

GALENA WEST  
Chief of Enforcement  
JENNA C. RINEHART  
Commission Counsel  
**FAIR POLITICAL PRACTICES COMMISSION**  
1102 Q Street, Suite 3000  
Sacramento, CA 95811  
Telephone: (916) 323-6302  
Email: JRinehart@fppc.ca.gov

Attorneys for Complainant  
Enforcement Division of the Fair Political Practices Commission

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of:

FPPC Case No. 16/85

SUPPORTERS OF DANIEL  
BILLINGS NORTH ORANGE  
COUNTY COMMUNITY COLLEGE  
DISTRICT BOARD OF TRUSTEES  
2016, DANIEL BILLINGS, AND  
SARAH BILLINGS,

**STIPULATION, DECISION AND ORDER**

Respondents.

**INTRODUCTION**

Respondent, Daniel Billings (“Billings”) was a candidate for the Board of Trustees for the North Orange County Community College District in the February 9, 2016, Special Election. Respondent, Supporters of Daniel Billings for North Orange County Community College District Board of Trustees 2016 (the “Committee”) was Billings’ controlled committee. Respondent, Sarah Billings (the “Treasurer”), served as the Committee’s treasurer.

The Political Reform Act (the “Act”)<sup>1</sup> requires committees, candidates, and treasurers to timely report contributions, include disclosures on mass mailings and make all expenditures from a designated campaign bank account.

<sup>1</sup> The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections 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.

1 The Committee, Billings, and the Treasurer violated the Act by failing to: itemize contributions  
2 of \$100 or more; include disclosures on their mass mailings and make all expenditures from the  
3 designated campaign bank account.

#### 4 **SUMMARY OF THE LAW**

5 The Act and its regulations are amended from time to time. The violations in this case occurred  
6 in 2015 and 2016. For this reason, all legal references and discussions of law pertain to the Act's  
7 provisions as they existed at that time.

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

9 When enacting the Act, the people of California found and declared that previous laws regulating  
10 political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup> Thus, it was  
11 decreed the Act "should be liberally construed to accomplish its purposes.<sup>3</sup> A central purpose of the Act  
12 is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully  
13 and truthfully disclosed so that voters are fully informed and improper practices are inhibited.<sup>4</sup> Another  
14 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be "vigorously  
15 enforced."<sup>5</sup>

#### 16 **Controlled Committee**

17 A controlled committee means a committee that is controlled directly or indirectly by a  
18 candidate.<sup>6</sup> A candidate controls a committee if he has a significant influence on the actions or decisions  
19 of the committee.<sup>7</sup>

#### 20 **Mandatory Filing of Campaign Statements**

21 The Act requires a recipient committee to file semi-annual campaign statements twice per year  
22 disclosing its campaign contributions and expenditures. A recipient committee must file a semi-annual  
23 campaign statement by January 31 for the period ending December 31, and by July 31 for the period  
24 ending June 30, or the next business day if the deadline falls on a weekend or holiday.<sup>8</sup>

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

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

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

<sup>5</sup> Section 81002, subdivision (f).

<sup>6</sup> Section 82016, subdivision (a).

<sup>7</sup> *Id.*

<sup>8</sup> Section 84200, subdivision (a); Regulation 18116, subdivision (a).

1 In addition to semi-annual campaign statements, the Act requires all candidates appearing on the  
2 ballot to be voted on at the next election to file pre-election campaign statements as follows: (1) for the  
3 period ending 45 days before the election, the statement shall be filed no later than 40 days before the  
4 election, and (2) for the period ending 17 days before the election the statement shall be filed no later  
5 than 12 days before the election.<sup>9</sup>

6 For each campaign statement where the cumulative amount of contributions received from a  
7 person is \$100 or more the contributions must be itemized separately and the following information  
8 shall be reported for each contributor: full name, street address, occupation, name of employer, date and  
9 amount received for each contribution, and the cumulative amount of contributions.<sup>10</sup>

