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

10 In the Matter of:

11 FRIENDS OF LIVERMORE, LELAND  
12 YOUNKER, AND DAVID JONAS,

13 Respondents.

FPPC Case No. 16/19930

STIPULATION, DECISION AND ORDER

14 INTRODUCTION

15 Friends of Livermore (the “Committee”) was a city general purpose committee that was formed  
16 in 2007 for the purpose of “supporting candidates and measures that share the vision of preserving open  
17 space and agriculture in the Livermore Valley and improving the quality of life for Livermore.” The  
18 principal officer of the Committee was Leland Younker (“Younker”). The treasurer of the Committee  
19 was David Jonas (“Jonas”).

20 The Committee was active in advance of the November 8, 2016 General Election, supporting and  
21 opposing various candidates for local positions. However, despite such activity, Respondents failed to (i)  
22 timely file 24-hour independent expenditure reports; (ii) timely report subvendor payments; and (iii)  
23 provide sufficient notice to potential major donor committees, in violation of the Political Reform Act  
24 (the “Act”).<sup>1</sup>

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27 <sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections  
28 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 **SUMMARY OF THE LAW**

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

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

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

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

15 Duty to File 24-Hour Independent Expenditure Reports

16 When a committee makes a late independent expenditure, the committee must disclose the  
17 expenditure in a 24-hour independent expenditure report filed in the places where it would be required  
18 to file campaign statements as if it were formed or existing primarily to support or oppose the candidate  
19 or measure for or against which it is making the late independent expenditure within 24 hours of making  
20 the late independent expenditure.<sup>7</sup> A “late independent expenditure” means any independent  
21 expenditure which totals in the aggregate \$1,000 or more and is made for or against any specific  
22 candidate or measure involved in an election within 90 days before the date of the election or on the date  
23 of the election.<sup>8</sup>

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

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

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

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

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

<sup>7</sup> Section 84204, subd. (c).

<sup>8</sup> Section 82036.5.

1 Duty to Report Subvendor Payments

2 A subvendor is a person or company that is hired by a committee’s agent or independent  
3 contractor to provide a good or service for the committee. The Act requires committees to report  
4 payments of \$500 or more made on its behalf by an agent or independent contractor the same way it  
5 would if it were making the payment on its own.<sup>9</sup> Disclosure of the expenditures made by an agent or  
6 independent contractor are required to be made at the same time and in the same manner and detail as  
7 required for the committee’s direct expenditures.<sup>10</sup> Specifically, the following information must be  
8 provided: (1) the subvendor’s full name; (2) his or her street address; (3) the amount of each expenditure;  
9 and (4) a brief description of the consideration for which each expenditure was made.<sup>11</sup> This information  
10 reported by the candidate or committee is commonly referred to as “subvendor information.”

11 Notification to Potential Major Donors

12 A candidate or committee that receives contributions of \$5,000 or more from any person shall  
13 inform the contributor within two weeks of receipt of the contributions that he or she may be required to  
14 file campaign reports, and shall include specific language provided in Regulation 18427.1.

15 If a candidate or committee receives \$10,000 or more from any person during any period in  
16 which late contribution reports are required, they should provide the required notice within one week.<sup>12</sup>

17 The notice is not required if notice has previously been sent in the same calendar year, or if the  
18 contributor has been issued a recipient committee ID number from the Secretary of State.<sup>13</sup>

19 A person qualifies as a major donor committee by making contributions totaling \$10,000 or  
20 more during a calendar year.<sup>14</sup>

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

22 It is the duty of a committee treasurer to ensure that the committee complies with the reporting  
23 provisions of the Act.<sup>15</sup> It is the duty of the committee’s principal officer to authorize the content of

24 \_\_\_\_\_  
25 <sup>9</sup> Section 84303.

26 <sup>10</sup> Regulation 18431, subd. (c); Section 84211, subd. (k).

27 <sup>11</sup> Section 84211, subds. (k)(1)-(4) and (6).

28 <sup>12</sup> Section 84105; Regulation 18427.1.

<sup>13</sup> Section 84105; Regulation 18427.1, subd. (d).

<sup>14</sup> Section 82013, subd. (c).

