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

11 In the Matter of) FPPC No. 12/377
12)
13)
14 JAMES "JIM" NIELSEN, TAXPAYERS) **STIPULATION, DECISION and ORDER**
FOR JIM NIELSEN – ASSEMBLY)
15 2012, CHARLES H. BELL, JR.,)
TEHAMA COUNTY REPUBLICAN)
16 CENTRAL COMMITTEE, ROGER)
MARSH, LINDA ALSTON, ROBERT A.)
17 "BOB" WILLIAMS, FRIENDS OF BOB)
WILLIAMS FOR ASSEMBLY 2012,)
AND DAVID BAUER,)
18)
19 Respondents.)

20 **STIPULATION**

21 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
22 Respondents James "Jim" Nielsen, Taxpayers for Jim Nielsen – Assembly 2012, Charles H. Bell, Jr.,
23 Tehama County Republican Central Committee, Roger Marsh, Linda Alston, Robert A. "Bob"
24 Williams, Friends of Bob Williams for Assembly 2012, and David Bauer, hereby agree that this
25 Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next
26 regularly scheduled meeting.

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1 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by
2 this matter and to reach a final disposition without the necessity of holding an additional administrative
3 hearing to determine the liability of Respondents.

4 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
5 rights set forth in Government Code Sections 83115.5, 11503 and 11523, and in California Code of
6 Regulations, title 2, Sections 18361.1 through 18361.9. This includes, but is not limited to the right to
7 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
8 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to
9 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
10 the hearing as a hearing officer, and to have the matter judicially reviewed.

11 It is further stipulated and agreed that Respondents violated the Political Reform Act as
12 described in Exhibit 1: Nielsen, Taxpayers for Nielsen and Bell: made an earmarked, over-the-limit
13 contribution to Friends of Williams totaling \$4,320 in the name of Tehama GOP, violating Government
14 Code Sections 84301, 85301 and 85704, and Regulation 18545, subdivision (a)(1) (1 count); filed a
15 campaign statement for the reporting period of January 1 through June 30, 2012, erroneously reporting
16 that Taxpayers for Nielsen made a contribution to Tehama GOP, instead of disclosing that Taxpayers
17 for Nielsen made a contribution to Friends of Williams and Tehama GOP was the intermediary for the
18 transaction, violating Section 84211, subdivision (k) (1 count); Nielsen: knowingly received a gift of
19 tickets to an NBA basketball game arranged by lobbying firm Sloat Higgins Jensen & Associates
20 violating Government Code Section 86204 (1 count); Williams, Friends of Williams and Bauer:
21 accepted an over-the-limit contribution from Taxpayers for Nielsen totaling \$4,320, violating
22 Government Code Section 85301 and Regulation 18545, subdivision (a)(1) (1 count); filed a campaign
23 statement for the reporting period of May 20 through June 30, 2012, erroneously reporting that Friends
24 of Williams received a contribution from Tehama GOP, instead of disclosing that the contribution was
25 made by Taxpayers for Nielsen and Tehama GOP was the intermediary for the transaction, violating
26 Section 84211, subdivision (f) (1 count); Tehama GOP and Marsh, in or about May 2012, while acting
27 as the intermediary of Taxpayers for Nielsen, failed to disclose both the intermediary and the original
28 contributor information for a \$4,320 contribution from Taxpayers for Nielsen to Friends of Williams,

1 violating Government Code Section 84302 (1 count); Tehama GOP and Marsh, on or about July 9,
2 2012, and Tehama GOP and Alston, on or about February 22, 2013, filed an original and an amended
3 campaign statement erroneously reporting that it made a contribution to Friends of Williams, instead of
4 disclosing that Tehama GOP was the intermediary for the contribution made by Taxpayers for Nielsen
5 to Friends of Williams, violating Section 84211, subdivision (k) (1 count).

6 Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein.

7 Exhibit 1 is a true and accurate summary of the facts in this matter.

8 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
9 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
10 Twenty-Three Thousand Dollars (\$23,000). A cashier's check from Respondents in said amount, made
11 payable to the "General Fund of the State of California," is submitted with this Stipulation as full
12 payment of the administrative penalty, and shall be held by the State of California until the Commission
13 issues its Decision and Order regarding this matter. The parties agree that in the event the Commission
14 refuses to accept this Stipulation, it shall become null and void, and within fifteen (15) business days
15 after the Commission meeting at which the Stipulation is rejected, all payments tendered by
16 Respondents in connection with this Stipulation shall be reimbursed to Respondents. Respondents
17 further stipulate and agree that in the event the Commission rejects the Stipulation, and a full
18 evidentiary hearing before the Commission becomes necessary, neither any member of the
19 Commission, nor the Executive Director, shall be disqualified because of prior consideration of this
20 Stipulation.

