

1 ANGELA J. BRERETON
Assistant Enforcement Chief
2 NEAL BUCKNELL
Senior Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
4 1102 Q Street, Suite 3050
Sacramento, CA 95811
5 Telephone: (279) 237-5938

6 Attorneys for Complainant, the Enforcement
Division of the Fair Political Practices Commission
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8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**

10
11 In the Matter of:

12 VICKY SANTANA, SANTANA FOR
SENATE 2018 (California Secretary of
13 State I.D. No. 1402189), and DAVID
14 GOULD,

15 Respondents.

FPPC Case No. 2020-00614

STIPULATION, DECISION AND ORDER

16
17 **INTRODUCTION**

18 On March 8, 2018, Governor Brown issued a proclamation calling for a special election to be
19 held for the purpose of filling a vacancy in the California State Senate, District 32, as a result of the
20 resignation of Senator Tony Mendoza.

21 For this senate seat, both a primary election and a special primary election were held on June 5,
22 2018; a special general election was held on August 7, 2018; and the general election was held on
23 November 6, 2018.

24 Respondent Vicky Santana was an unsuccessful candidate in the primary and special primary
25 elections of June 5, 2018. Respondent Santana for Senate 2018 (California Secretary of State I.D. No.
26 1402189) was her candidate-controlled committee for the non-special elections. (Any reference to a
27 committee herein is intended to be a reference to this committee, only. Santana also controlled another

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1 committee for the special elections that year, known as Santana for Senate Special Election 2018, but this
2 committee reported only minimal activity and is not a named respondent herein.)

3 Respondent David Gould was the committee’s professional treasurer.

4 At the time of the election, Santana was a member of the Río Hondo College Board of Trustees.

5 This case arose from an audit performed by the Political Reform Audit Program of the Franchise
6 Tax Board (FTB). The period covered by the audit was January 1 through June 30, 2018, and the audit
7 report included the following findings:

8 The source of funds could not be verified for \$60,000 of a \$64,000 loan
9 reported as received from the candidate on March 31, 2018. While copies
10 of the candidate’s personal bank statements were provided, documentation
11 was not provided to substantiate the origin of \$60,000 deposited into the
12 candidate’s personal account on April 2, 2018, prior to the \$64,000 check
13 from the candidate being deposited into the Committee’s bank account on
14 April 9, 2018.

15 Ms. Santana stated that the \$60,000 was from her father. . . .

16 The Enforcement Division conducted an investigation, which revealed multiple violations of the
17 Political Reform Act (the Act),¹ including violation of campaign contribution limits, making of a
18 contribution in the name of another, and related reporting violations.

19 SUMMARY OF THE LAW

20 The Act and its regulations are amended from time to time. Unless otherwise noted, all legal
21 references and discussions of law pertain to the Act’s provisions as they existed at the time of the
22 violations in this case (2018).

23 Need for Liberal Construction and 24 Vigorous Enforcement of the Political Reform Act

25 When enacting the Political Reform Act, the people of California found and declared that:
26 “[p]revious laws regulating political practices have suffered from inadequate enforcement by state and

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¹ The Political Reform 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 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to this source.

1 local authorities.”² Thus, it was decreed that the Act “should be liberally construed to accomplish its
2 purposes.”³

3 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
4 election campaigns are “fully and truthfully disclosed in order that the voters may be fully informed and
5 improper practices may be inhibited.”⁴ Along these lines, the Act includes a comprehensive campaign
6 reporting system—and the true sources of campaign contributions may not be concealed.⁵ Also along
7 these lines, the Act includes important safeguards, which are meant to create a paper trail to aid the audit
8 and enforcement process. These safeguards include the one bank account rule (requiring all contributions
9 received by a candidate to be deposited into a single, designated campaign bank account), a prohibition
10 against commingling campaign funds with personal funds, and rules against making/receiving any
11 campaign contribution of \$100 or more in the form of cash (or in the form of a cashier’s check or a
12 money order).⁶

13 Another purpose of the Act is to minimize the potentially corrupting influence—and the
14 appearance of corruption—caused by large campaign contributions. For this reason, the Act includes
15 campaign contribution limits.⁷

16 Yet another purpose of the Act is to provide adequate enforcement mechanisms so that the Act
17 will be “vigorously enforced.”⁸

18 **Definition of Contribution**

19 “Contribution” includes any payment—even a loan—except to the extent that full and adequate
20 consideration is received, unless it is clear from the surrounding circumstances that the payment is not
21 made for political purposes.⁹ A loan received by a candidate or committee is a contribution unless the

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23 ² Section 81001, subdivision (h).

