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7  
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA

10  
11 In the Matter of:

12 SEBASTIAN RIDLEY-THOMAS and  
13 SEBASTIAN RIDLEY-THOMAS FOR  
ASSEMBLY 2014,

14 Respondents.

FPPC Case No. 16/458

STIPULATION, DECISION AND ORDER

15  
16 **INTRODUCTION**

17 On December 3, 2013, a special primary election was held to fill a vacancy in the California State  
18 Assembly, 54<sup>th</sup> District. Sebastian Ridley-Thomas was a candidate for this seat. He won the election—  
19 and no special general election was held—because he received over 50% of the vote.

20 On November 4, 2014, Ridley-Thomas was re-elected. His controlled committee was Sebastian  
21 Ridley-Thomas for Assembly 2014.

22 This case arose from an audit performed by the Political Reform Audit Program of the Franchise  
23 Tax Board. The period covered by the audit was the 2013 calendar year—due to the special elections that  
24 were held that year. The audit found, and the Enforcement Division of the Fair Political Practices

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1 Commission confirmed, that Ridley-Thomas and his committee failed to timely file two \$5,000 reports  
2 and four 24-hour reports in violation of the Political Reform Act.<sup>1</sup>

### 3 **SUMMARY OF THE LAW**

4 The Act and its regulations are amended from time to time. The violations in this case occurred in  
5 2013. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they  
6 existed at that time.

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

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

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

#### 17 **Mandatory Filing of Campaign Statements and Reports**

18 At the core of the Act’s campaign reporting system is the requirement that committees must file  
19 campaign statements and reports for certain reporting periods and by certain deadlines.<sup>7</sup>

20 For example, certain contributions must be reported within 24 hours. In this regard, the Act  
21 defines a “late contribution” to include any contribution that totals \$1,000 or more, which is made to or  
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23 <sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections  
24 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission  
are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references  
are to this source.

25 <sup>2</sup> Section 81001, subdivision (h).

26 <sup>3</sup> Section 81003.

27 <sup>4</sup> Section 81002, subdivision (a).

28 <sup>5</sup> Sections 84200, et seq.

<sup>6</sup> Section 81002, subdivision (f).

<sup>7</sup> Sections 84200, et seq.

1 received by a candidate or a controlled committee within 90 days before the election. Also, a “late  
2 contribution” includes any contribution that totals \$1,000 or more, which is made to or received by a  
3 political party committee within 90 days before the date of a state election.<sup>8</sup> Each candidate or committee  
4 that makes or receives a “late contribution” must report the contribution by filing a Form 497 within 24  
5 hours.<sup>9</sup> In the case of a candidate for state office who is filing one of these reports, the report must be  
6 filed with the elections official of the county of domicile—and with the Secretary of State.<sup>10</sup> When such  
7 reports are filed with the Secretary of State, they must be filed online or electronically.<sup>11</sup>

8         Once a candidate for state office has received contributions totaling \$25,000 or more—or made  
9 expenditures totaling \$25,000 or more—he becomes an electronic filer with the Secretary of State. This  
10 means that the candidate’s filings must be filed online or electronically. Prior to this, some filings only  
11 would have been required to be filed in paper format.<sup>12</sup>

12         Special rules apply to these electronic filers. Along these lines, the Act provides that an “election  
13 cycle” is the period of time commencing 90 days before an election—and ending on the day of the  
14 election. However, in the case of a special election, the cycle begins on the day the office becomes  
15 vacant.<sup>13</sup>

16         In addition to any other report that must be filed, if a candidate for state office is an electronic  
17 filer—and if that candidate receives a contribution of \$1,000 or more during an election cycle—he must  
18 report receipt of the contribution by filing an election cycle report (Form 497) with the Secretary of State  
19 within 24 hours. Also, if such a candidate receives a contribution of \$5,000 or more outside of an election  
20 cycle, he must report receipt of the contribution by filing a Form 497 with the Secretary of State within  
21 10 business days.<sup>14</sup> Occasionally, this type of report is referred to as a \$5,000 report.

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24         <sup>8</sup> See Section 82036.

