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California State Senate

SENATOR
STEVEN M. GLAZER
SEVENTH SENATE DISTRICT

COMMITTEES
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BUSINESS, PROFESSIONS &
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HUMAN SERVICES
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SUBCOMMITTEE
BUDGET SUBCOMMITTEE 4



California Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811

Dear Commissioners,

Dec. 19, 2018

I write to encourage you to reconsider your proposed stipulated agreement with the Bay Area Rapid Transit District and to instead levy a larger fine against the district for its violations of state law during the 2016 campaign over Measure RR.

As your own proposed decision concludes, BART's communications to the public regarding Measure RR were "clearly campaign materials." And since these materials were produced with public funds, that means the expenditures represented an illegal use of public funds for political purposes.

Your proposed settlement with BART for an administrative penalty of just \$7,500 represents a slap on the wrist for a very serious violation of the law and the public's trust.

As the California Supreme Court has written, our nation's founders believed that a principal danger to our country was that government officials would "use their power improperly to perpetuate themselves, or their allies, in office." One danger, the court has found, is that a public entity "could overwhelm the voters by using the public treasury to finance bumper stickers, posters, television and radio advertisements" to "effectively promote one side of an election."

That is precisely what occurred during the campaign over Measure RR.

Yet apparently your staff believes that your limited jurisdiction prevents you from enforcing the state's prohibition against using public funds for political activity. And it is true that other agencies, including district attorneys and the attorney general, should be investigating these violations. But even if the commission believes it must limit its enforcement action to disclosure issues rather than the illegal spending itself, you still have more discretion in this matter than you appear willing to exercise.

As an example, your decision states that the cost of distributing campaign advertisements via a text message was "minimal." But this ignores the tremendous public cost in building and maintaining the list

of voters to whom those messages were sent. This list was compiled in order to inform BART riders of emergencies, delays and other issues that would affect their service. It was not intended as the foundation for a political campaign, but that is exactly the purpose to which it was put by BART.

The cost of those campaign messages, therefore, was far more than "minimal" expense of sending a mass text. It could be in the tens of thousands or even hundreds of thousands of dollars over the years. Your administrative penalty could have been and should have been based on this higher amount.

Your own proposed decision says that you could have imposed a maximum penalty of \$33,374.98. I believe it could be much higher, but I have seen nothing in the record that indicates that the penalty in this case should be anything less than the maximum the commission has determined is possible.

The proposed decision is so weak that it would send a message to public entities that they can break the law with impunity. They will consider the risk of an administrative penalty from your commission as simply a minor cost of doing business vastly outweighed by whatever benefit they expect to receive as they illegally put their thumbs on one side of the scales of public opinion.

The people of California are counting on you to render a fair judgment in this case and fulfill your important responsibility as commissioners to protect the public's right to fair political practices untainted by government agencies engaging in illegal campaigns to sway the outcome of our elections.

Sincerely,

A handwritten signature in black ink that reads "Steven Glazer". The signature is written in a cursive, flowing style with a large initial "S".

Sen. Steven Glazer