24 ³ Section 81003.

25 ⁴ Section 81002, subdivision (a).

26 ⁵ Sections 84200, *et seq.*; 84301; and 84302.

27 ⁶ See Sections 84300, subdivisions (a) and (c); 84307; and 85201. Also, see the Bimbi advice letter ([A-17-004](#)), page
2: “[t]he Commission has advised that contributions by money order and cashier’s check are also prohibited.”

28 ⁷ See Sections 85301, *et seq.*

⁸ Section 81002, subdivision (f).

⁹ Sections 82015, subdivision (a); and 82044.

1 loan is received from a commercial lending institution in the ordinary course of business—or it is clear
2 from the surrounding circumstances that the loan is *not* made for political purposes.¹⁰

3 **Definition of Intermediary**

4 A person is an intermediary for a campaign contribution if “[t]he recipient of the contribution
5 would consider the person to be the contributor without the disclosure of the identity of the true source of
6 the contribution.”¹¹

7 **Contents of Campaign Filings: Required**

8 **Disclosure of Intermediaries and the True Sources of Funds**

9 At the core of the Act’s campaign reporting system is the requirement that candidates and their
10 controlled committees must file campaign statements and reports for certain reporting periods and by
11 certain deadlines.¹²

12 Among other things, these campaign filings are required to disclose the true source of each
13 campaign contribution (of \$100 or more) that is received by the candidate/committee—and if the person
14 providing the contribution is a mere intermediary for another person, then the recipient’s campaign
15 filings must disclose the identities of *both* the intermediary and the true contributor.¹³

16 **Unlawful Contributions in the Name of Another**

17 Section 84301 of the Political Reform Act provides: “No contribution shall be made, directly or
18 indirectly, by any person in a name other than the name by which such person is identified for legal
19 purposes.” This includes a prohibition against “straw donor” contributions.

20 “In a straw donor situation, the person who actually transmits the money acts merely as a
21 mechanism, whereas it is the original source who has made the gift by arranging for his money to finance
22 the donation. *To identify the individual who has made the contribution, we must look past the*
23 *intermediary’s essentially ministerial role to the substance of the transaction.” (United States v.*
24 *O’Donnell* (9th Cir. Cal. 2010) 608 F.3d 546, 550 [persuasive authority interpreting statutory language
25 that is virtually identical to Section 84301]. Emphasis added.)

26 ¹⁰ Section 84216, subdivision (a).

27 ¹¹ Regulation 18432.5, subdivision (a)(1).

28 ¹² Sections 84200, *et seq.*

¹³ Sections 84211, subdivision (f); 84203; 84302.

1 Making a contribution in the name of another is prohibited because it deprives the public of
2 important information about the true source of campaign contributions, and it facilitates the unlawful
3 circumvention of campaign contribution limits. For this reason, when a person makes a contribution on
4 behalf of another (or while acting as the agent of another), that person’s intermediary relationship with
5 the actual contributor must be disclosed to the recipient of the contribution—and the recipient’s
6 campaign filings must disclose both the intermediary and the true source of funds.¹⁴

7 **Campaign Contribution Limits**

8 The Act imposes campaign contribution limits with respect to the making and receiving of certain
9 contributions. However, these limits are adjusted periodically, and different limits apply depending upon
10 who is contributing and who is receiving.¹⁵ In 2018, an individual wishing to contribute to a candidate for
11 California State Senate could not contribute more than \$4,400 per election.¹⁶ However, at that time, a
12 candidate for California State Senate could loan up to \$100,000 to her own committee.¹⁷

13 **One Bank Account Rule**

14 The Act requires campaign funds to be segregated from non-political, personal accounts and kept
15 in a single, designated campaign bank account.¹⁸ All contributions or loans made to the candidate, to a
16 person on behalf of the candidate, or to the candidate’s controlled committee must be deposited into this
17 account.¹⁹ Any personal funds that will be utilized to promote the election of the candidate must be
18 deposited into the account prior to expenditure.²⁰ All campaign expenditures must be made from the
19 account.²¹ At times, this is referred to as the one bank account rule.