<sup>15</sup> Sections 81004, 84100, 84104, and 84213; Regulation 18427.

1 communications made by the committee, authorize expenditures made by the committee, and determine  
2 the committee's campaign strategy.<sup>16</sup> A treasurer and principal officer may be held jointly and severally  
3 liable, along with the committee, for violations committed by the committee.<sup>17</sup>

#### 4 **SUMMARY OF THE FACTS**

5 According to the Committee's campaign reporting, the Committee received a total of \$62,104.82  
6 in contributions and made expenditures totaling \$213,998.63 in 2016. In conjunction with the November  
7 8, 2016 General Election, the Committee made independent expenditures for advertisements, including  
8 mailers and newspaper inserts, that supported Bob Carling and Bob Coomber for Livermore City  
9 Council; and opposed John Stein, Stewart Gary, and Lauren Turner for Livermore City Council. Bob  
10 Coomber and Bob Carling were successful in the election, receiving approximately 28.76 percent and  
11 19.69 percent of the vote, respectively. The Committee terminated effective August 1, 2017.

#### 12 24-Hour Independent Expenditure Reports

13 Although they timely filed 24-hour independent expenditure reports for three late independent  
14 expenditures in 2016, the Committee failed to timely file an additional 42 reports covering 50 late  
15 independent expenditures that totaled \$152,516.60. All but one of these reports was filed on November  
16 7, 2016, the day before the election. The reports ranged from three to 46 days late.

17 The pertinent late independent expenditures are summarized as follows:

18 <b>Date of Expenditure</b>	<b>Due Date</b>	<b>Date Filed</b>	<b>Supported/ Opposed Candidate</b>	<b>Amount of Expenditure</b>
19 9/13/2016	9/23/2016	11/7/2016	Bob Coomber	\$750.00
20 9/15/2016	9/23/2016	11/7/2016	Bob Coomber	\$162.50
21 9/22/2016 <sup>18</sup>	9/23/2016	11/7/2016	Bob Coomber	\$162.50
22 9/22/2016	9/23/2016	11/7/2016	Bob Coomber	\$3,660.50

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27 <sup>16</sup> Section 82047.6; Regulation 18402.1, subd. (b).

<sup>17</sup> Sections 83116.5 and 91006.

28 <sup>18</sup> Late independent expenditures supporting Bob Coomber aggregated to \$1,000 or more on this date.

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9/15/2016	9/23/2016	11/7/2016	Bob Carling	\$162.50
9/22/2016	9/23/2016	11/7/2016	Bob Carling	\$162.50
9/22/2016 <sup>19</sup>	9/23/2016	11/7/2016	Bob Carling	\$3,660.50
9/29/2016	9/30/2016	11/7/2016	Bob Carling	\$3,612.25
9/29/2016	9/30/2016	11/7/2016	Bob Coomber	\$3,612.25
9/29/2016	9/30/2016	11/7/2016	Bob Coomber	\$1,260.50
10/5/2016	10/6/2016	11/7/2016	John Stein	\$7,296.79
10/6/2016	10/7/2016	11/7/2016	Bob Carling	\$1,640.00
10/6/2016	10/7/2016	11/7/2016	Bob Coomber	\$1,640.00
10/7/2016	10/8/2016	11/7/2016	Laureen Turner	\$3,737.25
10/7/2016	10/8/2016	11/7/2016	Stewart Gary	\$3,737.25
10/12/2016	10/13/2016	10/19/2016	John Stein	\$7,571.00
10/13/2016	10/14/2016	11/7/2016	Bob Carling	\$1,260.50
10/13/2016	10/14/2016	11/7/2016	Bob Coomber	\$1,260.50
10/14/2016	10/15/2016	11/7/2016	Bob Carling	\$3,737.03
10/14/2016	10/15/2016	11/7/2016	Bob Carling	\$3,612.25
10/14/2016	10/15/2016	11/7/2016	Bob Coomber	\$3,737.03
10/14/2016	10/15/2016	11/7/2016	Bob Coomber	\$3,612.25
10/18/2016	10/19/2016	11/7/2016	John Stein	\$7,296.79
10/20/2016	10/21/2016	11/7/2016	Bob Carling	\$1,260.50
10/20/2016	10/21/2016	11/7/2016	Bob Coomber	\$1,260.50
10/20/2016	10/21/2016	11/7/2016	Laureen Turner	\$3,737.25

<sup>19</sup> Late independent expenditures supporting Bob Carling aggregated to \$1,000 or more on this date.