### 10 **Mass Mailings Disclosures**

11 A “mass mailing” is over 200 substantially similar pieces of mail sent in a calendar month.<sup>11</sup>  
12 When a controlled committee sends a mass mailing, the mailing must include the name of the person  
13 controlling the committee, street address, and the city of the candidate or committee must be disclosed  
14 on the outside of each piece of mail in the mass mailing.<sup>12</sup> Also, the required disclosure must be  
15 preceded by the words, “Paid for by.”<sup>13</sup>

### 16 **One Designated Campaign Bank Account**

17 Upon the filing of a statement of intention to run for office, a candidate must establish one  
18 designated campaign bank account.<sup>14</sup> All campaign expenditures must be made from the committee’s  
19 designated campaign bank account.<sup>15</sup>

### 20 **Joint and Several Liability of Committee, Candidate and Treasurer**

21 It is the duty of a committee treasurer to ensure the committee complies with the Act.<sup>16</sup> A  
22 treasurer may be held jointly and severally liable, along with the committee and candidate, for violations  
23 committed by the committee.<sup>17</sup>

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24 <sup>9</sup> Section 84200.5 and 84200.7.

25 <sup>10</sup> Section 84211, subdivision (f).

26 <sup>11</sup> Section 82041.5.

27 <sup>12</sup> Section 84305.

28 <sup>13</sup> Regulation 18435, subdivision (d).

<sup>14</sup> Section 85201, subdivision (a).

<sup>15</sup> Section 85201, subdivision (e).

<sup>16</sup> Sections 81004, 84100, and Regulation 18427.

<sup>17</sup> Sections 83116. 5 and 91006.

1 **Liability for Violations**

2 Any person who violates any provision of the Act, who purposely or negligently causes any  
3 other person to violate any provision of the Act, or who aids and abets any other person in the violation  
4 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.<sup>18</sup>

5 **SUMMARY OF THE FACTS**

6 Billings was unsuccessful in his bid for Board of Trustees for the North Orange County  
7 Community College District in the February 9, 2016, Special Election. The Committee reported  
8 receiving a total of \$6,181 in contributions and making \$6,167.67 in expenditures.

9 This case was opened in response to a sworn complaint, alleging the Committee, Billings, and  
10 the Treasurer violated the Act by failing to timely file required campaign statements and for failing to  
11 include required disclosures on mass mailings. During investigation, the Enforcement Division  
12 discovered additional violations of the Act including failure to itemize contributions of \$100 or more on  
13 campaign statements and failure to make all expenditures from the campaign bank account.

14 **Failure to Properly Report Contributions of \$100 or More**

15 On January 8, 2016, the Committee filed its first pre-election campaign statement, with a  
16 reporting period of January 1, 2015 to December 31, 2015. The statement reported \$5,666 in  
17 contributions and \$2,727.20 in expenditures for this period. Of the \$5,666 in contributions received, the  
18 Committee reported \$1,966, approximately 35%, as unitemized contributions of less than \$100. The  
19 Committee filed this statement eight days late.

20 The Enforcement Division investigated and compared the Committee's bank statements to its  
21 first pre-election campaign statement and discovered nine contributions improperly reported as  
22 unitemized contributions of less than \$100. These contributions are as follows:

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<sup>18</sup> Sections 83116 and 83116. 5.

<b>Date on Check</b>	<b>Check Amount</b>	<b>Signature on Check</b>
10/31/2015	\$100	Lois Billings
11/16/2015	\$100	Andrea Galinas
11/18/2015	\$100	Dawn Fleider
11/21/2015	\$40	Lois Billings
11/21/2015	\$100	Leonard Lahtinen
11/21/2015	\$100	Christine Dayton
11/21/2015	\$100	Allen Yeh
11/21/2015	\$100	Judy Fox
11/28/2015	\$100	Joe Baranowski

On February 2, 2016, the Committee filed its second pre-election campaign statement, with a reporting period of December 27, 2015 to January 23, 2016. The statement reported \$450 in contributions and \$3,440.47 in expenditures for this period. The Committee reported 100% of the contributions for this reporting period as unitemized contributions of less than \$100. The Committee filed this statement five days late.