21 Dated: _____

Galena West, on Behalf of the Enforcement Division
Fair Political Practices Commission

24 Dated: _____

James "Jim" Nielsen, Respondent, individually and on behalf of
Taxpayers for Jim Nielsen – Assembly 2012, Respondent

27 Dated: _____

Charles H. Bell, Jr., Respondent

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Dated: _____

Linda Alston, Respondent, individually and on behalf of
Tehama County Republican Central Committee, Respondent

Dated: _____

Roger Marsh, Respondent

Dated: _____

Robert A. "Bob" Williams, Respondent, individually and on
behalf of Friends of Bob Williams for Assembly 2012,
Respondent

Dated: _____

David Bauer, Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties "In the Matter of James "Jim" Nielsen, Taxpayers for Jim Nielsen – Assembly 2012, Charles H. Bell, Jr., Tehama County Republican Central Committee, Roger Marsh, Linda Alston, Robert A. "Bob" Williams, Friends of Bob Williams for Assembly 2012, and David Bauer," FPPC Case No. 12/377, including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent James “Jim” Nielsen has served in the California Legislature for over eighteen years: as a State Senator from 1978 through 1990, and again since January 2013, and as a State Assemblymember, 2nd District, from 2008 through 2012. Respondent Taxpayers for Jim Nielsen – Assembly 2012 (“Taxpayers for Nielsen”), was Nielsen’s candidate controlled committee. Respondent Charles H. Bell, Jr. was the treasurer for Taxpayers for Nielsen.

Respondent Tehama County Republican Central Committee (“Tehama GOP”) was a political party committee located in Red Bluff, CA. Respondent Roger Marsh was the treasurer for Tehama GOP in July 2012, and Respondent Linda Alston was the treasurer for Tehama GOP in February 2013.

Respondent Robert A. “Bob” Williams, a two-term member of the Tehama County Board of Supervisors, was an unsuccessful candidate for California State Assembly, 3rd District, in the June 5, 2012 primary election. Nielsen and Tehama GOP endorsed Williams in the election. Friends of Bob Williams for Assembly 2012 (“Friends of Williams”) was Williams’ candidate controlled committee. Respondent David Bauer was treasurer for Friends of Williams.

The Political Reform Act (the “Act”)¹ prohibits contributions made in the name of another, prohibits earmarking contributions unless the intermediary and original contributor information is disclosed, and imposes campaign contribution limits regarding the making and receiving of certain contributions. In 2012, an individual could not contribute more than \$3,900 per election to a candidate for the State Assembly. However, at that time, there was no limit on contributions from a political party county central committee to that same candidate. The Act requires committees to accurately disclose contributions and expenditures. Additionally, the Act prohibits a state legislator from receiving a gift arranged by a registered lobbyist or lobbying firm.

Nielsen made a \$4,320 contribution to Williams through Tehama GOP to pay for a radio advertisement supporting Williams. Nielsen, Taxpayers for Nielsen, and Bell violated the Act by making this over-the-limit, earmarked contribution to Williams in Tehama GOP’s name and filing a campaign statement which erroneously disclosed the contribution. Tehama GOP violated the Act by failing to disclose both the intermediary and the original contributor information for the contribution and filing a campaign statement which erroneously disclosed the contribution. Williams, Friends of Williams, and Bauer violated the Act by receiving the over-the-limit contribution and filing a campaign statement which erroneously disclosed the contribution. Nielsen also violated the Act by receiving a gift of tickets to an NBA basketball game that was arranged by a lobbying firm.

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 Practices Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

SUMMARY OF THE LAW

All legal references and discussions of law pertain to the Act's provisions as they existed in 2012.

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

When enacting the Political Reform Act, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities.² To that end, the Act must be liberally construed to achieve its purposes.³

There are many purposes of the Act. One purpose is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ Another is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced."⁵

Definition of Controlled Committee

A "committee" includes any person or combination of persons who receives contributions totaling \$1,000 or more in a calendar year,⁶ commonly known as a "recipient committee." A recipient committee which is controlled directly or indirectly by a candidate, or which acts jointly with a candidate in connection with the making of expenditures, is a "controlled committee."⁷ A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.⁸

Definition of Political Party Committee

A "political party committee" includes the county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code.⁹

Prohibition Against Making Contributions in the Name of Another

It is unlawful to make a contribution in the name of another.¹⁰ This prohibition keeps the public informed as to the sources of campaign contributions, and it ensures that contributors abide by the Act's contribution limits.

