

1 GALENA WEST  
Chief of Enforcement  
2 CHRISTOPHER BURTON  
Commission Counsel  
3 Fair Political Practices Commission  
1102 Q Street, Suite 3000  
4 Sacramento, CA 95811

5 Telephone: (916) 322-5660

6 Attorneys for Complainant  
Fair Political Practices Commission, Enforcement Division  
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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA  
10

11 In the Matter of:

12 COMMITTEE TO IMPROVE  
13 HERMOSA SCHOOLS – YES ON S,  
14 MICHAEL COLLINS, AND JOHN  
FRIBERG,

15 Respondents.

FPPC Case No. 16/568

STIPULATION, DECISION AND ORDER

16 INTRODUCTION

17 Committee to Improve Hermosa Schools – Yes on S (the “Committee”) was a primarily formed  
18 ballot measure committee created to support Hermosa Beach City School District Measure S, which  
19 appeared on the June 7, 2016 Primary Election ballot. Michael Collins (“Collins”) was the Committee’s  
20 principal officer and John Friberg (“Friberg”) was its treasurer.

21 On or about April 20, 2016, the Committee had 400 yard signs printed, and later distributed, that  
22 stated “Yes on S.” However, the signs failed to include the necessary “Paid for by” language or disclose  
23 the name of the Committee, thereby depriving the public of knowing who printed the signs supporting  
24 Measure S. In this way, Respondents violated the Political Reform Act (the Act”).<sup>1</sup>  
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28 <sup>1</sup> The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the  
Government Code, unless otherwise indicated. 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 Title 2,  
Division 6 of the California Code of Regulations, unless otherwise indicated.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred in  
3 2016. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they  
4 existed at that time.

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

6 When enacting the Act, the people of California found and declared that previous laws regulating  
7 political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup> For this reason,  
8 the Act is to be construed liberally to accomplish its purposes.<sup>3</sup>

9 Advertisement Disclosure

10 An “advertisement” under the Act means any general or public advertisement which is authorized  
11 and paid for by a person or committee for the purpose of supporting or opposing a candidate for elective  
12 office or a ballot measure(s).<sup>4</sup> Under the Act, an advertisement includes oversized print media and yard  
13 signs produced in quantities of more than 200.<sup>5</sup>

14 The Act requires that any committee supporting a ballot measure print or broadcast its name as  
15 part of any advertisement.<sup>6</sup> The disclosure must include the words “paid for by” followed by the name of  
16 the committee or person who paid for the advertisement.<sup>7</sup> On oversized print media, the “paid for by”  
17 identification must be at least five percent of the height of the advertisement, printed in a color  
18 contrasting with the sign background.<sup>8</sup>

19 Joint and Several Liability of Committee, Principal Officer, and Treasurer

20 It is the duty of a committee treasurer to ensure that the committee complies with the Act.<sup>9</sup> It is  
21 the duty of the committee’s principal officer to authorize the content of communications made by the  
22 committee, authorize expenditures made by the committee, and determine the committee’s campaign  
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24 <sup>2</sup> Section 81001, subd. (h).

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

26 <sup>4</sup> Section 84501.

27 <sup>5</sup> Regulation 18450.1, subdivision (a)(5).

28 <sup>6</sup> Section 84504, subd. (c).

<sup>7</sup> Regulation 18450.4, subd. (b)(1).

<sup>8</sup> Regulation 18450.4, subd. (b)(3)(D).

<sup>9</sup> Sections 81004, 84100, 84104, and 84213; Regulation 18427.

1 strategy.<sup>10</sup> A treasurer and principal officer may be held jointly and severally liable, along with the  
2 committee, for violations committed by the committee.<sup>11</sup>

### 3 SUMMARY OF THE FACTS

4 The Committee filed its initial statement of organization on or about February 25, 2016. The  
5 Committee was created to support Measure S, a Hermosa Beach City School District bond measure on  
6 the June 7, 2016 Primary Election ballot, which passed, receiving approximately 59.72 percent of the  
7 vote. The Committee terminated on August 20, 2016. During the Committee’s existence, it received  
8 contributions amounting to \$34,427.99 and made expenditures in the same amount.

9 On or about April 20, 2016, 400 campaign-style yard signs were shipped to the Committee. The  
10 signs were later distributed to the community. The yard signs displayed the text “Yes on S,” along with  
11 the Committee’s identification number. However, the signs did not disclose the name of the Committee,  
12 nor did the signs provide that they were “paid for by” the Committee.

13 After the signs were printed and distributed, the Committee discovered the error and, on or about  
14 April 25, 2016, reported its violation to the Enforcement Division of the Fair Political Practices  
15 Commission (the “Commission”). The Committee also notified the designer of the signs that the artwork  
16 used for any additional signs would need to be revised to correct the error and instructed the printing  
17 vendor that it would not authorize any further production of that particular yard sign.

18 The Committee also failed to timely report a total of \$23,764.29 in subvendor payments, some  
19 related to the subject campaign signs. However, the pertinent subvendor payments were disclosed on  
20 corrective amendments filed in conjunction with this settlement.