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10/20/2016	10/21/2016	11/7/2016	Stewart Gary	\$3,737.25
10/21/2016	10/22/2016	11/7/2016	Laureen Turner	\$3,737.25
10/21/2016	10/22/2016	11/7/2016	Stewart Gary	\$3,737.25
10/22/2016	10/23/2016	11/7/2016	Bob Carling	\$3,660.50
10/22/2016	10/23/2016	11/7/2016	Bob Coomber	\$3,660.50
10/24/2016	10/25/2016	11/7/2016	Bob Carling	\$1,123.07
10/24/2016	10/25/2016	11/7/2016	Bob Coomber	\$1,123.07
10/25/2016	10/26/2016	11/7/2016	Laureen Turner	\$3,737.25
10/25/2016	10/26/2016	11/7/2016	Stewart Gary	\$3,737.25
10/26/2016	10/27/2016	11/7/2016	Bob Carling	\$3,737.03
10/26/2016	10/27/2016	11/7/2016	Bob Coomber	\$3,737.03
10/27/2016	10/28/2016	11/7/2016	Laureen Turner	\$1,260.50
10/27/2016	10/28/2016	11/7/2016	Stewart Gary	\$1,260.50
10/28/2016	10/29/2016	11/7/2016	Bob Carling	\$3,737.25
10/28/2016	10/29/2016	11/7/2016	Bob Coomber	\$3,737.25
10/28/2016	10/29/2016	11/7/2016	Laureen Turner	\$3,737.25
10/28/2016	10/29/2016	11/7/2016	Stewart Gary	\$3,737.25
10/31/2016	10/31/2016	11/7/2016	Stewart Gary	\$3,737.25
10/31/2016	11/1/2016	11/7/2016	Laureen Turner	\$3,737.25
11/2/2016	11/3/2016	11/7/2016	Bob Carling	\$3,737.25
11/2/2016	11/3/2016	11/7/2016	Bob Coomber	\$3,737.25
11/3/2016	11/4/2016	11/7/2016	Bob Carling	\$1,260.50
11/3/2016	11/4/2016	11/7/2016	Bob Coomber	\$1,260.50

11/3/2016	11/4/2016	11/7/2016	Lauren Turner	\$6,496.73
<b>TOTAL:</b>				<b>\$152,516.60</b>

None of the subject late independent expenditures were otherwise disclosed with complete information on a timely-filed campaign statement.

Subvendor Payments

The Committee timely filed an initial campaign statement for the period of September 25, 2016 to October 22, 2016, which disclosed \$52,316.59 in independent expenditures, but no subvendor payments. However, the Committee filed an amended campaign statement for the same period on December 19, 2016, approximately 41 days subsequent to the election, disclosing \$21,820 in subvendor payments. Committee records further revealed an additional \$6,514 in subvendor payments that should have been reported on this statement, but, instead, were reported on the following campaign statement. The pertinent subvendor payments were related to services provided by Stearns Consulting, and included payments made to subvendors Pacific Standard, Zebra Graphics, and Political Data, Inc.

The Committee also failed to timely report certain subvendor payments related to services provided by vendor David Binder Research in 2014 and 2016. In 2014, the Committee failed to disclose \$10,154 in subvendor payments during the period of October 1, 2014 to October 18, 2014; and \$3,265.92 in subvendor payments made during the period of October 19, 2014 to December 31, 2014. In 2016, the Committee failed to timely report a payment of \$11,532, made to Research America, on its campaign statement for the reporting period of July 1, 2016 to September 24, 2016; and a payment of \$8,870, made to Mountain Research America, on its campaign statement for the period of September 25, 2016 to October 22, 2016.