The Enforcement Division's comparison of the Committee's bank statements to its second pre-election campaign statement disclosed four contributions improperly listed as unitemized contributions of less than \$100. These contributions are as follows:

<b>Date on Check</b>	<b>Check Amount</b>	<b>Signature on Check</b>
01/14/2016	\$100	Barbara Dunsheath
01/06/2016	\$100	Patricia Ganer
01/18/2016	\$100	Marjorie Lewis
01/26/2016	\$100	Jaqueline Rodarte

On May 1, 2016, the Committee was terminated. The Committee did not file its semi-annual campaign statement for the reporting period of January 24, 2016 to June 30, 2016, however this statement has been filed as part of this settlement agreement. Per the Committee's campaign bank statements obtained by the Enforcement Division, the Committee had no campaign activity to report following January 23, 2016, aside from the transfers from the campaign bank account to Billings' personal bank account to pay off the credit card Vista Print charges as discussed below.

1 **Failure to Include Disclosure on Mass Mailing**

2 From Vista Print, Billings purchased campaign materials including 5,496 oversized postcards  
3 promoting his campaign. Of the 5,496 oversized postcards, 4,996 were mailed directly to voter’s  
4 mailboxes by Vista Print between January 7, 2016 and January 13, 2016. The remaining 500 oversized  
5 postcards were delivered directly to Billings’ home by Vista Print. None of the oversized postcards  
6 contained the required “Paid for by” language or the Committee’s name, street address and city. Though  
7 the Committee failed to include its name and address, the oversized postcards did include the campaign  
8 website, www.billingsfornoccd.com, which could reasonably be read so as to trace the oversized  
9 postcards to Billings and the Committee.

10 The Enforcement Division’s investigation discovered funds were transferred out of the campaign  
11 bank account into a personal bank account. Totaling \$6,068.05, these transfers were traced to Billings’  
12 personal bank account. During discussions with the Enforcement Division, Billings admitted to making  
13 purchases from Vista Print for campaign materials on his personal credit card. Billings explained he had  
14 transferred campaign funds to his personal bank account and then used his personal bank account to pay  
15 off the credit card charges for the campaign materials from Vista Print. The Committee’s purchases from  
16 Vista Print for campaign materials were properly reported on its first and second pre-election campaign  
17 statements. The transfers from the campaign bank account to Billings’ personal bank account to pay off  
18 the credit card Vista Print charges were not reported on the campaign statements.

19 **VIOLATIONS**

20 **Count 1: Failure to Properly Report Contributions of \$100 or More**

21 The Committee, Billings, and the Treasurer failed to itemize 13 contributions of \$100 or more on  
22 two pre-election campaign statements, in violation of Government Code Section 84211, subdivision (f).

23 **Count 2: Failure to Include Disclosure on Mass Mailing**

24 The Committee, Billings, and the Treasurer failed to include the proper sender identification on a  
25 mass mailer sent out in connection with the campaign, in violation of Government Code Section 84305  
26 and Regulation 18435, subdivision (d).

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1 **PROPOSED PENALTY**

2 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per  
3 count. Thus, the maximum penalty that may be imposed here is \$10,000.<sup>19</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. Further, 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>20</sup>

11 In this case, the evidence supports that there was no intent to conceal, deceive or mislead the  
12 public as to the Committee’s contributions and expenditures because the Committee, Billings, and the  
13 Treasurer filed all required pre-election campaign statements prior to the election, sourced all  
14 contributions through the campaign bank account, and included the Committee’s website address for  
15 disclosure purposes. Here, the violations appear to be negligent, not deliberate, as Billings and the  
16 Treasurer were not sophisticated with the Act. This was the first-time Billings ran for an elected  
17 position. The violations committed here was an isolated incident as Billings has not had prior campaign  
18 experience or enforcement history.

19 The Commission considers penalties in prior cases with the same or similar violations and  
20 comparable facts.

21 **Count 1: Failure to Properly Report Contributions of \$100 or More**

22 *In the Matter of Al Bairos and Committee to Re-Elect Al D. Bairos OID Director District #4*  
23 *2015*; FPPC No. 15/1876. Respondents, a candidate and his controlled committee, failed to timely  
24 disclose two nonmonetary contributions totaling \$990.20, and one expenditure of \$1,799.20 for  
25 campaign materials. On July 19, 2018, the Commission approved a penalty of \$1,500 for this violation.

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28 <sup>19</sup>Section 83116, subdivision (c).  
<sup>20</sup>Regulation 18361. 5, subdivision (d).