20 **Unlawful Commingling of Campaign Funds with Personal Funds**

21 Campaign funds may not be commingled with personal funds.²²

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24 ¹⁴ Section 84302; and Regulation 18432.5.

25 ¹⁵ Sections 83124; 85301, subdivision (a); and Regulation 18545.

26 ¹⁶ Regulation 18545.

27 ¹⁷ Section 85307, subdivision (b).

28 ¹⁸ Section 85201.

¹⁹ Section 85201, subdivision (c).

²⁰ Section 85201, subdivision (d).

²¹ Section 85201, subdivision (e).

²² Section 84307.

1 **Unlawful Cash Transactions**

2 No contribution of \$100 or more may be made or received in cash. This prohibition applies to
3 cashier’s checks and money orders, as well.²³

4 **Liability**

5 It is the duty of a committee treasurer to ensure that the committee complies with the Act.²⁴ A
6 treasurer may be held jointly and severally liable, along with the candidate and the committee, for
7 violations committed by the committee—and for violations that they cause other persons to commit.²⁵

8 **SUMMARY OF THE FACTS**

9 The FTB audit report noted that during the period covered by the audit (1/1 – 6/30/18), Santana’s
10 committee raised and spent approximately \$161,071 and \$189,210, respectively. (Campaign filings
11 reflect that the committee first qualified in February 2018 and terminated mid-2020.)

12 **Relevant Campaign Filings**

13 On or about March 31, 2018, a Form 497 24-hour contribution report was filed disclosing that
14 Santana’s committee received \$64,000 from Santana.

15 On or about April 26, 2018, a Form 460 pre-election campaign statement was filed (for the
16 reporting period ending 4/21/18), which disclosed on Schedule B that these funds (totaling \$64,000) were
17 a loan from Santana to the committee (with a date incurred of 3/31/18 and a due date of 3/12/19). The
18 interest rate was left blank. In the rightmost column of Schedule B, the full amount of the \$64,000 loan
19 was allocated to the primary election.

20 On or about May 24, 2018, a Form 460 pre-election campaign statement was filed (for the period
21 ending 5/19/18), disclosing receipt of a monetary contribution in the amount of \$1,000 from Santana’s
22 father. (The contribution was reported on Schedule A as being received on 5/19/18.)

23 **FTB’s Discovery in December 2019**

24 In December 2019, FTB’s audit included a request for Santana’s personal bank statements to
25 verify that Santana was the true source of the above-described \$64,000 loan. Specifically, FTB requested

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27 ²³ See Section 84300, subdivisions (a) and (c), as well as the Bimbi advice letter ([A-17-004](#)), page 2: “[t]he
Commission has advised that contributions by money order and cashier’s check are also prohibited.”

28 ²⁴ Sections 81004, 84100, and Regulation 18427.

²⁵ Sections 83116.5 and 91006.

1 Santana’s personal bank statements for three months leading up to the loan, and the auditor stated: “I will
2 also need to examine the support for any large deposits during this time period.”

3 On December 19, 2019, the FTB auditor was following up about issues that remained
4 outstanding. Specifically, the auditor mentioned a bank statement that showed a \$60,000 deposit into
5 Santana’s personal account on April 2, 2018, prior to the date when the \$64,000 loan cleared the bank on
6 April 10, 2018.

7 Later that day (12/19/19), Gould responded: “The \$60,000 was a loan from her [Santana] to the
8 campaign. She received a personal loan from her parents not related to the campaign and has personally
9 been making payments to them.”

10 This is the earliest date when it was disclosed that Santana received a \$60,000 loan from her
11 parents. Although Gould claimed that the loan was unrelated to Santana’s campaign, Enforcement later
12 obtained evidence that Santana’s parents did in fact make the loan for the purpose of helping Santana’s
13 senate campaign/committee, as discussed in more detail below. Gould maintains that his statement was a
14 misunderstanding regarding information that he received from Santana.

