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

10 **STATE OF CALIFORNIA**

11 In the Matter of

FPPC Case No. 19/695

STIPULATION, DECISION AND ORDER

12
13 MICHAEL WELSH, MR. C'S
14 TOWING OF SOUTH GATE and
FUBAR PROPERTIES, LLC,

15 Respondents.

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17 **INTRODUCTION**

18 Respondent, Michael Welsh ("Welsh") is the General Manager of Respondents Mr. C's Towing
19 of South Gate and Fubar Properties, LLC (collectively referred to as the "Welsh Businesses").

20 This case arose from an anonymous complaint. Throughout 2019, Welsh made contributions
21 through the Welsh Businesses to various state and local candidate-controlled committees. Welsh and the
22 Welsh Businesses violated the Political Reform Act (the "Act")¹ by making contributions over the limit
23 and by failing to timely file major donor campaign statements.

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28 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred
3 in 2019. For this reason, all legal references and discussions of law pertain to the Act’s provisions as
4 they existed at that time.

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

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

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

13 **Contribution Limits**

14 Throughout 2019 and 2020, a person could not make to any candidate for elective state office
15 cumulative contributions totaling more than \$4,700 per election.⁶ For purposes of contribution limits,
16 contributions to a state candidate by an entity whose contributions are directed and controlled by any
17 individual are aggregated with any other entity whose contributions are directed and controlled by that
18 same individual.⁷

19 **Major Donor Committee Campaign Statements and Reports**

20 Under the Act, “committee” includes any person or combination of persons who directly or
21 indirectly makes contributions totaling \$10,000 or more in a calendar year to or at the behest of
22 candidates or committees.⁸ This type of committee is known as a major donor committee.

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26 ² Section 81001, subd. (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subd. (a).

⁵ Section 81002, subd. (f).

⁶ Section 85301, subd. (a) and Regulation 18545, subd. (a)(1).

⁷ Section 85311, subd. (b).

⁸ Section 82013, subd. (c).

1 A major donor committee must file a campaign statement each year no later than July 31 for the
2 period ending on June 30, and no later than January 31 for the period ending on December 31, if it made
3 contributions or independent expenditures during the six-month period before the closing date of the
4 statements.⁹

5 Under the Act, a “late contribution” includes a contribution that totals in the aggregate \$1,000 or
6 more and is made to or received by a candidate or a controlled committee during the 90-day period
7 preceding the date of the election, or on the date of the election, at which the candidate is to be voted
8 on.¹⁰ Each candidate or committee that makes or receives a late contribution shall report the late
9 contribution within 24 hours of the time it is made or received.¹¹

10 **Liability for Violations**

11 Any person who violates any provision of the Act, who purposely or negligently causes any
12 other person to violate any provision of the Act, or who aids and abets any other person in the violation
13 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.¹²

14 **SUMMARY OF THE FACTS**

15 Throughout 2019, Welsh made the following contributions through the Welsh Businesses:

16 Contribution Date	17 Contributor	18 Recipient	19 Amount
20 01/10/2019	Mr. C’s Towing of South Gate	Denise Diaz for Senate 2020	\$4,700
21 02/05/2019	Fubar Properties, LLC	Denise Diaz for Senate 2020	\$4,700
22 03/04/2019	Mr. C’s Towing of South Gate	Friends of Solache for Senate 2020	\$3,700
23 11/19/2019	Mr. C’s Towing of South Gate	Saleh for City Council 2020	\$2,500
24 12/30/2019	Mr. C’s Towing of South Gate	Ivan Altamirano for City Council 2021	\$1,000
		Total:	\$16,600

25 As shown above, in early 2019, the Welsh Businesses each made a maximum campaign
26 contribution of \$4,700 to a state candidate-controlled committee, Denise Diaz for Senate 2020 (ID#
27 1414760) (the “Diaz Committee”). Denise Diaz (“Diaz”) appeared on the March 26, 2019 Special
28 Primary Election ballot as a candidate for State Senate, District 33. Diaz did not appear on any other

⁹ Section 84200, subd. (b).

¹⁰ Section 82036, subd. (a).

¹¹ Section 84203.

¹² Sections 83116 and 83116.5.