² § 81001, subd. (h).

³ § 81003.

⁴ § 81002, subd. (a).

⁵ § 81002, subd. (f).

⁶ § 82013, subd. (a).

⁷ § 82016.

⁸ § 82016, subd. (a).

⁹ § 85205.

Duty to Disclose Intermediary

The Act prohibits any person from making a contribution while acting as the intermediary of another, without disclosing to the recipient of the contribution both the intermediary's own full name, street address, occupation, and employer, and the original contributor's full name, street address, occupation, and employer.¹¹ The Act also states that a person is an intermediary for a contribution if the recipient of the contribution "would consider the person to be the contributor without the disclosure of the identity of the true source of the contribution."¹²

Prohibition on Earmarking

It is unlawful to make a contribution to a committee on the condition or with the agreement that it will be contributed to any particular candidate unless the contribution is fully disclosed pursuant to Section 84302.¹³ Member communications are only contributions or expenditures when those payments are made for general public advertising.¹⁴

Campaign Contribution Limits

The Act imposes campaign contribution limits with respect to the making and receiving of certain contributions. These limits are adjusted periodically, and different limits apply depending upon who is contributing and who is receiving.¹⁵

In 2012, an individual wishing to contribute to a candidate for California State Assembly could not contribute more than \$3,900 per election.¹⁶ However, at that time, there was no limit on contributions from a political party committee (such as a county central committee) to that same candidate. It should be noted that in 2012, there was a calendar year limit of \$32,500 with respect to how much an individual could contribute to a political party committee for the purpose of making contributions to candidates for elective state office.¹⁷ However, individuals could exceed this amount so long as the excess was not used by the committee to support/oppose candidates for elective state office.

Duty to Disclose Accurate Contributor Information on Campaign Statements

The Act requires committees to report in campaign statements the following information about a person who has made contributions of \$100 or more: (1) full name; (2) street address; (3) occupation; (4) employer, or if self-employed, the name of the contributor's business; (5) the

¹⁰ § 84301.

¹¹ § 84302.

¹² Reg. 18432.5.

¹³ § 85704.

¹⁴ § 85312.

¹⁵ See § 85301, subd. (a), as well as §§ 83124, 85303 and 85305, which prohibit the making and acceptance of over-the-limit contributions.

¹⁶ § 85301, subd. (a); Reg. 18545, subd. (a)(1).

¹⁷ § 85303, subd. (b); Reg. 18545, subd. (a)(8).

date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor.¹⁸

Duty to Disclose Accurate Expenditure Information on Campaign Statements

The Act requires committees to report in campaign statements the following information about its expenditures, including those expenditures which are contributions to candidates: (1) the payee's full name; (2) his or her street address; (3) the amount of each expenditure; (4) a brief description of the consideration for which each expenditure was made; and (5) in the case of an expenditure which is a contribution to a candidate, elected officer, or committee, the date of the contribution, the cumulative amount of contributions made to that recipient, the full name of the recipient, and the office and district/jurisdiction for which he or she seeks nomination or election.¹⁹

Gifts by Lobbyists

It is unlawful for a lobbyist, or lobbying firm, to make gifts to a legislator aggregating more than ten dollars in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person if the lobbyist or lobbying firm is registered to lobby the legislature.²⁰

Receiving Unlawful Gifts from Lobbyists

It is unlawful for a person to knowingly receive a gift that is arranged by a lobbying firm in violation of Section 86203.²¹

Candidate and Treasurer Liability

Every committee must have a treasurer.²² It is the duty of a committee's candidate and treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds.²³ A committee's candidate and treasurer may be held jointly and severally liable with the committee for any reporting violations.²⁴

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¹⁸ § 84211, subd. (f).

¹⁹ § 84211, subd. (k).

²⁰ §§ 86203 and 86201.

²¹ § 86204.

²² § 84100.

²³ § 84100 and Reg. 18427, subd. (a).

²⁴ §§ 83116.5 and 91006; Reg. 18316.6.

SUMMARY OF THE FACTS

Prohibited Earmarked Over-The-Limit Contribution Made in the Name of Another

Nielsen endorsed Williams as a candidate for California State Assembly, 3rd District, in the June 5, 2012 primary election. David Reade was Nielsen's chief of staff. Reade had over 20 years of experience leading and advising county and regional central committees in Northern California, and was a well-known political activist in the "North State." Reade asked Robert Olmstead to manage Williams' campaign. Olmstead was a long-time legislative staffer of Nielsen's who reported directly to Reade and Nielsen. Olmstead had no campaign experience, and he relied heavily upon Reade for advice and guidance during the Williams campaign.

