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

10
11 In the Matter of:

12 COMMITTEE FOR EXCELLENT HIGH
SCHOOLS, KAREN LOEBBAKA, AND
13 KEVIN SAAVEDRA,

14 Respondents.

FPPC Case No. 19/219

STIPULATION, DECISION AND ORDER

15
16 INTRODUCTION

17 Committee for Excellent High Schools (the “Committee”) is a primarily formed ballot measure
18 committee that supported Tamalpais Union High School District Measure J in the November 6, 2018
19 General Election. The principal officer of the Committee is Karen Loebbaka (“Loebbaka”) and its
20 treasurer is Kevin Saavedra (“Saavedra”).

21 Respondents committed numerous violations of the Political Reform Act (the “Act”),¹ including a
22 failure to timely change the name of the Committee to reflect its support of Measure J and include the
23 Committee’s proper name on a website advertisement; and failure to timely file 24-hour contribution
24 reports for certain late contributions.

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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 2018. 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 Name Committee to Reflect Supported Ballot Measure

15 Within 30 days of the designation of the numerical order of propositions appearing on the ballot,
16 any committee which is primarily formed to support or oppose a ballot measure shall, if supporting the
17 measure, include the statement “a committee for Proposition ___” in the name of the committee in any
18 reference to the committee as required by law.⁷ A primarily formed ballot measure committee must also
19 identify the title and ballot measure letter in its statement of organization.⁸

20 Whenever there is a change in any of the information contained in a statement of organization,
21 including the committee name, an amendment shall be filed within ten days to reflect the change.⁹ The
22 committee must file the original of the amendment with the Secretary of State and a copy with the local
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24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (a).

27 ⁵ Sections 84200, *et seq.*

28 ⁶ Section 81002, subd. (f).

⁷ Section 84107.

⁸ Section 84102, subd. (d).

⁹ Section 84103, subd. (a).

1 filing officer.¹⁰

2 Advertisement Disclosure

3 An “advertisement” under the Act means any general or public communication that is authorized
4 and paid for by a committee for the purpose of supporting or opposing a candidate(s) for elective office
5 or a ballot measure(s).¹¹

6 Under the Act, any advertisement paid for by a primarily formed committee shall include the
7 words “Paid for by” followed by the name of the committee.¹²

8 The Act also sets out certain display requirements for these disclosures as displayed on electronic
9 advertisements. Websites must include the above disclosures in a contrasting color and in no less than 8-
10 point font.¹³

11 Duty to File 24-Hour Contribution Reports

12 Each candidate or committee that makes or receives a late contribution must file a report within
13 24 hours of making or receiving the contribution.¹⁴ A “late contribution” includes a contribution
14 aggregating \$1,000 or more that is made to or received by a candidate, controlled committee, or
15 primarily formed committee within 90 days before the date of the election at which the pertinent
16 candidate or measure is to be voted on.¹⁵

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

18 It is the duty of a committee treasurer to ensure that the committee complies with the campaign
19 reporting provisions of the Act.¹⁶ It is the duty of the committee’s principal officer to authorize the
20 content of communications made by the committee, authorize expenditures made by the committee, and
21 determine the committee’s campaign strategy.¹⁷ A treasurer and principal officer may be held jointly and
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24 ¹⁰ Sections 84103, subd. (a); and 84215.

25 ¹¹ Section 84501.

26 ¹² Section 84502.

27 ¹³ Section 84504.3, subd. (c).

28 ¹⁴ Section 84203.

¹⁵ Section 82036.

¹⁶ Sections 81004, 84100, 84104, and 84213; Regulation 18427.

¹⁷ Section 82047.6; Regulation 18402.1, subd. (b).

severally liable, along with the committee, for violations committed by the committee.¹⁸

SUMMARY OF THE FACTS

The Committee filed its initial statement of organization on or about May 21, 2018, indicating that it qualified as a committee on May 8, 2018. The Committee received \$271,292 in contributions and made \$263,663.35 in expenditures in 2018. Measure J, a school parcel tax measure, was successful, receiving approximately 74 percent of the vote.

Although the Committee was primarily formed to support Measure J, it did not timely change its name to reflect its support of the ballot measure after its letter was assigned. The ballot measure was assigned the letter “J” no later than August 14, 2018; therefore, the Committee was required to make the necessary name change by September 13, 2018 at the latest. However, the Committee did not do so. Further, the Committee also maintained a website that failed to identify the Committee by its proper name reflecting its support of the ballot measure.