15 **Enforcement’s Investigation**

16 Since the FTB audit report noted that documentation was not provided to substantiate the origin
17 of the \$60,000 loan, the Enforcement Division conducted an investigation.

18 *Additional Information from Gould*

19 On December 16, 2022, Gould told Enforcement: “I also understand this is Ms. Santana’s
20 inheritance in advance. . . .” However, this statement turned out to be incorrect. (See discussion of
21 evidence below re: Santana’s repayment of the loan to a third party from whom her parents borrowed the
22 money in order to make the loan to Santana.)

23 *Santana’s Interview*

24 In March 2024, the Enforcement Division interviewed Santana. Speaking about the \$60,000 loan,
25 Santana stated that she needed the money because there was so much pressure to fundraise and stay
26 competitive in the race. Many people had promised to contribute but had not done so. Santana tried to
27 take out a loan on her own, but was denied due to her credit and/or lack of equity in her home.

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1 During her interview, Santana related that her father had an actor friend. Both Santana’s father
2 and this friend were aware that Santana needed money for her 2018 campaign. According to Santana, her
3 parents decided to use the equity in their home to secure a loan, and her father’s friend used a broker to
4 underwrite the loan. Santana stated that she could not obtain the loan from her father’s friend directly for
5 the same reasons noted above regarding her credit and lack of equity in her home.

6 When asked why her father did not obtain the loan from a major financial institution, Santana
7 said: “I think it was the timing. I think I needed the money to [sic] for the next reporting period.”
8 Although Santana claims that she agreed to repay the loan, Santana understood that her parents would
9 lose their home if repayment of the loan was not made—because her parents were legally responsible for
10 the loan on paper. At some point after the loan was taken out, Santana asked the lenders to send loan
11 invoices to Santana for repayment. In 2019, Santana paid off the loan in full with personal funds that she
12 received from another family member (who loaned her approximately \$75,000).

13 Santana confirmed during her interview that the foregoing loan from her parents was made to
14 help her senate committee/campaign.

15 *Loan Documents*

16 Records obtained by Enforcement include a document entitled “Note Secured by a Deed of
17 Trust,” executed by Santana’s parents on March 30, 2018. The document memorializes a promise to
18 repay a loan principal of \$65,000 to the lenders (her father’s friend and the spouse of her father’s friend),
19 husband and wife as joint tenants. (A document entitled “RECEIPT OF CASH” helps explain why the
20 loan principal was noted to be \$65,000 instead of \$60,000. The document, which was executed by
21 Santana’s parents on 3/30/18, itemizes a \$5,000 disbursement that included interest payments, totaling
22 \$3,249.96, for May through October 2018—plus \$1,750.04 for the broker for his commission,
23 miscellaneous fees, wire fees, inspection, document preparation, loan servicing fee, and a lender fee.)
24 The interest rate for the loan was noted to be 10%. Payments were required to be payable to the broker.
25 Consistent with Santana’s statement that her parents used equity in their home to secure the loan, the
26 document stated that the note was secured by a deed of trust.

27 The deed of trust was executed by Santana’s parents on March 30, 2018—and recorded/filed on
28 this same date with the Los Angeles County Recorder’s Office.

1 *Bank Records*

2 Bank records reflect that Santana’s parents received the proceeds of the loan—totaling \$60,000—
3 in the form of a \$50,000 wire transfer on March 30, 2018—plus a \$10,000 check, dated March 30, 2018
4 and deposited on this same date. Both the wire transfer and the check were from the broker’s family
5 trust.²⁶

6 The next day, on or about March 31, 2018, Santana’s parents arranged for payment to the order of
7 “ANA VICTORIA SANTANA” in the form of a cashier’s check for \$60,000. The check identified
8 Santana’s father as the remitter.

9 That same day, Santana wrote a personal check to her committee for \$64,000, dated March 31,
10 2018. However, on this date, Santana had less than \$6,700 in her personal bank account. The \$60,000
11 from her parents was not credited to her personal account until two days later, on April 2, 2018.