In February 2012, the Tehama GOP endorsed Williams. On March 21, 2012, Williams' paid campaign consultant, Dave Gilliard of Gilliard Blanning & Associates ("GBA"), sent an email to Williams with scripts for two radio advertisements, stating, "Right now the plan is to have the Tehama GOP start with the positive spot, if they are willing."

At the Tehama GOP special meeting on March 22, 2012, Chairman Ken Say announced that the Tehama GOP could help Williams' campaign by paying \$3,000 for radio ads. At that meeting, Reade informed Chairman Say that Nielsen planned to give \$2,500 to the Tehama GOP for its Annual Red, White and Blue Fundraising Dinner scheduled for May 19, 2012. Chairman Say suggested allocating \$500 of Tehama GOP funds and the \$2,500 from Nielsen to pay for the radio advertisements for Williams. The Tehama GOP approved the \$3,000 expenditure for the radio ads.

GBA billed the Tehama GOP \$3,000 for the March 2012 radio advertisements, and Tehama GOP paid GBA for the radio advertisements on April 4, 2012. Nielsen did not make the \$2,500 contribution to the Tehama GOP for its fundraiser as proposed.

On May 10, 2012, Gilliard (Williams' paid consultant) sent an email to Williams (the candidate), Reade (Nielsen's chief of staff) and Olmstead (Nielsen's staffer and Williams' campaign manager): "Bob/David/Rob – do we have any funds 'in the mail' that we can count on? I am trying to decide about our next mailer." With less than a month to the election, Friends of Williams' cash on hand was \$7,000 with \$16,000 in outstanding bills.

One week later, Gilliard, on behalf of Williams' campaign, sent an email to Reade:

I have Tehama GOP paying for:	
Final Radio 2.5 weeks	\$4,300
GOP Leaders Mail	\$10,000
GOP GOTV Mail	\$8,000
GOP Late AB Reminder	\$4,000
TOTAL	\$26,300

Reade was not a member or officer of the Tehama GOP. But Reade was in regular contact with the Tehama GOP, and Tehama GOP frequently relied upon Reade's advice and expertise.

Chairman Say was not included in the email. Gilliard stated that he preferred communicating with Reade, who he described as an advisor and “right-hand man to Williams,” instead of Chairman Say because Chairman Say was “a volunteer of a local, small county party,” but Reade was a “full-time political activist.”²⁵ At the time of the email, the Tehama GOP had less than \$3,900.

On May 20, 2012, Gilliard sent an email to two colleagues at GBA:

This is what we have left for Williams. I met with Reade today, and the funds should be available for all of this:

23-May	Mail	Positive Party	Tehama GOP
26-May	Mail	DROP 2 of Intro	
29-May	Mail	GOP Leaders	Tehama GOP
30-May	Mail	Drop 2 of Plan	
30-May	Mail	Late AB Alert	Tehama GOP
31-May	Mail	GOTV	Tehama GOP

At the time, the Tehama GOP had less than \$1,900.

Nielsen had instructed Reade to make contributions to support Williams and to give the maximum amount allowed to Tehama GOP. So on May 21, 2012, Taxpayers for Nielsen made the maximum contribution of \$3,900 to Friends of Williams and a contribution of \$5,000 to the Tehama GOP at Reade’s direction.

On the same day and the next day, GBA delivered invoices to the Tehama GOP: \$4,320 for radio advertisements supporting Williams, and \$8,441.77 for a member communication mailer supporting Williams. The Tehama GOP had less than \$8,900.

On May 24, 2012, Natalie Blanning of GBA, sent Reade an email: “Can you find out the status on paying these invoices. We have already advanced all the costs for the radio and the printing/postage.” Reade responded to Blanning and included Gilliard:

tehama gop has paid so far:

3000 initial radio buy
4320 final radio buy
8442 mail 1

Our plan was for 8K and 4K costs on #2 and #3 mail (late ABs). Should put us at just under 28000 total. I’d like to keep it to this.

Later, Reade followed up: “If we keep GOP Leaders and GOTV to a combined cost of 15K, we’re good. Please adjust file as needed.” Chairman Say was not included in this email thread.

²⁵ Gilliard Interview with Enforcement Division staff.

On May 25, 2012, Taxpayers for Nielsen made a \$15,000 contribution to the Tehama GOP at Reade's direction. Four days later, the Tehama GOP paid GBA \$12,761.77: \$4,320 for the radio advertisements, and \$8,441.77 for the first mailer. Tehama GOP did not disclose with the payment that it was the intermediary for Taxpayers for Nielsen regarding the \$4,320 radio advertisements. On that same day and the next day, GBA generated two more invoices for the Tehama GOP for member communication mailers supporting Williams totaling \$10,087 and \$5,078.

