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

10
11 In the Matter of:

12 MICHAEL PRESTON,

13 Respondent.

FPPC Case No. 15/1359

14 STIPULATION, DECISION AND ORDER

15 **INTRODUCTION**

16 In 2015, proactive efforts by the Enforcement Division detected a pattern of activity that led to
17 the opening of this case.

18 Respondent Michael Preston is a businessman from Milpitas, California. Preston is the owner of
19 Preston Pipelines.

20 Debbie Indihar Giordano had been a member of the Milpitas City Council from 2005 to 2016.
21 She was reelected on November 6, 2012 and Deb Giordano City Council 2012 was her controlled
22 committee. Armando Gomez had been a member of the Milpitas City Council from 2002 to 2014, when
23 he ran for State Assembly. Armando Gomez for Assembly 2014 was his controlled committee for
24 Assembly.

25 Preston owned a piece of property that he wanted to have zoned from industrial to residential. He
26 needed approval from the Milpitas City Council to change the zoning. According to Preston, a consultant
27 told him that Debbie Giordano and Armando Gomez were both pro-growth, pro-real estate and pro-
28 development and supporting these candidates may help him obtain the zoning change.

1 In March 2013, Preston asked several of his workers at Preston Pipelines to make the maximum
2 contribution of \$250 to Deb Giordano City Council 2012, to help pay down debt from the 2012 election.
3 In response to Preston’s request, ten Preston Pipelines employees, including himself, contributed \$250 to
4 Deb Giordano City Council 2012. In 2013, the local contribution limit in Milpitas was \$250. Preston
5 reimbursed six of these employees from a personal bank account in the amount of \$250 each in cash,
6 totaling \$1,500.

7 Further, in October 2013, Preston asked his son and employees at Preston Pipelines to contribute
8 to Armando Gomez for Assembly 2014. In response to Preston’s request, his son and two employees,
9 contributed \$4,000 each to Armando Gomez for Assembly 2014 and Preston contributed \$4,100. In
10 2013, the contribution limit from an individual to a candidate for California State Assembly was \$4,100
11 per election. Preston reimbursed one of the employees from a personal bank account in the amount of
12 \$4,000 in cash.

13 The Political Reform Act (the “Act”)¹ prohibits laundered campaign contributions. This case
14 involves seven laundered campaign contributions by Preston through six employees to two sitting city
15 council members in 2013, one of which was a candidate for California State Assembly as well.

16 SUMMARY OF THE LAW

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

18 When enacting the Political Reform Act, the people of California found and declared that
19 previous laws regulating political practices suffered from inadequate enforcement by state and local
20 authorities.² For this reason, the Act is to be construed liberally to accomplish its purposes.³

21 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
22 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
23 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting
24

25 ¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the
26 Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in
27 Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2,
28 Division 6 of the California Code of Regulations, unless otherwise indicated.

² Section 81001, subdivision (h).

³ Section 81003.

⁴ Section 81002, subdivision (a).

1 system—and the true sources of campaign contributions may not be concealed.⁵ Another purpose of the
2 Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁶

3 **Limits on Campaign Contributions to State Candidates**

4 The Act imposes campaign contribution limits with respect to the making and receiving of certain
5 contributions. These limits are adjusted periodically, and different limits apply depending upon who is
6 contributing and who is receiving.⁷

7 In 2013, a person, other than a small contributor committee or political party committee, wishing
8 to contribute to a candidate for California State Assembly could not contribute more than \$4,100 per
9 election.⁸

10 **Prohibition Against Campaign Money Laundering**

11 No campaign contribution may be made in the name of another person.⁹ This prohibition helps
12 keep the public informed as to the actual sources of campaign contributions—and helps to prevent
13 circumvention of campaign contribution limits. When a person makes a contribution on behalf of
14 another, that person’s intermediary relationship with the actual donor must be disclosed to the recipient
15 of the contribution—and the recipient’s campaign filings must disclose both the intermediary and the
16 actual donor.¹⁰

17 **SUMMARY OF THE FACTS**

18 In 2013, Milpitas’s local contribution limit was in effect, which prohibited Preston from
19 contributing more than \$250 to Deb Giordano’s City Council Committee. Further, in 2013, the
20 contribution limit from a person to a candidate for California State Assembly was \$4,100 per election.

21 However, Preston circumvented this limit by reimbursing six individuals for making
22 contributions in their own names to Deb Giordano City Council 2012, totaling \$1,500, and by
23 reimbursing one individual for making a contribution in their name to Armando Gomez for Assembly
24

25 ⁵ Sections 84200, *et seq.* and 84301.

26 ⁶ Section 81002, subdivision (f).

27 ⁷ Sections 85301, subd. (a), 83124, 85303 and 85305.

28 ⁸ Section 85301, subd. (a); Reg. 18545, subd. (a)(1).

⁹ Section 84301.

¹⁰ Section 84302.

1 2014, totaling \$4,000. These individuals, who agreed to contribute at the request of Preston, were Preston
2 Pipeline employees.

3 Debbie Giordano and Armando Gomez were Milpitas City Council Members in 2013, at the time
4 of the contributions. In addition, Armando Gomez was an unsuccessful candidate for California State
5 Assembly.