12 Santana’s \$64,000 check was deposited into her senate committee’s bank account on April 9,
13 2018—and the next day (on 4/10/18), the funds were debited against Santana’s personal account, leaving
14 less than \$2,800 in the account.

15 *Unreported Non-monetary Contribution from Santana’s Mother*

16 During Enforcement’s investigation, a check was obtained from the joint account of Santana’s
17 parents, which appears to have been dated March 18, 2018. The check was in the amount of \$1,000,
18 made payable to Jose Luis Navarro, and appears to have been signed by Santana’s mother. The memo
19 line of the check appears to state: “Donation Vicki.”

20 When interviewed by Enforcement, Santana stated that she knew nothing about the check or
21 Navarro, but that she would ask her parents to find out more. Later, Santana advised Enforcement via
22 email: “I spoke to my parents. . . . When asked they did not recall knowing a ‘Jose Luis Navarro [end
23 quote missing in original]; however, my father was able to find the contact information of ‘Jose Luis
24 Navarro’ on his phone listed as a ‘taquero.’ Unbeknownst to me, my parents paid Navarro to cater the
25 March 18, 2018 campaign kickoff event.” Although Santana was aware that catering arrangements were

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27 ²⁶ In mid-2019, Santana wrote a personal check to the broker for \$68,164.98. This constituted full repayment of the
28 loan, plus interest and fees. In order to pay off this loan, Santana stated that she borrowed \$75,000 from a niece whose
husband had received an inheritance.

1 made for her campaign kickoff event, she claims that she was not familiar with every detail of this
2 arrangement.

3 Under these circumstances, the \$1,000 check to the caterer from Santana’s mother appears to
4 have been an unreported non-monetary/in-kind contribution to Santana’s committee.

5 **VIOLATIONS**

6 All counts identified below are preserved against the statute of limitations for multiple reasons,
7 including, but not limited to, service of a probable cause report on all respondents.²⁷

8 **Count 1: Over-the-limit Contributions**

9 As noted above, in late March 2018, Santana’s parents used equity in their home to borrow funds
10 in order to loan \$60,000 to Santana for the purpose of helping with her senate campaign. They could not
11 make the payment instrument payable to Santana’s committee, directly, because the committee would
12 need to report receipt of the contribution on its campaign filings—and according to contribution limits
13 that were in effect at the time, Santana’s parents only could contribute up to \$4,400 each per election.

14 Instead, the payment instrument was made out to Ana Victoria Santana, allowing Santana to
15 deposit the contribution into her personal bank account. Thereafter, Santana purported to loan the money
16 to her committee, plus another \$4,000 (allocating all of it to the primary election on her Form 460). In
17 doing this, Santana inaccurately reported herself as the true source of funds. This served to conceal that
18 her parents were the true source of \$60,000—and created the misleading appearance that the funds were
19 a loan to the committee from the candidate, subject to a more generous limit of \$100,000.

20 In addition to making this \$60,000 contribution to Santana’s senate campaign for the primary
21 election, Santana’s father made a \$1,000 monetary contribution on or about May 19, 2018. (As noted
22 above, this was reported on Santana’s Form 460 as being allocated to the primary election.) Also,
23 Santana’s mother made an unreported \$1,000 non-monetary/in-kind contribution on or about March 18,
24 2018, when she paid for catering for Santana’s campaign kickoff event.

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27 ²⁷ Also, this case involves tolling of the statute of limitations pursuant to Section 91000.5, subdivision (b).
28 Additionally, see: *Atwater Elementary School Dist. v. California Dept. of General Services* (2007) 41 Cal.4th 227, 230-34;
and *Leasequip, Inc. v. Dapeer* (2002) 103 Cal.App.4th 394, 405-408.

1 In this way, Santana, Gould, and the committee accepted over-the-limit campaign contributions
2 (and caused Santana’s parents to make over-the-limit campaign contributions) in violation of Sections
3 83124, 85301, and Regulation 18545, subdivision (a)(1).

4 **Count 2: Inaccurate Reporting**

5 On or about March 31, 2018, a Form 497 24-hour contribution report was filed, inaccurately
6 disclosing that Santana’s committee received \$64,000 from Santana—concealing the fact that Santana’s
7 parents were the true source of \$60,000.