25         <sup>9</sup> Section 84203.

26         <sup>10</sup> Section 84215, subdivision (a).

27         <sup>11</sup> Section 84203, subdivision (b).

28         <sup>12</sup> See Section 84605.

<sup>13</sup> See Sections 85204 and 85204.5.

<sup>14</sup> See Section 85309, subdivisions (a) and (c).

1 **Joint and Several Liability of Candidate and Committee**

2 A candidate and his committee may be held jointly and severally liable for violations of the Act.<sup>15</sup>

3 **SUMMARY OF THE FACTS**

4 On September 17, 2013, a special primary election was held to fill a seat in the California State  
5 Senate, 26<sup>th</sup> District. California State Assemblywoman Holly Mitchell won the election—and no special  
6 general election was held—because she received over 50% of the vote. (Mitchell replaced Curren Price,  
7 who had resigned.)

8 On or about September 30, 2013, Mitchell’s seat in the California State Assembly, 54<sup>th</sup> District,  
9 became vacant.

10 On December 3, 2013, a special primary election was held to fill Mitchell’s seat in the California  
11 State Assembly. Ridley-Thomas was a candidate for this seat. He won the election—and no special  
12 general election was held—because he received over 50% of the vote.

13 On March 25, 2014, a special primary election was held for a seat in the California State Senate,  
14 23<sup>rd</sup> District. (In this election, Mike Morrell replaced Bill Emmerson, who had resigned.)

15 On November 4, 2014, Ridley-Thomas was re-elected to the California State Assembly. His  
16 controlled committee was Sebastian Ridley-Thomas for Assembly 2014.

17 This case involves failure on the part of Ridley-Thomas and his 2014 committee to timely file  
18 certain reports in connection with the elections that are noted above. These filing violations are described  
19 below.

20 **VIOLATIONS**

21 **Count 1**

22 *Failure to Timely File \$5,000 Reports*

23 On or about June 28, 2013, the Ridley-Thomas for Assembly 2014 committee received a  
24 contribution in the amount of \$7,000 from the International Brotherhood of Electrical Workers, Local  
25 #11. At the time, the Ridley-Thomas committee had qualified as an electronic filer.<sup>16</sup> As such, Ridley-  
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28 <sup>15</sup> Sections 83116.5 and 91006.

<sup>16</sup> See Section 84605.

1 Thomas and his committee were required to report receipt of this contribution by filing a Form 497 with  
2 the Secretary of State within 10 business days, but they failed to do so within the required 10-day period.

3 On or about September 29, 2013, the Ridley-Thomas for Assembly 2014 committee received a  
4 contribution in the amount of \$8,200 from the Los Angeles County Firefighters Local 1014 Legislative  
5 Fund Committee. Although this contribution was received less than 90 days before the special primary  
6 election of December 3, 2013 (at which Ridley-Thomas was seeking election to the California State  
7 Assembly), a 24-hour report was not required. The applicable FPPC filing schedule reflects that the 24-  
8 hour reporting period did not start until September 30, 2013 (due to the timing surrounding the  
9 vacancy/special election).<sup>17</sup> Nevertheless, Ridley-Thomas and his 2014 committee were required to  
10 report receipt of the contribution by filing a Form 497 with the Secretary of State within 10 business  
11 days, but they failed to do so within the required 10-day period.

12 In this way, Ridley-Thomas and his 2014 committee violated Section 85309, subdivision (c).

13 **Count 2**

14 *Failure to Timely File 24-Hour Reports*

15 On or about August 23, 2013, the Ridley-Thomas for Assembly 2014 committee made a  
16 contribution in the amount of \$2,000 to Holly Mitchell for Senate 2013. Mitchell was seeking election to  
17 the California State Senate in the special primary election that was held on September 17, 2013. Since  
18 this contribution was made during the last 90 days before the election, Ridley-Thomas and his committee  
19 were required to report the making of this contribution by filing a Form 497 with Los Angeles County  
20 and the Secretary of State within 24 hours, but they failed to do so within the required 24-hour period.