1 election ballots. Each of the contributions from the Welsh Businesses were directed and controlled by
2 Welsh who wrote and signed both contribution checks to the Diaz Committee. In summary, Welsh
3 contributed \$9,400, in aggregation, to the Diaz Committee, exceeding the contribution limit by \$4,700.

4 The Diaz Committee contends they were not aware that the Welsh Businesses contributions were
5 controlled by the same individual when they received the contributions. Once the Diaz Committee was
6 informed by the Enforcement Division that the same individual controlled the Welsh Businesses, the
7 \$4,700 contribution from Fubar Properties, LLC was immediately returned. The Enforcement Division
8 confirmed that the Diaz Committee issued a check on March 22, 2019 to Fubar Properties, LLC with the
9 memo "Refund Contribution" and this check was deposited by Fubar Properties, LLC on April 5, 2019.

10 On March 4, 2019, Welsh met the \$10,000 threshold to qualify as a major donor committee after
11 making a \$3,700 contribution to Friends of Solache for Senate 2020 (ID# 1398575) (the "Solache
12 Committee") through an entity Welsh directed and controlled. Jose Solache appeared on the March 26,
13 2019 Special Primary Election ballot as a candidate for State Senate, District 33. The 90-day period
14 preceding the March 26, 2019 Special Primary Election began on January 16, 2019. Thus, Welsh was
15 required to file a 24-hour contribution report to report the \$3,700 contribution to the Solache Committee
16 by March 5, 2019, but failed to do so.

17 As a major donor committee, Welsh was required to timely file a semi-annual campaign
18 statement for the reporting period of January 1, 2019 to June 30, 2019, by the July 31, 2019 due date,
19 but failed to do so. Welsh was also required to file a semi-annual campaign statement for the reporting
20 period of July 1, 2019 to December 31, 2019, by the January 31, 2020 due date, but failed to do so.
21 These semi-annual campaign statements have been filed as part of this settlement agreement.

22 VIOLATION

23 **Count 1: Making Contributions Over the Limit**

24 Welsh directed and controlled the contributions made by the Welsh Businesses to the Diaz
25 Committee. When aggregated, Welsh and the Welsh Businesses made contributions to the Diaz
26 Committee totaling \$9,400. These contributions exceeded the contribution limit of \$4,700, in violation
27 of Government Code Section 85301 and Regulation 18545.

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1 **Count 2: Failure to Timely File Major Donor Campaign Statements**

2 Welsh failed to timely file two semi-annual campaign statements for the reporting periods ending
3 June 30, 2019 and December 31, 2019, by the July 31, 2019 and January 31, 2020 respective due dates,
4 and a 24-hour contribution report by the March 5, 2019 due date, in violation of Government Code
5 Sections 84200, subdivision (b), and 84203.

6 **PROPOSED PENALTY**

7 This matter consists of two proposed counts. The maximum penalty that may be imposed is
8 \$5,000 per count. Thus, the maximum penalty that may be imposed for the counts charged here is
9 \$10,000.¹³

10 As to Count 1, contribution limit violations are not eligible for the Streamline Programs.¹⁴ Since
11 the type of violation discussed in Count 1 is not eligible for the Streamline Programs, Respondents'
12 other violation is excluded from the Streamline Programs.¹⁵ However, late-filed major donor campaign
13 statements are included in Streamline Programs, and the violation stated in Count 2 would likely qualify
14 if it were the only violation.

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

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28 ¹³ Section 83116, subd. (c).

¹⁴ Regulations 18360.1, subd. (a), and 18360.3, subd. (a).

¹⁵ Regulation 18360.1, subd. (c)(2)(B)(vi).

1 (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide
2 full disclosure.¹⁶

3 Making campaign contributions in excess of the contribution limits causes serious public harm,
4 as contribution limits exist to prevent persons from exerting disproportionate influence over elected
5 officials. The contribution aggregation rules exist to ensure that an individual does not use multiple
6 entities to skirt contribution limits. While exceeding contribution limits causes serious public harm, the
7 violation is mitigated here since the Diaz Committee returned one of the contributions immediately after
8 receiving information from the Enforcement Division that the Welsh Businesses' contributions were
9 directed and controlled by the same individual.