8 In this way, Santana, Gould, and the committee violated Section 84203.

9 **Count 3: Making a Campaign**

10 **Contribution in the Name of Another**

11 As noted in Count 1, Santana’s parents contributed \$60,000 to Santana’s senate committee.
12 However, they were prohibited by contribution limits from making the cashier’s check payable to
13 Santana’s committee. Instead, the check was made out to Ana Victoria Santana, allowing Santana to
14 deposit the contribution into her personal bank account. Thereafter, Santana purported to loan the money
15 to her committee, plus another \$4,000. On campaign filings, Santana, her committee, and Gould
16 inaccurately reported Santana as the true source of funds. This served to conceal that Santana’s parents
17 were the true source of \$60,000—and created the misleading appearance that the funds were a loan to the
18 committee from Santana herself, subject to a more generous limit of \$100,000.

19 In this way, Santana, Gould, and the committee caused Santana’s parents to make a campaign
20 contribution in the name of another—in violation of Section 84301.

21 **STREAMLINE EXCLUSION**

22 This case is excluded from the streamline settlement program, which does not encompass
23 violation of Section 84301.

24 **PROPOSED PENALTY**

25 As discussed in more detail below, three counts are recommended in this case—for which the
26 maximum penalty is \$15,000 (up to \$5,000 per count).²⁸

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28 ²⁸ Section 83116.

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
4 considers the facts and circumstances of the violation in the context of the following factors:²⁹

- 5 1. the extent and gravity of the public harm caused by the specific violation;
- 6 2. the level of experience of the violator with the requirements of the Act;
- 7 3. penalties previously imposed by the Commission in comparable cases;
- 8 4. the presence or absence of any intention to conceal, deceive or mislead;
- 9 5. whether the violation was deliberate, negligent or inadvertent;
- 10 6. whether the violator demonstrated good faith by consulting Commission staff or any other
11 governmental agency in a manner not constituting a complete defense under Section 83114,
subdivision (b);
- 12 7. whether the violation was isolated or part of a pattern—and whether the violator has a prior
record of violations of the Act or similar laws; and
- 13 8. whether the violator, upon learning of a reporting violation, voluntarily filed amendments to
14 provide full disclosure.

15 Making a campaign contribution in the name of another is one of the most serious violations of
16 the Act. Such violations cause a high degree of public harm; deceive the public as to the true sources of
17 contributions; undermine the public’s trust in the transparency of campaign reporting; and in this case,
18 the violations facilitated/concealed unlawful circumvention of the Act’s campaign contribution limits.

19 Although monetary contributions are a legitimate form of participation in the American political
20 process, large contributions may corrupt—or appear to corrupt—candidates for elective office. The Act’s
21 campaign contribution limits, as approved by California’s voters, help prevent this type of public harm.³⁰
22 Violation of these limits provides an unfair advantage to one candidate over another—and erodes public
23 confidence.

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27 ²⁹ These factors are set forth in Regulation 18361.5, subdivision (e)(1) through (8).

28 ³⁰ See Proposition 34 (passed by California voters in 2000), which was voted onto the ballot by the California State
Legislature via [Senate Bill 1223 \(1999-2000\)](#). Specifically, see Section 1, subdivisions (a)(1) and (b)(2), of the bill.

1 **Comparable Case**

2 Recently, the Commission considered another case where the candidate improperly was reported
3 to be the true source of a large campaign contribution, which originated as a loan from a third party. [In](#)
4 [the Matter of Andrew M. Stein, Andrew Stein for Superior Court Judge 2014, and Yolanda Miranda;](#)
5 FPPC Case No. 17/075 (approved Sep. 15, 2022), an unsuccessful candidate for Los Angeles County
6 Superior Court Judge borrowed \$100,000 from a used car dealer. The candidate deposited the funds into
7 his personal account and then purported to contribute the same amount of money to his campaign
8 committee. Three counts were charged (for contributing in the name of another and related
9 disclosure/reporting violations), for which the maximum penalty of \$5,000 per count was imposed by the
10 Commission. (As illustrated by this settlement, the Commission typically has imposed the maximum
11 penalty for counts involving violation of Section 84301—and for counts that were related to the
12 violation.)