On June 1, 2012, Taxpayers for Nielsen made a contribution of \$12,000 to the Tehama GOP at Reade's direction. Five days later, the Tehama GOP paid GBA for the last two sets of mailers totaling \$15,165.

For the 2012 primary election, Taxpayers for Nielsen made three contributions to Tehama GOP totaling \$32,000. 87% of these funds went directly to support Williams in the form of radio advertisements and member communications produced by GBA. In an interview with Enforcement Division staff, Chairman Say stated that he understood that Nielsen wanted to contribute to Tehama GOP to support Williams' campaign:

[Reade] was at our committee [meeting] to make clear that Assemblyman Nielsen was going to give us a donation to help us in our purchase [of radio advertisements supporting Williams].

...¶...

[Reade] definitely mentioned that Assembly [sic] Nielsen was going to contribute to our committee to help with our Williams campaign.

...¶...

...funds coming in for Bob Williams' campaign would be used for Bob Williams' campaign.

Chairman Say admitted that he was surprised by the amount of money Nielsen was willing to give Tehama GOP to support Williams' campaign.

Disclosure of Erroneous Information in Campaign Statements

Taxpayers for Nielsen reported in its campaign statement covering January 1 through June 30, 2012, the following expenditures supporting candidates/committees:

Date	Recipient	Type of Payment	Amount this Period	Cumulative to Date
05/21/2012	Friend of Williams	Monetary Contribution	\$3,900	\$3,900
05/21/2012	Tehama GOP	Monetary Contribution	\$5,000	\$32,000
05/25/2012	Tehama GOP	Monetary Contribution	\$15,000	\$32,000
06/01/2012	Tehama GOP	Monetary Contribution	\$12,000	\$32,000

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Friends of Williams reported in its campaign statement covering May 20 through June 30, 2012, the following contributions:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
05/21/2012	Taxpayers for Nielsen	n/a	\$3,900	\$3,900
05/25/2012	Tehama GOP	Radio Advertising	\$12,761.77	\$30,926.77
06/03/2012	Tehama GOP	Radio Advertising	\$15,165.00	\$30,926.77

Tehama GOP reported in its original campaign statement filed July 9, 2012, covering the reporting period of May 20 through June 30, 2012, the following contributions:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
05/21/2012	Taxpayers for Nielsen	n/a	\$32,000	\$32,000

And Tehama GOP reported the following expenditures supporting candidates/committees:

Date	Recipient	Type of Payment	Amount this Period	Cumulative to Date
06/01/2012	Friends of Williams	Nonmonetary Contribution – Radio and Mail Advertisements through GBA	\$27,926.77	\$30,926.77

Tehama GOP reported in its amended campaign statement filed February 22, 2013, covering the reporting period of May 20 through June 30, 2012, the following contributions:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
05/21/2012	Taxpayers for Nielsen	n/a	\$5,000	\$32,000
05/25/2012	Taxpayers for Nielsen	n/a	\$15,000	\$32,000
06/01/2012	Taxpayers for Nielsen	n/a	\$12,000	\$32,000

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And Tehama GOP reported the following expenditures supporting candidates/committees:

Date	Recipient	Type of Payment	Amount this Period	Cumulative to Date
05/22/2012	Bob Williams	Mass Mail	\$8,441.77	\$23,606.77
05/29/2012	Bob Williams	Mass Mail	\$10,087.00	\$23,606.77
05/30/2012	Bob Williams	Mass Mail	\$5,078.00	\$23,606.77
06/01/2012	Bob Williams	Radio Ads	\$4,320.00	\$7,320.00

Tehama GOP also reported the following payments:

Payee	Description of Payment	Amount Paid
Gilliard Blanning and Associates	Member Communications	\$23,606.77
Gilliard Blanning and Associates	Radio Ads Supporting Bob Williams	\$4,320.00

None of the above campaign statements disclose that Taxpayers for Nielsen was the true source and Tehama GOP was the intermediary for \$4,320 of the contributions, which was earmarked by Taxpayers for Nielsen to go to Friends of Williams to cover the cost of radio advertisements. The mailers were properly disclosed in Tehama GOP's amended campaign statements as member communications.

Prohibited Gift from Lobbyist Firm

In April 2011, while serving in the Assembly, Jim Nielsen received tickets to a Sacramento Kings basketball game from the Yocha Dehe Wintun Nation. The Yocha Dehe Wintun Nation gave the tickets to Nielsen, and the lobbying firm Sloat Higgins Jensen & Associates arranged the gift. At that time, the Yocha Dehe Wintun Nation was a client of Sloat Higgins Jensen & Associates, which was registered to lobby the Assembly. Nielsen reported receiving the gift of the tickets from the Yocha Dehe Wintun Nation on his 2011 Statement of Economic Interest.