Major Donor Notification

Although the Committee sent major donor notices to five potential major donor committees, the Committee failed to provide major donor notices to six<sup>20</sup> potential major donors from 2015 to 2017. These potential major donor committees contributed a total of \$188,600 to the Committee. Of the six

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<sup>20</sup> This number is calculated on an annual basis. There were four unique potential major donors, with Lynn Seppala and Jean King repeating in 2015 and 2017.

1 potential major donors, four actually qualified as major donor committees in 2015 and 2017 (these were  
2 two unique major donors, Jean King and Lynn Seppala). Jean King contributed \$32,100 in 2015 and  
3 \$78,000 in 2017, and filed the required major donor campaign statement. Lynn Seppala contributed  
4 \$24,500 in 2015 and \$44,000 in 2017, and, although she filed a major donor campaign statement for  
5 2017, she failed to timely file the required statement for 2015.

## 6 **VIOLATIONS**

### 7 Count 1: Failure to Timely File 24-Hour Independent Expenditure Reports

8 The Committee, Younker, and Jonas failed to timely file 42 different 24-hour independent  
9 expenditure reports for a total of \$152,516.60 in late independent expenditures, in violation of Section  
10 84204.

### 11 Count 2: Failure to Timely Report Subvendor Payments

12 The Committee, Younker, and Jonas failed to timely report \$62,155.92 in subvendor payments  
13 for the reporting periods of October 1, 2014 to October 18, 2014; October 19, 2014 to December 31,  
14 2014; July 1, 2016 to September 24, 2016; and September 25, 2016 to October 22, 2016, in violation of  
15 Sections 84303 and 84211, subdivision (k)(6).

### 16 Count 3: Failure to Provide Sufficient Notice to Potential Major Donor Committees

17 The Committee, Younker, and Jonas failed to provide sufficient notice to six potential major  
18 donor committees that contributed a total of \$188,600, in violation of Section 84105 and Regulation  
19 18427.1.

## 20 **PROPOSED PENALTY**

21 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per  
22 count. Thus, the maximum penalty that may be imposed is \$15,000.<sup>21</sup>

23 In determining the appropriate penalty for a particular violation of the Act, the Commission  
24 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the  
25 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
26 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
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28 <sup>21</sup> See Section 83116, subd. (c).



1 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
2 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
3 record of violations.<sup>22</sup>

4 Here, the actions of Respondents appear to be the result of negligence, as there is no evidence of  
5 deliberate omission or attempts to conceal. Further, Respondents do not have a prior history of violating  
6 the Act.

7 Additionally, the Commission considers penalties in prior cases with comparable violations.  
8 Comparable cases in which a penalty was charged for failure to timely file 24-hour independent  
9 expenditure reports include the following:

10 • *In the Matter of American Federation of Teachers – Kids, Families and Teachers Supporting*  
11 *Torlakson for Superintendent of Public Instruction 2014 (MPO) and Loretta Johnson*; FPPC No. 17/845.  
12 Respondents, a primarily formed committee and its principal officer-treasurer failed to timely report a  
13 total of \$179,750 in independent expenditures on 24-hour independent expenditure reports, in violation  
14 of Section 84204. The respondents also failed to report the subject independent expenditures on timely-  
15 filed campaign statements. In April 2018, the Commission approved a fine of \$3,000 on one count.

16 As to Count 1, Respondents are deserving of a penalty akin to that approved in the comparable  
17 case given the similar amount of financial activity involved.

18 In aggravation, the Committee also failed to timely file 24-hour independent expenditure reports  
19 in 2014. In particular, two late independent expenditures of \$3,472.64 each were reported one day late,  
20 and two late independent expenditures of \$3,387.34 each were reported five days late, for a total of  
21 \$13,719.96 in late independent expenditures that were not reported timely on 24-hour reports. However,  
22 given that the pertinent reports were minimally tardy, and in the interest of settlement, these additional  
23 violations are not being charged herein.

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<sup>22</sup> Regulation 18361.5, subd. (d).

1           Comparable cases in which a penalty was charged for failure to timely report subvender  
2 payments include the following:

3           • *In the Matter of Committee for Quality Schools – Yes on Measure T, Randy Freeman, and Xochitl*  
4 *Tafolla-Molina*; FPPC No. 16/330. Respondents, a primarily formed ballot measure committee and its  
5 principal officer and treasurer failed to timely report \$81,388.92 in subvender payments on one  
6 semiannual campaign statement, in violation of Sections 84303 and 84211, subdivision (k)(6). In March  
7 2018, the Commission approved a fine of \$1,500 on one count.