13 Both cases involve similar facts and unsuccessful candidates with no history of prior, similar
14 violations of the Act.

15 Stein was inexperienced, but retained the services of a professional treasurer. Similar facts are
16 present in the current case. (Santana maintains that she did not know this would be a violation, and she
17 was relying upon the expertise of her professional treasurer.)

18 Stein also described facts involving a recordkeeping violation and violation of the one bank
19 account rule. In the interest of settlement, instead of charging these violations as additional counts, they
20 were noted as aggravating information, only. Similar handling is recommended in the current case with
21 respect to uncharged violations involving unlawful commingling of campaign funds with personal funds,
22 violation of the one bank account rule, unlawful acceptance of a cashier’s check, and inaccurate reporting
23 on a Form 460 (filed for the period ending 4/21/18) regarding the true source of \$60,000 received from
24 Santana’s parents. (The public harm for the latter is captured by Count 2, which charges for the true
25 source reporting violation in connection with an earlier-filed Form 497 24-hour report.)

26 Despite these similarities, there are some differences between the cases, as outlined below.

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1 **Mitigating Differences**

2 The amount contributed in the name of another in the current case is substantially less than the
3 amount involved in Stein (\$60,000 vs. \$100,000).

4 In Stein, it was not noted that the lender was repaid. In the current case, Santana borrowed money
5 from another family member to repay the lender that her parents used.

6 **Aggravating Differences**

7 In Stein, Enforcement found no evidence that the lender knew or should have known the funds
8 would be used for political purposes. In the current case, opposite facts are true.

9 The current case involves violation of the Act’s contribution limits, which often is a motive for
10 violation of Section 84301. Stein did not involve a contribution limit.

11 In Stein, it was noted that Enforcement found no evidence of intentional concealment regarding
12 the true source of the loan. In the current case, there is some circumstantial evidence that the violations
13 were intentional, given the applicable contribution limits. Nevertheless, respondents maintain that their
14 violations were the result of negligence; however, respondents acknowledge that incorrect information
15 was provided to Enforcement, initially, which served to further conceal the violations in this case (above
16 and beyond the concealment that was caused by improper reporting), until Santana later cleared things
17 up.

18 **Recommended Number of Counts and Penalty**

19 In Stein, the penalty of \$15,000 equated to 15% of the funds that were contributed in the name of
20 another. A comparable penalty in the current case would be \$9,000. However, given the aggravating
21 differences between this case and Stein, Enforcement recommends a penalty in the amount of \$15,000
22 (\$5,000 per count for Counts 1-3), equating to one-quarter of the funds that were contributed in the name
23 of another.

24 **CONCLUSION**

25 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
26 respondents Vicky Santana, Santana for Senate 2018 (California Secretary of State I.D. No. 1402189),
27 and David Gould, hereby agree as follows:

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

16 5. Respondents agree to the issuance of the decision and order set forth below. Also,
17 respondents agree to the Commission imposing against them an administrative penalty in the amount of
18 \$15,000. One or more payments totaling this amount—to be paid to the General Fund of the State of
19 California—is/are submitted with this stipulation as full payment of the administrative penalty described
20 above, and they will be held by the State of California until the Commission issues its decision and order
21 regarding this matter.

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

28 ///

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
3 fax or as a PDF email attachment—is as effective and binding as the original.
4

5 Dated: _____

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

6
7
8 Dated: _____

Vicky Santana, individually, and on behalf of Santana
for Senate 2018, Respondents

9
10
11 Dated: _____

David Gould, individually, and on behalf of Santana for
Senate 2018, Respondents

12
13
14 The foregoing stipulation of the parties “In the Matter of Vicky Santana, Santana for Senate 2018
15 (California Secretary of State I.D. No. 1402189), and David Gould,” FPPC Case No. 2018-00341, is
16 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon
17 execution below by the Chair.
18

19 IT IS SO ORDERED.

20
21 Dated: _____

Adam E. Silver, Chair
Fair Political Practices Commission