10 The public harm inherent in campaign reporting violations is that the public is deprived of
11 important, time-sensitive information regarding campaign activity. Here, Welsh's failure to timely file
12 semi-annual campaign statements is mitigated because the recipient committees who received the
13 contributions from the Welsh Businesses disclosed the contributions on timely filed campaign
14 statements. Also, Welsh did not receive any major donor notifications from the recipient committees as
15 each of the contributions did not exceed \$5,000 to require such notification.

16 The Enforcement Division found no evidence that Welsh intended to conceal his contributions,
17 or his connection to the Welsh Businesses, as Welsh signed each of the contribution checks. Further, the
18 violations appear to be negligent as Welsh has some prior experience with the Act since Welsh has been
19 making contributions to state candidate-controlled committees since 2008. Although, prior to 2019,
20 Welsh did not meet the threshold to qualify as a major donor committee, so Welsh had no prior filing
21 experience. Welsh and the Welsh Businesses do not have prior enforcement history. Welsh did not
22 consult with Commission staff or any other governmental agency regarding campaign contributions or
23 reporting.

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

26 *In the Matter of Caixing Xie*; FPPC Case No. 2019-01680. Respondent, an individual who
27 directed and controlled contributions made by Xie and two businesses, made contributions to a state

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¹⁶ Regulation 18361.5, subd. (e).

1 candidate-controlled committee. Xie’s contributions, when aggregated, totaled \$25,100. These
2 contributions exceeded the applicable contribution limit by a total of \$16,700, or approximately \$8,350
3 per election. Each of the contributions were reported by the recipient on timely filed campaign
4 statements. Additionally, Respondent failed to timely file a semi-annual campaign statement to disclose
5 the contributions made by Respondent and the two businesses Xie directed and controlled. Xie
6 contended Xie did not have experience with the Act. On September 16, 2021, the Commission approved
7 a total penalty of \$6,000; \$4,000 for making contributions over the limit and \$2,000 for failing to timely
8 file a semi-annual campaign statement.

9 As to Count 1, a lower penalty than that approved in *Xie* is recommended. Here, Welsh made
10 two contributions to a state candidate-controlled committee through the Welsh Businesses totaling
11 \$9,400. These contributions exceeded the contribution limits by \$4,700, a lower amount than that at
12 issue in *Xie*. Similar to *Xie*, each of the contributions were reported by the recipient on timely filed
13 campaign statements. In mitigation, the recipient of the over-the-limit contributions here returned a
14 contribution to one of the Welsh Businesses immediately after receiving notice from the Enforcement
15 Division that the Welsh Businesses contributions were controlled by the same individual and prior to the
16 relevant election.

17 As to Count 2, a higher penalty than that approved in *Xie* is recommended. Here, Welsh failed to
18 timely file two semi-annual campaign statements to disclose the contributions made through the Welsh
19 Businesses. Additionally, Welsh failed to timely file a 24-hour contribution report for a late contribution
20 made prior to the March 26, 2019 Special Primary Election. In mitigation, the total amount of
21 unreported campaign activity at issue here is \$16,600, a lesser amount than that at issue in *Xie*.

22 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
23 in the amount of \$5,500 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Making Contributions Over the Limit	\$3,000
2	Failure to Timely File Major Donor Campaign Statements	\$2,500
	Total:	\$5,500

1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondents, Mike Welsh, Mr. C’s Towing of South Gate and Fubar Properties, LLC, hereby agree as
4 follows:

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

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

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

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

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

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

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

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

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8 Dated: _____
9 Angela J. Brereton, Chief of Enforcement
10 Fair Political Practices Commission

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12 Dated: _____
13 Michael Welsh, individually and on behalf of Mr. C's
14 Towing of South Gate and Fubar Properties, LLC,
15 Respondents

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18 The foregoing stipulation of the parties "In the Matter of Michael Welsh, Mr. C's Towing of
19 South Gate and Fubar Properties, LLC," FPPC Case No. 19/695, is hereby accepted as the final decision
20 and order of the Fair Political Practices Commission, effective upon execution by the Chair.

21
22 IT IS SO ORDERED.

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24 Dated: _____
25 Richard C. Miadich, Chair
26 Fair Political Practices Commission