### 21 VIOLATION

#### 22 Count 1: Failure to Comply with Advertising Disclosure Requirements

23 The Committee, Collins, and Friberg failed to print the language “Paid for by” and disclose the  
24 name of the Committee on advertisements, in violation of Section 84504, subdivision (c); and Regulation  
25 18450.4, subdivision (b)(1).

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<sup>10</sup> Section 82047.6; Regulation 18402.1, subd. (b).

<sup>11</sup> Sections 83116.5 and 91006.

1 **PROPOSED PENALTY**

2 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per  
3 count. Thus, the maximum penalty that may be imposed is \$5,000.<sup>12</sup>

4 In determining the appropriate penalty for a particular violation of the Act, the Commission  
5 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the  
6 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
7 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
8 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
9 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
10 record of violations.<sup>13</sup>

11 In this case, as evidenced by Respondents' prompt self-reporting, it is clear that Respondents did  
12 not intend to conceal, deceive, or mislead the public, and that their violation was inadvertent. Further,  
13 Respondents do not have a prior record of violating the Act; therefore, the violation contained herein was  
14 not part of a pattern of non-compliance.

15 Failure to include the proper committee identification on an advertisement can be a serious  
16 violation of the Act because it deprives the public of important information regarding who paid for the  
17 advertisement. In this matter, the public was deprived of the name of the committee who paid for the  
18 yard signs. The Commission also considers penalties in prior cases involving similar violations. Recent  
19 similar cases involving advertisement disclosure violations include the following:

- 20 • *In the Matter of Save Public Parking, No on H, Yes on I and Michael Powers*; FPPC No. 16/652.

21 Respondents, a primarily formed ballot measure committee and its treasurer, failed to include a  
22 disclosure statement on five advertising banners and failed to include a disclosure statement of at least  
23 five percent of the height of the advertisement on 300 yard signs, in violation of Section 84504,  
24 subdivision (c); and Regulation 18450.4, subdivision (b). In May 2017, the Commission approved a  
25 penalty of \$2,500 on one count.

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<sup>12</sup> Section 83116, subd. (c).

<sup>13</sup> Regulation 18361.5, subd. (d).

1 As to Count 1, this case is analogous to the comparable case, *Save Public Parking*, in that it  
2 (i) involves a ballot measure committee’s failure to include required disclosures on a similar number of  
3 political advertisements; and (ii) involves yard signs. The violation here is mitigated by the fact that  
4 Respondents self-reported the violation within a matter of days, and further instructed the appropriate  
5 vendors that the same yard signs would not be printed going forward, and otherwise cooperated with the  
6 Enforcement Division. In aggravation, as previously mentioned, Respondents failed to timely report  
7 \$23,764.29 in subvendor payments on the Committee’s campaign statements in 2016. The unreported  
8 subvendor payments included payment for the signs at issue here, so the respective campaign statement  
9 did not timely provide disclosure that the Committee had paid for the signs. However, in the interest of  
10 settlement, this violation is not being charged herein.

11 Based on the foregoing, a penalty in the amount of \$2,500 is recommended for Count 1.

## 12 CONCLUSION

13 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
14 Respondents, Committee to Improve Hermosa Schools – Yes on S, Michael Collins, and John Friberg,  
15 hereby agree as follows:

- 16 1. The Respondents violated the Act as described in the foregoing pages, which are a true  
17 and accurate summary of the facts in this matter.
- 18 2. This stipulation will be submitted for consideration by the Fair Political Practices  
19 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 20 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose  
21 of reaching a final disposition without the necessity of holding an administrative hearing to determine the  
22 liability of the Respondent pursuant to Section 83116.
- 23 4. The Respondents understand, and hereby knowingly and voluntarily waive, any and all  
24 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.  
25 This includes, but is not limited to, the right to appear personally at any administrative hearing held in  
26 this matter, to be represented by an attorney at the Respondents’ own expense, to confront and cross-  
27 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an  
28 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter

1 judicially reviewed.

2 5. The Respondents agree to the issuance of the decision and order set forth below. Also, the  
3 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
4 \$2,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General  
5 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
6 administrative penalty described above, and same shall be held by the State of California until the  
7 Commission issues its decision and order regarding this matter.

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

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

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18 Dated: \_\_\_\_\_  
19 Galena West, Chief of Enforcement  
20 Fair Political Practices Commission

21 Dated: \_\_\_\_\_  
22 Michael Collins, individually and on behalf of  
23 Committee to Improve Hermosa Schools – Yes on S

24 Dated: \_\_\_\_\_  
25 John Friberg, individually and on behalf of Committee  
26 to Improve Hermosa Schools – Yes on S  
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1 The foregoing stipulation of the parties “In the Matter of Committee to Improve Hermosa Schools – Yes  
2 on S, Michael Collins, and John Friberg,” FPPC Case No. 16/568 is hereby accepted as the final decision  
3 and order of the Fair Political Practices Commission, effective upon execution below by the Chair.  
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5 IT IS SO ORDERED.  
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7 Dated: \_\_\_\_\_  
8 Joann Remke, Chair  
9 Fair Political Practices Commission  
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