On February 20, 2014, the Fair Political Practices Commission ("Commission") approved a Stipulation, Decision and Order in which Sloat Higgins Jensen & Associates, and its principal officer Kevin Sloat, admitted to arranging the gift of the tickets from the Yocha Dehe Wintun Nation to Nielsen in violation of Section 86203.

VIOLATIONS

Count 1: Prohibited Earmarked Over-The-Limit Contribution Made in the Name of Another

Nielsen, Taxpayers for Nielsen and Bell, in May 2012, made an earmarked, over-the-limit contribution to Friends of Williams totaling \$4,320 in the name of Tehama GOP, violating Sections 84301, 85301 and 85704, and Regulation 18545, subdivision (a)(1).

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Count 2: Accepting an Over-the-Limit Contribution

Williams, Friends of Williams and Bauer, in May 2012, accepted an over-the-limit contribution from Taxpayers for Nielsen totaling \$4,320, violating Section 85301 and Regulation 18545, subdivision (a)(1).

Count 3: Failure to Disclose Intermediary and Original Contributor Information

Tehama GOP and Marsh, in May 2012, while acting as the intermediary of Taxpayers for Nielsen, failed to disclose both the intermediary and the original contributor information for a \$4,320 contribution from Taxpayers for Nielsen to Friends of Williams, violating Section 84302.

Count 4: Disclosure of Erroneous Information in Campaign Statements

Nielsen, Taxpayers for Nielsen and Bell, on or about July 27, 2012, filed a campaign statement for the reporting period of January 1 through June 30, 2012, erroneously reporting that Taxpayers for Nielsen made a contribution to Tehama GOP, instead of disclosing that Taxpayers for Nielsen made a contribution to Friends of Williams and Tehama GOP was the intermediary for the transaction, violating Section 84211, subdivision (k).

Count 5: Disclosure of Erroneous Information in Campaign Statements

Williams, Friends of Williams and Bauer, on or about July 16, 2012, filed a campaign statement for the reporting period of May 20 through June 30, 2012, erroneously reporting that Friends of Williams received a contribution from Tehama GOP, instead of disclosing that the contribution was made by Taxpayers for Nielsen and Tehama GOP was the intermediary for the transaction, violating Section 84211, subdivision (f).

Count 6: Disclosure of Erroneous Information in Campaign Statements

Tehama GOP and Marsh, on or about July 9, 2012, filed an original campaign statement for the reporting period of May 20 through June 30, 2012, erroneously reporting that it made a contribution to Friends of Williams, instead of disclosing that Tehama GOP was the intermediary for the contribution made by Taxpayers for Nielsen to Friends of Williams, violating Section 84211, subdivision (k).

And Tehama GOP and Alston, on or about February 22, 2013, filed an amended campaign statement for the same reporting period, erroneously reporting that it made a contribution to Friends of Williams, instead of disclosing that Tehama GOP was the intermediary for the contribution made by Taxpayers for Nielsen to Friends of Williams, violating Section 84211, subdivision (k).

Count 7: Receipt of Unlawful Gift

Nielsen knowingly received a gift of tickets to an NBA basketball game arranged by lobbying firm Sloat Higgins Jensen & Associates violating Section 86204.

CONCLUSION

This matter consists of seven counts of violating the Act, which carries a maximum administrative penalty of \$5,000 per count, for a total of \$35,000.

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Commission considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d): 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3) whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated good faith in consulting with Commission staff; 5) whether there was a pattern of violations; and 6) whether, upon learning of the violation, the violator voluntarily provided amendments to provide full disclosure.

The Commission also considers penalties in prior cases involving similar violations. Recent cases for similar violations include:

Earmarked Contributions Not Made in Legal Name of the Contributor

- *Bill Berryhill, Tom Berryhill, Bill Berryhill For Assembly – 2008, Berryhill For Assembly 2008, Stanislaus Republican Central Committee (State Acct.), and San Joaquin County Republican Central Committee/Calif. Republican Victory Fund*, FPPC No. 10/828 (Decision and Order). The six respondents included two brothers, their candidate controlled committees and two Republican central committees. Following a six-day administrative hearing, the Commission found that Tom Berryhill and his controlled committee made contributions in the name of the central committees to his brother's campaign, violating Section 84301 (2 counts). Although these counts only cited Section 84301, the findings specifically included facts that the contributions were earmarked for Bill Berryhill's campaign.²⁶ The Commission also found that Tom Berryhill and his committee made over-the-limit contributions in separate counts. In April 2014, the Commission imposed a penalty of \$5,000 per count.
- *Gustavo Villa*, FPPC No. 13/1122. Respondent, the General Manager of Maywood Mutual Water Company No. 2, made two campaign contributions, in the amounts of \$2,000 and \$800, in the name of another person rather than his own name, failed to disclose to the recipients of the contributions that he was the true source, and failed to disclose to the recipients of the contributions that he was an intermediary for another person, in violation of Government Code sections 84300, subdivision (c), 84301 and 84302 (1 count). In January 2014, the Commission imposed a penalty of \$4,500.

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²⁶ *In the Matter of Bill Berryhill, et al.*, Proposed Decision, p 38, ¶ 110.

Accepting an Over-the-Limit Contribution

- *Bill Berryhill, et al.*, FPPC No. 10/828 (Decision and Order). The six respondents included two brothers, their candidate controlled committees and two Republican central committees. Following a six-day administrative hearing, the Commission found that Bill Berryhill and his campaign accepted over-the-limit contributions from his brother's campaign through the central committees, violating Section 85301 (2 counts). In April 2014, the Commission imposed a penalty of \$2,500 per count against Bill Berryhill and his campaign.
- *Joel Anderson, and Taxfighters for Anderson Assembly 2010*, FPPC No. 09/694. Respondents, a candidate for the California State Assembly, 77th District, and his controlled committee, accepted five campaign contributions, through the Fresno County Republican Central Committee, that were in excess of the 2009 campaign contribution limits, in violation of Government Code section 85301 (5 counts). In December 2009, the Commission imposed a penalty of \$4,000 per count.

Failure to Disclose Intermediary and Original Contributor Information

- *Republican Central Committee of Los Angeles County, also known as Republican Party of Los Angeles County*, FPPC No. 11/224 (Default Decision). Respondent, a political party central committee, served as the intermediary for contributions from four members of the Novelty family, for contributions totaling \$32,400, to Committee to Elect Rabbi Shifren, in violation of Government Code Section 84302 (2 counts). In October 2014, the Commission imposed a penalty of \$5,000 per count.
- *Gustavo Villa*, FPPC No. 13/1122. Respondent, the General Manager of Maywood Mutual Water Company No. 2, made two campaign contributions, in the amounts of \$2,000 and \$800, in the name of another person rather than his own name, failed to disclose to the recipients of the contributions that he was the true source, and failed to disclose to the recipients of the contributions that he was an intermediary for another person, in violation of Government Code sections 84300, subdivision (c), 84301 and 84302 (1 count). In January 2014, the Commission imposed a penalty of \$4,500.
- *Fresno County Republican Central Committee*, FPPC No. 09/759. Respondent, a political party committee, made six contributions totaling \$47,975, on behalf of other persons without disclosing intermediary and original contributor information, in violation of Government Code section 84302 (6 counts). In December 2009, the Commission imposed a penalty of \$4,000 per count.

Disclosure of Erroneous Information in Campaign Statements

- *Republican Central Committee of Los Angeles County, also known as Republican Party of Los Angeles County*, FPPC No. 11/224 (Default Decision). Respondent, a political party central committee, filed a campaign statement reporting that it made a

\$32,400 contribution to Committee to Elect Rabbi Shifren, when in fact RPLAC was the intermediary for contributions made by four members of the Novelty family to Committee to Elect Rabbi Shifren, in violation of Government Code Section 84211, subdivision (k) (1 count). In October 2014, the Commission imposed a penalty of \$5,000 per count.

- *Bill Berryhill, et al.*, FPPC No. 10/828 (Decision and Order). The six respondents included two brothers, their candidate controlled committees and two Republican central committees. Following a six-day administrative hearing, the Commission found that Bill Berryhill and his controlled committee and Tom Berryhill and his controlled committee, disclosed inaccurate information in campaign statements to conceal the true source of earmarked contributions, in violation of Government Code section 84211, subdivision (f) (5 counts). In April 2014, the Commission imposed a penalty of \$2,500 per count against Bill Berryhill and his campaign (2 counts) and \$5,000 per count against Tom Berryhill and his controlled committee (3 counts).

Prohibited Gift from Lobbyist Firm

- *Debra Gravert*, FPPC No. 14/253. Respondent, while employed as Chief of Staff for a State Assemblymember, knowingly received a gift from the San Francisco Forty Niners arranged by lobbying firm Sloat Higgins Jensen & Associates violating Section 86204 (1 count). In August 2014, the Commission imposed a penalty of \$1,000.
- *Jeff Miller*, FPPC No. 14/255. Respondent, a state Assembly Member from 2008 to 2012, knowingly received a gift from the San Francisco Forty Niners arranged by lobbying firm Sloat Higgins Jensen & Associates violating Section 86204 (1 count). In April 2014, the Commission imposed a penalty of \$1,000.

In this matter, Nielsen made a prohibited contribution to Williams through Tehama GOP. While Nielsen's payments to Tehama GOP covering member communications (i.e., mailers to GOP members) were not contributions under the Act,²⁷ it is clear from the evidence that the \$4,320 contribution from Taxpayers for Nielsen to Tehama GOP was intended to, and did in fact pay for radio advertisements for Williams' campaign.

Nielsen was an experienced candidate and officeholder, and Nielsen heavily influenced Williams' campaign for State Assembly. Nielsen's chief of staff, Reade, "hired" Nielsen's long-time staffer, Olmstead, to run Williams' campaign despite Olmstead's lack of campaign experience. Reade, an experienced political operative, directed the actions of Tehama GOP, Olmstead, and Gilliard (Williams' paid consultant) regarding Williams' campaign, including how much money would be spent on radio advertisements and member communications. With Nielsen's authority, Reade also controlled the amount and timing of payments from Taxpayers for Nielsen to Tehama GOP to be used to support Williams' campaign. The evidence shows that

²⁷ § 85312.

Reade orchestrated with Gilliard and others at GBA, which radio advertisements and member communications would be paid by Taxpayers for Nielsen through Tehama GOP.

All parties in this matter understood that Nielsen wanted to support Williams' campaign, and that he would do so through Tehama GOP. Chairman Say admitted that he was surprised by how much money Nielsen gave to Tehama GOP to support Williams, and understood that "funds coming in for Bob Williams' campaign would be used for Bob Williams' campaign."

All of the involved committees filed campaign statements which erroneously disclosed Tehama GOP as the contributor regarding the \$4,320 radio advertisement, which kept the true source of the contribution unknown to the voting public.

Based upon the facts and circumstances of this case, it is clear that all parties agreed and/or understood that Tehama GOP would act as the intermediary for Nielsen's contributions to Williams' campaign regarding the \$4,320 radio advertisement. This arrangement, in conjunction with erroneous campaign statements, kept information from the public regarding the campaign activity and the true source of Williams' campaign funds. Taken as whole, the evidence shows deliberate conduct which resulted in serious violations of the Act regarding the radio advertisement. The conduct in this case is as serious as the conduct in the comparable cases because of the interrelationship and active involvement of all parties – the Nielsen campaign, the Williams' campaign, and the Tehama GOP – in the plan for Nielsen to pay for the Williams radio advertisement.

In mitigation, Nielsen lawfully gave money to Tehama GOP to use for member communications in the form of mailers. The mailers supporting Williams sent by Tehama GOP using Nielsen funds were properly disclosed as member communications in Tehama GOP's amended campaign statements. Additionally, the Nielsen campaign, the Williams' campaign, and the Tehama GOP have no prior enforcement history and cooperated in good faith with the Enforcement Division. The parties agreed to interviews and provided documents and records requested by the Enforcement Division. The contribution at issue made-up a small percentage of the total contributions received by Williams.

Regarding the prohibited gift from lobbyist firm, Nielsen's facts are nearly identical to the facts in the comparable cases above. And he timely reported receiving the tickets from the Yocha Dehe Wintun Nation on his SEI.

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PROPOSED PENALTY

The factors listed in Regulation §18361.5, prior similar cases, and other relevant facts, justify a total penalty of \$23,000:

Count	Description	Penalty per count	Total
Nielsen, Taxpayers for Nielsen and Bell			
1	Earmarked Over-The-Limit Contribution Made in the Name of Another	\$4,500	\$9,000
4	Disclosure of Erroneous Information in Campaign Statements	\$4,500	
Williams, Friends of Williams and Bauer			
2	Accepting an Over-the-Limit Contribution	\$2,500	\$5,000
5	Disclosure of Erroneous Information in Campaign Statements	\$2,500	
Tehama GOP			
3	Failure to Disclose Intermediary and Original Contributor Information	\$4,000	\$8,000
6	Disclosure of Erroneous Information in Campaign Statements	\$4,000	
Nielsen			
7	Receipt of Unlawful Gift	\$1,000	\$1,000
Total Agreed Upon Penalty			\$23,000

Higher penalties are not being sought because the parties cooperated with the Enforcement Division by agreeing to an early settlement of this matter well in advance of the probable cause conference and administrative hearing that otherwise would have been held.

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