1 As to Count 1, a similar penalty as that approved in the *Bairos* case is recommended. In  
2 mitigation, the Committee here failed to itemize \$1,705 worth of contributions it received on campaign  
3 statements unlike in *Bairos* where the contributions and expenditures were not reported on any  
4 campaign statement. Although, with unitemized contributions the public is deprived of information  
5 regarding these contributors. In aggravation of the improper reporting on the campaign statements, the  
6 Committee was eight days late in filing its first pre-election campaign statement, five days late in filing  
7 its second pre-election campaign statement, and late in filing the semi-annual campaign statement.  
8 Therefore, a penalty of \$1,500 is recommended.

9 **Count 2: Failure to Include Disclosure on Mass Mailing**

10 *In the Matter of Dan Roundtree for Thousand Oaks City Council 2015, Dan Roundtree, and*  
11 *Darby Levin*, FPPC No. 15/701. Respondents, an unsuccessful candidate for City Council, his  
12 controlled-committee, and campaign manager, sent out four mass mailings that failed to include the  
13 address or correct name of the committee on the outside of each piece. Three of the four mailers could  
14 reasonably be read so as to trace the mailer to the committee. These three mailers were not charged as  
15 separate violations but instead were considered as aggravating circumstances. The fourth mailer was  
16 mailed to 14,700 voters and did not include the committee's name, street address, or "paid for by"  
17 language. The envelope of this fourth mailer gave the appearance the documents inside were an electoral  
18 informational communication, as opposed to a paid, candidate mailer. The fourth mailer advocated for  
19 the election of the candidate. In March, 2018, the Commission approved a penalty of \$3,500 for this  
20 count.

21 As to Count 2, a lesser penalty than that approved in the *Roundtree* case is recommended. In  
22 mitigation, in *Roundtree* the Respondents mailed approximately three times more mailers than Billings  
23 did in the instant case. Further, the oversized postcards here displayed the Committee's website along  
24 with language which could reasonably be read so as to trace the mailer to the Committee. Lastly,  
25 Billings and the Treasurer were not sophisticated with the Act and the many requirements involved in  
26 campaigning and disclosures on mailers unlike in *Roundtree*, where the candidate had the assistance and  
27 guidance of an experienced treasurer. In aggravation, Billings failed to pay for the Vista Print mailers  
28 directly from the Committee's designated campaign bank account. A violation for the failure to properly



1 use the campaign bank account is not being separately charged here for settlement purposes. Therefore,  
2 a penalty of \$2,500 is recommended.

3 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty  
4 in the amount of \$4,000 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Failure to Properly Report Contributions of \$100 or More	\$1,500
2	Failure to Include Disclosure on Mass Mailing	\$2,500
	<b>TOTAL</b>	<b>\$4,000</b>

### 9 CONCLUSION

10 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
11 Respondents Supporters of Daniel Billings North Orange County Community College District Board of  
12 Trustees 2016, Daniel Billings, and Sarah Billings hereby agrees as follows:

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

1 amount of \$4,000. One or more cashier's checks or money orders totaling said amount – to be  
2 paid to the General Fund of the State of California – is/are submitted with this stipulation as full  
3 payment of the administrative penalty described above, and same shall be held by the State of  
4 California until the Commission issues its decision and order regarding this matter.

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

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

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17 Dated: \_\_\_\_\_

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Galena West, Chief of Enforcement  
Fair Political Practices Commission

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21 Dated: \_\_\_\_\_

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Daniel Billings, individually and on behalf of  
Supporters of Daniel Billings North Orange County  
Community College District Board of Trustees 2016,  
Respondents

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25 Dated: \_\_\_\_\_

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Sarah Billings, Treasurer

1 The foregoing stipulation of the parties “In the Matter of Supporters of Daniel Billings North  
2 Orange County Community College District Board of Trustees 2016, Daniel Billings, and Sarah  
3 Billings,” FPPC Case No. 16/85, is hereby accepted as the final decision and order of the Fair Political  
4 Practices Commission, effective upon execution by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: \_\_\_\_\_

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Richard C. Miadich, Chair  
Fair Political Practices Commission

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