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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

In the Matter of) FPPC No. 16/19678
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)
)
YES ON 56-SAVE LIVES) **STIPULATION, DECISION and ORDER**
CALIFORNIA, A COALITION OF)
DOCTORS, DENTISTS, HEALTH)
PLANS, LABOR, HOSPITALS, LAW)
ENFORCEMENT, AND NON-PROFIT)
HEALTH ADVOCATE)
ORGANIZATIONS,)
)
)
Respondent.)

STIPULATION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondent Yes on 56-Save Lives California, a coalition of Doctors, Dentists, Health Plans, Labor, Hospitals, Law Enforcement, and Non-profit Health Advocate Organizations (hereinafter referred to as "Yes on 56"), hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

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

1 Yes on 56, hereby knowingly and voluntarily waives, any and all procedural rights set forth in
2 Government Code Sections 83115.5, 11503 and 11523, and in California Code of Regulations, title 2,
3 Sections 18361.1 through 18361.9. This includes, but is not limited to the right to personally appear at
4 any administrative hearing held in this matter, to be represented by an attorney at Yes on 56's own
5 expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to
6 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing
7 officer, and to have the matter judicially reviewed.

8 It is further stipulated and agreed that Yes on 56 violated the Political Reform Act as described
9 in Exhibit 1. Yes on 56 violated the Act by failing to amend a YouTube advertisement within five days
10 to reflect that Tom Steyer was one of its top two contributors, in violation of Government Code section
11 84503 and Cal. Code of Reg. 18450.5, subd. (b)(1) (1 Count). Exhibit 1 is attached hereto and
12 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
13 the facts in this matter.

14 Yes on 56 agrees to the issuance of the Decision and Order, which is attached hereto. Yes on 56
15 also agrees to the Commission imposing an administrative penalty in the total amount of Two Thousand
16 Five Hundred Dollars (\$2,500). A cashier's check from Yes on 56 in said amount, made payable to the
17 "General Fund of the State of California," is submitted with this Stipulation as full payment of the
18 administrative penalty, and shall be held by the State of California until the Commission issues its
19 Decision and Order regarding this matter.

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1 The parties agree that in the event the Commission refuses to accept this Stipulation, it shall
2 become null and void, and within fifteen (15) business days after the Commission meeting at which the
3 Stipulation is rejected, all payments tendered by the Committee in connection with this Stipulation shall
4 be reimbursed. The Committee further stipulates and agrees that in the event the Commission rejects the
5 Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any
6 member of the Commission, nor the Executive Director, shall be disqualified because of prior
7 consideration of this Stipulation.

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9 Dated: _____

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

10
11 Dated: _____

Lance Olson, o/b/o Yes on 56-Save Lives California, a
coalition of Doctors, Dentists, Health Plans, Labor, Hospitals,
Law Enforcement, and Non-profit Health Advocate
Organizations

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the party "Yes on 56-Save Lives California, a coalition of Doctors,
3 Dentists, Health Plans, Labor, Hospitals, Law Enforcement, and Non-profit Health Advocate
4 Organizations", Case No. 16/19678, including all attached exhibits, is hereby accepted as the final
5 decision and order of the Fair Political Practices Commission, effective upon execution below by the
6 Chair.

7 IT IS SO ORDERED.

8 Dated: _____

9 Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Yes on 56-Save Lives California, a coalition of Doctors, Dentists, Health Plans, Labor, Hospitals, Law Enforcement, and Non-profit Health Advocate Organizations (hereinafter referred to as “Yes on 56”) is a state primarily formed ballot measure committee in California.

Yes on 56 failed to correct a YouTube advertisement to reflect that it was receiving major funding from Tom Steyer (“Steyer”) within five days of Steyer becoming one of its top two contributors.

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Political Reform Act’s (the “Act”)¹ provisions as they existed in 2016.

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

By passing the 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

Advertisement

Under the Act, an “advertisement” means any general or public advertisement which is authorized and paid for by a person or committee for the purpose of supporting or opposing a candidate for elective office or a ballot measure or ballot measures.⁴

Disclaimer Ballot Measure Advertisements

The Act requires a committee supporting or opposing a ballot measure to include a disclosure statement on its advertisement that identifies the names of the top two donors of \$50,000 or more.⁵

The Act further requires that “broadcast or electronic media advertisement disclosures must be amended within 5 calendar days after a new person qualifies as a disclosable contributor or a committee’s name changes.”⁶

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.

² § 81001, subd. (h).

³ § 81003.

⁴ § 84501.

⁵ § 84503.

⁶ Cal. Code of Reg. 18450.5, subd. (b)(1).

SUMMARY OF THE FACTS

On August 9, 2016, Yes on 56 published a YouTube video advertisement titled “Why Yes?” Steyer became one of Yes on 56’s top two contributors on September 19, 2016, but Yes on 56 did not amend the “Why Yes?” YouTube video within five days to reflect that it was receiving major funding from Steyer.

On October 25, 2016, the Enforcement Division notified Yes on 56 that Steyer was not listed as a source of major funding on the “Why Yes?” video. On or about October 26, 2016, Yes on 56 amended the “Why Yes” video to include Steyer.

VIOLATION

Count 1: Failure to Comply with Disclosure Requirements for Political Advertisements

Yes on 56 failed to amend a YouTube Advertisement within five days to reflect that Tom Steyer was one of its top two contributors, in violation of Government Code section 84503 and Cal. Code of Reg. 18450.5, subd. (b)(1).

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of \$5,000.

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.

Recent penalties approved by the Commission for failure to place a disclosure statement on an advertisement are as follows:

- ❖ *In the Matter of Yes on Prop. 47, Californians for Safe Neighborhoods and Schools, Sponsored by Vote Safe, A Project of the Advocacy Fund; FPPC No. 14/1204.* Respondent failed to disclose its name and its two highest donors of \$50,000 or more in two video advertisements. After being contacted by the Enforcement Division in late October, the committee added a disclosure statement in its advertisement. On November 20, 2014, the Commission approved a penalty of \$2,500.

A penalty of \$2,500 is appropriate for this violation. Yes on 56 failed to timely update a source of major funding on its “Why Yes” video, which denied viewers the opportunity to

immediately know that Steyer was making large contributions to this proposition. Additionally, a viewer that visited the Yes on 56 YouTube Channel to view the “Why Yes” video could not have obtained the information regarding Steyer from the title of the channel. The title of the channel simply reads “Yes on 56 – Save Lives”, with no mention of Steyer. However, this situation is mitigated by the fact that Yes on 56 amended the video after being contacted by the Enforcement Division. In addition, while the disclaimer on the “Why Yes” video was not updated to include Steyer as a top funder, the other eight videos on the Yes on 56 You Tube channel included the correct disclosure statement. Moreover, Yes on 56’s Top Ten Contributor List available on the FPPC’s website was up-to-date and accurately reflected that Steyer was a top funder.

PROPOSED PENALTY

After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant factors, the imposition of a \$2,500 penalty on Yes on 56 is recommended.