8           As to Count 2, Respondents are deserving of a penalty similar to that approved in the *Committee*  
9 *for Quality Schools* case. Although the amount of subvender payments that went unreported is slightly  
10 lower, Respondents here failed to report subvender payments across four different reporting periods.

11           Comparable cases in which a penalty was charged for failure to provide sufficient notice to  
12 potential major donor committees include the following:

13           • *In the Matter of Rogers Aceves for Supervisor 2014, Roger S. Aceves, and Tony Vallejo*; FPPC  
14 No. 17/145. Respondents, a candidate, his controlled committee, and its treasurer, failed to provide  
15 sufficient notice to 21 potential major donor committees that contributed a total of \$208,320, in violation  
16 of Section 84105 and Regulation 18427.1. Of the 21 potential major donors, ten qualified as major donor  
17 committees, representing \$151,500 in contributions. None of the ten major donor committees filed the  
18 necessary campaign statements. In June 2018, the Commission approved a penalty of \$2,000 on one  
19 count.

20           As to Count 3, a penalty lower than what was approved in the comparable case is justified here  
21 for several reasons. First, the amount of contributions associated with the potential major donor  
22 committees here is lower than in *Aceves*. Second, the number of potential major donors that were not  
23 notified is lower here (six, versus 21 in *Aceves*). Further, the number of actual major donor committees  
24 that failed to file campaign statements is lower (one, compared to ten in *Aceves*). However, the violation  
25 here is aggravated by the fact that the notice letters the Committee did send out to potential major donor  
26 committees failed to include the necessary language regarding multipurpose organizations, as required by  
27 Regulation 18427.1.

28           In aggravation of all counts, Respondents committed additional violations of the Act. In

1 particular, the Committee failed to timely report a total of \$63,499.07 in independent expenditures and  
2 \$58,633.56 in accrued expenses on its preelection campaign statement for the period of September 25,  
3 2016 to October 22, 2016. However, in the interest of settlement, these violations are not being charged  
4 herein.

5 In mitigation, Respondents were cooperative with the Enforcement Division during its  
6 investigation of this case.

7 Based on the foregoing, the following penalties are recommended:

Count	Violation	Proposed Penalty
1	Failure to Timely File 24-Hour Independent Expenditure Reports	\$3,000
2	Failure to Timely Report Subvendor Payments	\$1,500
3	Failure to Provide Sufficient Notice to Potential Major Donor Committees	\$1,500
<b>TOTAL:</b>		<b>\$6,000</b>

### 15 CONCLUSION

16 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
17 Respondents, Friends of Livermore, Leland Younker, and David Jones, hereby agree as follows:

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

1 represented by an attorney at Respondents' own expense, to confront and cross-examine all witnesses  
2 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial  
3 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially  
4 reviewed.

5 5. Respondents agree to the issuance of the decision and order set forth below. Also,  
6 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
7 \$6,000. One or more payments totaling this amount, to be paid to the General Fund of the State of  
8 California, is/are submitted with this stipulation as full payment of the administrative penalty described  
9 above, and they will be held by the State of California until the Commission issues its decision and order  
10 regarding this matter.

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

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

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

\_\_\_\_\_ Galena West, Chief of Enforcement  
Fair Political Practices Commission

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24 Dated: \_\_\_\_\_

\_\_\_\_\_ Leland Younker, individually and on behalf of Friends of  
Livermore

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27 Dated: \_\_\_\_\_

\_\_\_\_\_ David Jonas, individually and on behalf of Friends of  
Livermore

1 The foregoing stipulation of the parties “In the Matter of Friends of Livermore, Leland Younker, and  
2 David Jones,” FPPC Case No. 16/19930 is hereby accepted as the final decision and order of the Fair  
3 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: \_\_\_\_\_

\_\_\_\_\_ Alice T. Germond, Chair  
Fair Political Practices Commission