21 On or about November 18, 2013, the Ridley-Thomas for Assembly 2014 committee received a  
22 contribution in the amount of \$1,000 from PG&E. As noted above, Ridley-Thomas was seeking election  
23 to the California State Assembly in the special election that was held on December 3, 2013. The 24-hour  
24 reporting period for this election commenced on September 30, 2013. Therefore, Ridley-Thomas and his  
25 committee were required to report receipt of this contribution by filing a Form 497 with Los Angeles  
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28 <sup>17</sup> For example, Section 85204.5 provides that a special election cycle does not begin 90 days before the election.  
Rather, it begins when the office first becomes vacant.

1 County and the Secretary of State within 24 hours, but they failed to do so within the required 24-hour  
2 period.

3 On or about November 25, 2013, the Ridley-Thomas for Assembly 2014 committee received a  
4 contribution in the amount of \$1,600 from Chevron Corporation. Ridley-Thomas and his committee were  
5 required to report receipt of this contribution by filing a Form 497 with Los Angeles County and the  
6 Secretary of State within 24 hours, but they failed to do so within the required 24-hour period.

7 On or about December 30, 2013, the Ridley-Thomas for Assembly 2014 committee made a  
8 contribution in the amount of \$34,000 to the Democratic State Central Committee of California. At the  
9 time, a special primary election was being held on March 25, 2014 to fill a vacancy in the California  
10 State Senate. Since this contribution was made to the central committee during the last 90 days before the  
11 election, Ridley-Thomas and his 2014 committee were required to report the making of this contribution  
12 by filing a Form 497 with Los Angeles County and the Secretary of State within 24 hours, but they failed  
13 to do so within the required 24-hour period.

14 In this way, Ridley-Thomas and his 2014 committee violated Sections 84203 and 85309,  
15 subdivision (a).

### 16 PROPOSED PENALTY

17 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per  
18 count. Thus, the maximum penalty that may be imposed is \$10,000.<sup>18</sup>

19 In determining the appropriate penalty for a particular violation of the Act, the Commission  
20 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the  
21 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
22 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
23 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
24 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
25 record of violations.<sup>19</sup> Additionally, the Commission considers penalties in prior cases with comparable  
26 violations.

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<sup>18</sup> See Section 83116, subdivision (c).

28 <sup>19</sup> Regulation 18361.5, subdivision (d).

1           The Commission has found disclosure to be essential, especially before an election. In this case,  
2 the Enforcement Division did not find evidence of intentional concealment or deception. Rather, it  
3 appears the violations were the result of negligence and a lack of diligence in learning the requirements  
4 of the Act.

5           Regarding Count 1, the Commission recently considered a settlement involving a similar  
6 violation. *In the Matter of Gray for Assembly 2014, Adam Gray, and Douglas L. White*; FPPC Case No.  
7 16/455 (approved Aug. 17, 2017), the Commission imposed a penalty in the amount of \$1,000 against an  
8 assembly candidate who failed to timely file a report disclosing receipt of a contribution of \$5,000 or  
9 more, which was received outside of an election cycle. The contribution was in the amount of \$6,500.  
10 Gray was an experienced candidate who had reason to be familiar with the Act, and this was noted to be  
11 an aggravating factor.

12           In the current case, the contributions at issue are similar in size (\$7,000 and \$8,200 in the current  
13 case—compared to \$6,500 in *Gray*). However, the current case involves failure to file twice as many  
14 \$5,000 reports. In mitigation, receipt of the contributions in question was disclosed by the committee on  
15 its regularly filed campaign statements roughly two to three weeks after the \$5,000 reports should have  
16 been filed. This disclosure took place prior to the special primary election that was held on December 3,  
17 2013—and well before the November 2014 election. Under these circumstances—instead of charging  
18 one count for each report, both are being charged as a single count—and a penalty in the amount of  
19 \$1,000 is recommended for Count 1.

20           Regarding Count 2, the public harm inherent in failure to file 24-hour reports is that the public is  
21 deprived of important, time-sensitive information regarding political contributions and expenditures. In  
22 the case of 24-hour reports, the reportable activity is meant to be disclosed to the public before the  
23 election.