6 The laundered contributions were reported on campaign statements filed by the candidates.
7 However, the individual intermediaries were reported as the contributors. Preston was not identified as
8 the actual source of the contributions. Preston maintains that he and the Preston Pipeline employees were
9 unaware of the requirements of the Act. No evidence was found to indicate that Preston or the individual
10 contributors informed Deb Giordano City Council 2012 or Armando Gomez for Assembly 2014 that the
11 true source of each contribution was from Preston. As a result, both committees reported the individual
12 contributors, rather than Preston, as the true source of the contributions.

13 **VIOLATIONS**

14 **Counts 1-4**

15 Preston made six contributions of \$250 each to the campaign of Deb Giordano City Council 2012
16 and one contribution of \$4,000 to the campaign of Armando Gomez for Assembly 2014, each in the
17 name of a different individual rather than his own name, in violation of Section 84301. For settlement
18 purposes, 4 Counts are being charged.

19 In making these contributions as described above, Preston committed 4 violations of Section
20 84301.

21 **PROPOSED PENALTY**

22 This matter consists of 4 counts. The maximum penalty that may be imposed is \$5,000 per count.
23 Thus, the maximum penalty that may be imposed is \$20,000.¹¹

24 In determining the appropriate penalty for a particular violation of the Act, the Commission
25 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
26 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
27

28 ¹¹ See Section 83116, subdivision (c).

1 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
2 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
3 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
4 record of violations.¹² Additionally, the Commission considers penalties in prior cases with comparable
5 violations.

6 Making a campaign contribution in the name of another is one of the most serious violations of
7 the Act. It deceives the public as to the true source of contributions, and in this case, Milpitas' local
8 contribution limit was circumvented along with the state contribution limit.

9 Recent stipulations show that the Commission views these types of cases as warranting the
10 maximum penalty of \$5,000 per count. However, when there are significant mitigating circumstances,
11 and where the respondent fully cooperates with the Enforcement Division, the Commission has approved
12 a lower number of counts charged relative to the number of contributions made.

13 *In the Matter of Dakshin Indian Restaurant, LLC, dba Anjappar Chittinad Indian Restaurant;*
14 FPPC Case No. 15/75 (approved Dec. 17, 2015), the Commission considered a campaign money
15 laundering case where a restaurant made contributions in the names of various individuals (who acted as
16 undisclosed intermediaries) to two candidates in a Milpitas city election where there was a contribution
17 limit of \$250. In this way, 12 contributions totaling \$3,000 were laundered. The stipulation charged six
18 counts, and the Commission approved the maximum penalty of \$5,000 per count—for a total penalty of
19 \$30,000. Mitigation in this case included: the respondent provided full cooperation when contacted by
20 Enforcement, admitting that the violations occurred, there was no history of prior violations of the Act,
21 the parties were not politically sophisticated and there appeared to be an absence of intent to deceive the
22 public and a lack of understanding as to the illegality of the reimbursements.

23 This case involves a series of transactions which circumvented the relevant contributions limits.
24 In mitigation, Preston fully cooperated with Enforcement. Further, he has no history of violations and the
25 parties involved were not politically sophisticated. Preston admitted the violations occurred. Preston
26 asserts that a consultant suggested he support the two campaigns and he did not understand reimbursing
27

28 ¹² Regulation 18361.5, subdivision (d).

1 these contributions was illegal.

2 However, in aggravation, the violations were part of a pattern that occurred in March 2013 and
3 again in October 2013. Preston laundered seven contributions totaling \$5,500, which is more money than
4 was laundered in the comparable case. Further, Preston was aware of the contribution limits and
5 circumvented the contribution limits.

6 For the foregoing reasons, a penalty in the amount of \$5,000 per count is recommended for
7 Counts 1 through 4—for a total administrative penalty in the amount of \$20,000.

8 CONCLUSION

9 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
10 Respondent Michael Preston hereby agree as follows:

11 1. Respondent violated the Act as described in the foregoing pages, which are a true and
12 accurate summary of the facts in this matter.

13 2. This stipulation will be submitted for consideration by the Fair Political Practices
14 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

15 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
16 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
17 liability of Respondent pursuant to Section 83116.

18 4. Respondent understands, and hereby knowingly and voluntarily waives, any and all
19 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
20 This includes, but is not limited to the right to appear personally at any administrative hearing held in this
21 matter, to be represented by an attorney at Respondent's own expense, to confront and cross-examine all
22 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
23 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
24 reviewed.

25 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
26 Respondent agrees to the Commission imposing against it an administrative penalty in the amount of
27 \$20,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General
28 Fund of the State of California—is/are submitted with this stipulation as full payment of the

1 administrative penalty described above, and same shall be held by the State of California until the
2 Commission issues its decision and order regarding this matter.

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

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

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14 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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16
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18 Dated: _____

Michael Preston, Respondent

1 The foregoing stipulation of the parties “In the Matter of Michael Preston,” FPPC Case No. 15/1359 is
2 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon
3 execution below by the Chair.

4
5 IT IS SO ORDERED.

6
7 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission