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

10
11 In the Matter of:

12 FAMILY FARMERS WORKING FOR A
BETTER CALIFORNIA, SPONSORED
13 BY WESTERN GROWERS
ASSOCIATION, MATT MCINERNEY,
14 AND WARD KENNEDY,
15 Respondents.

FPPC Case No. 19/699

STIPULATION, DECISION AND ORDER

16
17 **INTRODUCTION**

18 Family Farmers Working for a Better California, Sponsored by Western Growers Association (the
19 “Committee”) is a sponsored state general purpose committee. The principal officer of the Committee
20 was Matt McInerney (“McInerney”) and its treasurer was Ward Kennedy (“Kennedy”) at the time of the
21 violations in this case.

22 The Committee was the subject of a Franchise Tax Board audit, which revealed that Respondents
23 committed numerous violations of the Political Reform Act (the “Act”),¹ including a failure to timely
24 report certain contributions on a 24-hour independent expenditure report, and a failure to timely report
25 certain subvendor payments on a semiannual campaign statement.

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27 ¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the
28 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.² To that end, the
8 Act is to be construed liberally to accomplish its purposes.³

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

14 Duty to File 24-Hour Independent Expenditure Reports

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

22 A 24-hour independent expenditure report shall disclose any contributions of \$100 or more made
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24 _____
25 ² Section 81001, subd. (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subd. (a).

28 ⁵ Sections 84200, *et seq.*

⁶ Section 81002, subd. (f).

⁷ Section 84204.

⁸ Section 82036.5.

1 after the closing date of the last campaign report filed to the date of the last late independent
2 expenditure.⁹

3 Duty to Report Subvendor Payments

4 A subvendor is a person or company that is hired by a committee’s agent or independent
5 contractor to provide a good or service for the committee. The Act requires committees to report
6 payments of \$500 or more made on its behalf by an agent or independent contractor the same way it
7 would if it were making the payment on its own.¹⁰ Disclosure of the expenditures made by an agent or
8 independent contractor are required to be made at the same time and in the same manner and detail as
9 required for the committee’s direct expenditures.¹¹ Specifically, the following information must be
10 provided: (1) the subvendor’s full name; (2) his or her street address; (3) the amount of each expenditure;
11 and (4) a brief description of the consideration for which each expenditure was made.¹² This information
12 reported by the candidate or committee is commonly referred to as “subvendor information.”

13 **SUMMARY OF THE FACTS**

14 The Committee qualified on August 1, 2012. During the audit period of January 1, 2015 through
15 December 31, 2016, the Committee received contributions amounting to \$25,000 and made expenditures
16 totaling \$34,230.

17 The Committee was politically active in 2016, supporting Cecilia Aguiar-Curry (“Aguiar-Curry”)
18 for State Assembly, District 4, in the June 7, 2016 Primary Election. Aguiar-Curry was successful in the
19 Primary Election, receiving approximately 29.2 percent of the vote and advancing to the November 8,
20 2016 General Election, where she was also successful.

21 The Committee made independent expenditures in support of Aguiar-Curry in advance of the
22 June 7, 2016 Primary Election. In particular, the Committee spent \$28,796.45 on a mailer advertisement
23 that supported Aguiar-Curry’s candidacy.

24 The Committee timely filed a 24-hour independent expenditure report on May 27, 2016 that
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26 ⁹ Section 84204, subdivision (b).

27 ¹⁰ Section 84303.

28 ¹¹ Regulation 18431, subd. (c); Section 84211, subd. (k).

¹² Section 84211, subs. (k)(1)-(4) and (6).

1 reported the \$28,796.45 in independent expenditures made in support of Aguiar-Curry. However, the
2 Committee failed to report the following contributions received since the closing date of its last campaign
3 statement on the report:

Date of Contribution	Contributor	Amount of Contribution
5/10/16	California Cotton Ginners and Growers PAC	\$2,500
5/10/16	Western Agricultural Processors Assn PAC	\$2,500
5/13/16	California Citrus Mutual Political Action Committee	\$5,000
5/13/16	California Fresh Fruit Association PAC	\$5,000
5/17/16	California Dairies Inc.	\$5,000
	Total:	\$20,000

4 The aforementioned contributions were otherwise reported on the Committee's timely-filed
5 campaign statement for the period ending June 30, 2016; however, this statement was not due until after
6 the election. Also, although the Committee was not required to report the subject contributions on 24-
7 hour contribution reports, \$15,000 of the contributions were reported on 24-hour contribution reports
8 timely filed by the contributors.

9 The Committee also failed to timely report certain subvendor payments on its campaign statement
10 for the reporting period ending June 30, 2016. The Committee made a payment in the amount of
11 \$28,786.45 to Rally Campaigns on May 27, 2016, and timely reported the same on its campaign
12 statement for the period ending June 30, 2016. However, the Committee failed to timely report certain
13 underlying subvendor payments totaling \$22,967.18. In particular, Rally Campaigns paid an invoice
14 dated May 26, 2016, on behalf of the Committee, to subvendor Pacific Print Resources, in the amount of
15 \$22,967.18, which included \$8,894.16 allocated to Pacific Print Resources and \$14,073.02 for U.S.
16 postage.

17 The Committee filed an amended campaign statement, disclosing the subject subvendor
18 payments, in conjunction with this settlement.

1 **VIOLATIONS**

2 Count 1: Failure to Timely Report Contributions on 24-Hour Independent Expenditure Report

3 The Committee, McInerney, and Kennedy failed to timely report \$20,000 in contributions on a
4 24-hour independent expenditure report, in violation of Section 84204, subdivision (b).

5 Count 2: Failure to Timely Report Subvendor Payments

6 The Committee, McInerney, and Kennedy failed to timely report \$22,967.18 in subvendor
7 payments on the Committee’s semiannual campaign statement for the reporting period ending June 30,
8 2016, in violation of Sections 84303 and 84211, subdivision (k)(6).

9 **PROPOSED PENALTY**

10 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
11 count. Thus, the maximum penalty that may be imposed is \$10,000.¹³

12 In determining the appropriate penalty for a particular violation of the Act, the Commission
13 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
14 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
15 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
16 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
17 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
18 record of violations.¹⁴

19 In this case, the Enforcement Division found no evidence that Respondents intended to conceal,
20 deceive, or mislead the public. However, corrective amendments were not voluntarily filed prior to
21 contact by the Enforcement Division. Further, although resolved after the violations in this case took
22 place, Respondents have previously been found in violation of the Act. In November 2017, in *In the*
23 *Matter of Family Farmers Working for a Better California with Major Support by Western Growers*
24 *Association and Ward Kennedy*; FPPC No. 16/68, the Commission approved a total fine of \$5,000
25 against the Committee and Kennedy for two counts of failure to timely report receipt of nonmonetary
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27 _____
¹³ Section 83116, subd. (c).

28 _____
¹⁴ Regulation 18361.5, subd. (d).

1 contributions on campaign statements.

2 Additionally, the Commission considers penalties in prior cases involving similar violations.
3 Recent similar cases involving a failure to timely disclose contributions on 24-hour independent
4 expenditure reports include the following:

5 • *In the Matter of Voters for Good Government and Billie Martinez*; FPPC No. 16/182.
6 Respondents, a general purpose committee and its treasurer, failed to timely report \$15,500 in
7 contributions on a 24-hour independent expenditure report, and failed to file an independent expenditure
8 verification, in violation of Sections 84204 and 84213, subdivision (b). In October 2017, the Commission
9 approved a penalty of \$1,500 on one count.

10 As to Count 1, Respondents are deserving of a penalty higher than that approved in the
11 comparable case, given the higher amount of contributions that went unreported. Further, although the
12 subject contributions here were otherwise disclosed on a timely-filed campaign statement, that statement
13 was not due until after the election, unlike in the comparable case.

14 Recent similar cases involving a failure to timely report subvendor payments include the
15 following:

16 • *In the Matter of Yorba Linda Taxpayers Association, Tom Babnick, and Jeff Decker*; FPPC No.
17 16/766. Respondents, a general purpose committee and its principal officer and treasurer, failed to timely
18 report \$18,492.16 in subvendor payments on three different campaign statements, in violation of Sections
19 84303 and 84211, subdivision (k)(6). In September 2019, the Commission approved a fine of \$1,500 on
20 one count.

21 As to Count 2, a penalty similar to that approved in the comparable case is warranted given the
22 similar amount of financial activity that went unreported.

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

24

Count	Violation	Proposed Penalty
1	Failure to Timely Report Contributions on 24-Hour Independent Expenditure Report	\$2,000
2	Failure to Timely Report Subvendor Payments	\$1,500
TOTAL:		\$3,500

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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondents, Family Farmers Working for a Better California, Sponsored by Western Growers
4 Association, Matt McInerney, and Ward Kennedy, hereby agree as follows:

5 1. Respondents violated the Act as described in the foregoing pages, which are a true and
6 accurate summary of the facts in this matter.

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

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

12 4. Respondents have consulted with their attorney, Ashlee Titus, Bell, McAndrews &
13 Hiltachk, LLP, and understand, and hereby knowingly and voluntarily waive, all procedural rights set
14 forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is
15 not limited to, the right to appear personally at any administrative hearing held in this matter, to be
16 represented by an attorney at Respondents’ own expense, to confront and cross-examine all witnesses
17 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
18 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
19 reviewed.

20 5. Respondents agree to the issuance of the decision and order set forth below. Also,
21 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
22 \$3,500. One or more payments totaling this amount, to be paid to the General Fund of the State of
23 California, is/are submitted with this stipulation as full payment of the administrative penalty described
24 above, and they will be held by the State of California until the Commission issues its decision and order
25 regarding this matter.

26 6. If the Commission declines to approve this stipulation—then this stipulation shall become
27 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
28 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to

1 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing
2 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
3 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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8 Dated: _____
9 Galena West, Chief of Enforcement
10 Fair Political Practices Commission

11 Dated: _____
12 Matt McInerney, individually and on behalf of Family
13 Farmers Working for a Better California, Sponsored by
14 Western Growers Association

15 Dated: _____
16 Ward Kennedy, individually and on behalf of Family
17 Farmers Working for a Better California, Sponsored by
18 Western Growers Association

1 The foregoing stipulation of the parties “In the Matter of Family Farmers Working for a Better
2 California, Sponsored by Western Growers Association, Matt McInerney, and Ward Kennedy,” FPPC
3 Case No. 19/699 is hereby accepted as the final decision and order of the Fair Political Practices
4 Commission, effective upon execution below by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

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10 Richard C. Miadich, Chair
11 Fair Political Practices Commission
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