24           In the *Gray* case (discussed above), the Commission imposed a penalty in the amount of \$2,000  
25 against an assembly candidate for failure to file two 24-hour reports disclosing four late contributions  
26 totaling approximately \$12,700. (Since three of the contributions were received on the same day, they  
27 only would have triggered a single 24-hour report.)

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1 The current case involves failure to file four 24-hour reports disclosing the making/receipt of  
2 contributions totaling approximately \$38,600. This is twice as many reports and roughly three times the  
3 reportable activity that was at issue in the *Gray* case. However, most of this reportable activity resulted  
4 from a single contribution in the amount of \$34,000 that the Ridley-Thomas committee made to the  
5 Democratic State Central Committee of California. The central committee timely reported receipt of this  
6 contribution on its own 24-hour filing. (This contribution was subject to 24-hour reporting on account of  
7 a special election in another legislative district—and Ridley-Thomas was not on the ballot for this  
8 particular election.) Also, even though the current case involves more reportable activity than *Gray*, in  
9 both cases, the 24-hour reportable activity in question was very small compared to the size of each  
10 campaign. (In *Gray*, the activity was less than one percent of the committee’s receipts. In the current  
11 case, the activity was less than one percent of the committee’s receipts and less than three percent of the  
12 committee’s expenditures.) Under these circumstances, a penalty in the amount of \$2,500 is  
13 recommended for Count 2.

14 Higher penalties are not being sought in this case because Ridley-Thomas served as his own  
15 committee treasurer, and he was not an experienced candidate. He relied upon a consultant who was  
16 hired to assist with campaign reporting, and he believed that the consultant was complying with all  
17 disclosure rules. When the committee became aware of its missed filings (and before the Franchise Tax  
18 Board completed its audit), the committee voluntarily filed all of the campaign reports that are at issue in  
19 this case. Also, regarding both Counts 1 and 2, the total reportable activity in question in this case  
20 (\$53,800) was relatively small compared to the committee’s reported receipts and expenditures of  
21 \$1,128,141 and \$1,281,373, respectively. Additionally, Ridley-Thomas cooperated with the Enforcement  
22 Division by agreeing to an early settlement—and he does not have a history of prior violations of the Act.

23 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty  
24 in the amount of \$3,500 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Failure to timely file \$5,000 reports	\$1,000
2	Failure to timely file 24-hour reports	\$2,500
		<b>Total: \$3,500</b>

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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
3 Respondents Sebastian Ridley-Thomas and Sebastian Ridley-Thomas for Assembly 2014 hereby agree as  
4 follows:

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

7 2. This stipulation will be submitted for consideration by the Fair Political Practices  
8 Commission 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  
10 of reaching a final disposition without the necessity of holding an administrative hearing to determine the  
11 liability of Respondents pursuant to Section 83116.

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

20 5. Respondents agree to the issuance of the decision and order set forth below. Also,  
21 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
22 \$3,500. One or more cashier’s checks or money orders totaling said amount—to be paid to the General  
23 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
24 administrative penalty described above, and same shall be held by the State of California until the  
25 Commission issues its decision and order regarding this matter.

26 6. If the Commission refuses to approve this stipulation—then this stipulation shall become  
27 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
28 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to

1 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing  
2 before the Commission becomes necessary, neither any member of the Commission, nor the Executive  
3 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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9 Dated: \_\_\_\_\_

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Galena West, Chief of Enforcement  
Fair Political Practices Commission

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13 Dated: \_\_\_\_\_

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Sebastian Ridley-Thomas, individually, and on behalf of  
Sebastian Ridley-Thomas for Assembly 2014,  
Respondents

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16 The foregoing stipulation of the parties "In the Matter of Sebastian Ridley-Thomas and Sebastian  
17 Ridley-Thomas for Assembly 2014," FPPC Case No. 16/458, is hereby accepted as the final decision and  
18 order of the Fair Political Practices Commission, effective upon execution below by the Chair.

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20 IT IS SO ORDERED.

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22 Dated: \_\_\_\_\_

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Joann Remke, Chair  
Fair Political Practices Commission