamline program. In
15 addition, while violations of the one bank account rule are eligible for streamline, the amount of activity
16 that occurred outside the campaign bank account exceeds the threshold for streamline.

17 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
18 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
19 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division
20 considers the facts and circumstances of the violation in the context of the following factors set forth in
21 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused
22 by the specific violation; (2) The level of experience of the violator with the requirements of the Political
23 Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence
24 or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate,
25 negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission
26 staff or any other governmental agency in a manner not constituting complete defense under Government
27 Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the
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²⁷ See Section 83116, subdivision (c).

1 violator has a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the
2 violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

3 With respect to the first factor, the public harm in this matter primarily stems from the failure to
4 utilize a single, designated campaign bank account. The use of a credit card account with two cards led to
5 the Committee making a payment for non-campaign expenses and resulted in the candidate's spouse
6 making payments for some campaign expenditures. The Committee failed to timely report all the credit
7 card activity and the reporting errors were not corrected until after the election. In mitigation, the FTB's
8 audit found the parties to be substantially compliant with the reporting requirements.

9 With respect to the second factor, Renteria and the Committee have no prior known experience
10 with the Act. Crummitt is a professional treasurer.

11 With respect to the third factor, the following cases were considered as comparable cases:

12 *Nick for Lake Forest City Council 2016, Adam Nick; and Bryan Burch*, FPPC No. 16/20096 (The
13 Commission approved a stipulation in this matter on April 20, 2022.) The candidate used \$12,466 to
14 make expenditures using personal funds, out of approximately \$164,078 (or about 8%), and reported the
15 activity late. The Commission imposed a penalty of \$3,000 for this violation, in addition to making
16 findings regarding the failure to timely report nonmonetary contributions.

17 In contrast to the comparable case, the total activity outside the campaign bank account is higher
18 in this matter. Twenty-two percent of the total expenditures were made on a credit card that was
19 comingled with non-campaign expenses. Of that, approximately 83% of the activity was not paid for by
20 the designated campaign bank account. Similar to this comparable case, the activity was reported late. A
21 higher penalty is recommended.

22 *Michael D. Jackson for School Board 2016, Michael D. Jackson, and Kelvin Barrios*, FPPC No.
23 17/00964 (The Commission approved a stipulation in this matter on November 21, 2019.) A candidate,
24 after losing the election, made expenditures totaling \$1,646 that were not reasonably related to a political,
25 legislative, or governmental purpose. The payments were for food, groceries, and other miscellaneous
26 payments. Jackson was not an experienced candidate. The Commission imposed a penalty of \$2,500 for
27 this count.

1 Here, the amount of activity was less than in this comparable case. There is no evidence to
2 support a finding that the payment was intended to misuse campaign funds, but rather appears to be an
3 error stemming from comingling the campaign credit card with non-campaign expenses and negligence
4 in the failure to verify the underlying charges when making the credit card payment from campaign
5 funds. A similar penalty is recommended.

6 *Judge Mike Cummins, Judge Mike Cummins for District Attorney 2018, and Melissa Cummins,*
7 FPPC No. 18/330 (The Commission approved a stipulation in this matter of March 18, 2021.) The
8 respondents in this matter failed to timely report approximately \$97,477 in subvendor payments, or about
9 43% of the committee's total expenditures. The Commission imposed a penalty of \$3,000 for this
10 activity.

11 Here, the Committee failed to timely report subvendor payments, accrued expenses, and
12 campaign expenses advanced by the candidate's spouse. Only a few subvendor payments and accrued
13 expenses were missing. More critically, approximately 18% of the expenditures were not reported at all
14 due to some of the credit card charges not being disclosed. A similar penalty is recommended.

15 With respect to the fourth factor, the Enforcement Division did not find evidence to support a
16 finding that there was intent to conceal, deceive, or mislead.

17 With respect to the fifth factor, the Enforcement Division did not find evidence to support a
18 finding that the violations were deliberate. The Enforcement Division contends that evidence shows that
19 the violations were likely negligent, resulting from poor communication between the candidate and
20 treasurer, and misunderstandings about the proper use of a campaign credit card and reimbursement for
21 expenditures made by an agent. The use of a personal credit card is permissible and Crummitt contends
22 that he advised the candidate on the proper use of a personal credit card for campaign purposes. The
23 credit card account chosen had a separate card number for the candidate from her spouse's card and the
24 balance for that card was zero at the beginning of the campaign. Renteria attests that the charges to her
25 card were exclusively for campaign purposes. Therefore, it appears that the parties assumed the use of
26 this card was compliant with the Act. However, as the election cycle proceeded, the credit card account
27 was used by both the candidate and her spouse (on a separate card) and caused a comingling of personal
28 and campaign expenditures and payments towards the balance.

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

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

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

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

15 5. Respondents agree to the issuance of the decision and order set forth below. Also,
16 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
17 \$9,500. One or more payments totaling said amount—to be paid to the General Fund of the State of
18 California—is/are submitted with this stipulation as full payment of the administrative penalty described
19 above, and same shall be held by the State of California until the Commission issues its decision and
20 order regarding this matter.

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

1 The foregoing stipulation of the parties “Renteria for Governor 2018, Amanda Renteria, and Gary
2 Crummitt,” FPPC Case No. 2022-00201 is hereby accepted as the final decision and order of the Fair
3 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: _____

Richard C. Miadich, Chair
Fair Political Practices Commission