The Committee also failed to timely file 24-contribution reports for the following late contributions in advance of the election:

Statement/ Report Type	Payment Date	Due Date	Date Filed	Contribution Amount	Contributor
24-Hour Contribution	8/20/18	8/21/18	N/A	\$5,000	Ken Broad
24-Hour Contribution	8/21/18	8/22/18	N/A	\$1,000	Tracy Ferron
24-Hour Contribution	8/22/18	8/23/18	N/A	\$1,000	Stacy Achuck
24-Hour Contribution	8/22/18	8/23/18	N/A	\$1,000	Kris McIntosh
24-Hour Contribution	8/26/18	8/27/18	N/A	\$1,000	Louise Armour
24-Hour Contribution	8/27/18	8/28/18	N/A	\$5,000	Lori Runnfeldt
24-Hour Contribution	8/29/18	8/30/18	N/A	\$1,000	Deborah Cook

¹⁸ Sections 83116.5 and 91006.

1	24-Hour Contribution	8/29/18	8/30/18	N/A	\$1,000	Bruce Reed
2	24-Hour Contribution	8/30/18	8/31/18	N/A	\$1,000	Danis Woliver Kelley
3	24-Hour Contribution	8/30/18	8/31/18	N/A	\$2,500	Gale Love
4	24-Hour Contribution	8/30/18	8/31/18	N/A	\$2,500	John Love
5	24-Hour Contribution	8/30/18	8/31/18	N/A	\$2,500	Caitlin Smith
6	24-Hour Contribution	8/30/18	8/31/18	N/A	\$2,500	John Love
7	24-Hour Contribution	8/30/18	8/31/18	N/A	\$2,500	Caitlin Smith
8	24-Hour Contribution	8/30/18	8/31/18	N/A	\$2,500	Caitlin Smith
9	24-Hour Contribution	8/31/18	9/3/18	N/A	\$2,575	Richard Steele
10	24-Hour Contribution	9/4/18	9/5/18	N/A	\$9,000	Drake Fund
11	24-Hour Contribution	9/4/18	9/5/18	N/A	\$1,000	Hall Middle School PTA
12	24-Hour Contribution	9/4/18	9/5/18	N/A	\$1,000	Hall Middle School PTA
13	24-Hour Contribution	9/7/18	9/10/18	N/A	\$1,000	Greystone West Company
14	24-Hour Contribution	9/7/18	9/10/18	N/A	\$1,000	Greystone West Company
15	24-Hour Contribution	9/7/18	9/10/18	N/A	\$2,500	Kimberly Litle
16	24-Hour Contribution	9/7/18	9/10/18	N/A	\$2,500	Kimberly Litle
17	24-Hour Contribution	9/7/18	9/10/18	N/A	\$49,999	Tam High Foundation
18	24-Hour Contribution	9/14/18	9/17/18	N/A	\$1,000	Carey Condy
19	24-Hour Contribution	9/14/18	9/17/18	N/A	\$1,000	Carey Condy
20	24-Hour Contribution	9/14/18	9/17/18	N/A	\$2,500	Corte Madera/Larkspur Schools Foundation
21	24-Hour Contribution	9/14/18	9/17/18	N/A	\$2,000	Fagen Friedman & Fulfrost
22	24-Hour Contribution	9/14/18	9/17/18	N/A	\$2,000	Fagen Friedman & Fulfrost
23	24-Hour Contribution	9/14/18	9/17/18	N/A	\$5,000	Mill Valley Schools Comm. Foundation dba Kiddo Events
24	24-Hour Contribution	9/24/18	9/25/18	10/8/18	\$1,219	Kentfield Schools Foundation
25	24-Hour Contribution	9/24/18	9/25/18	10/8/18	\$1,219	Kentfield Schools Foundation
26	24-Hour Contribution	9/24/18	9/25/18	10/8/18	\$4,000	Redwood High PTSA
27	24-Hour Contribution	9/24/18	9/25/18	10/8/18	\$4,000	Redwood High PTSA
28	24-Hour Contribution	9/24/18	9/25/18	10/8/18	\$1,500	Tamalpais Federation of Teachers

24-Hour Contribution	8/22/18 9/26/18	9/27/18	N/A	\$1,000	William Ross
24-Hour Contribution	10/1/18	10/2/18	10/8/18	\$1,000	RUSD PTSA
24-Hour Contribution	10/17/18	10/18/18	N/A	\$6,600	Laurie Dubin
24-Hour Contribution (nonmonetary)	10/30/18	11/1/18	N/A	\$2,550	CA Federation of Teachers – COPE
24-Hour Contribution (nonmonetary)	11/2/18	11/4/18	N/A	\$1,393.97	CA Federation of Teachers – COPE
24-Hour Contribution	11/5/18	11/6/18	N/A	\$1,000	CSEA Chapter 549
			Total:	\$121,336.97	

All of the aforementioned late contributions were otherwise reported on campaign statements filed prior to the election, with the exception of the contributions received on October 30, 2018; November 2, 2018; and November 5, 2018, which were reported on a campaign statement that was not due until after the election.

VIOLATIONS

Count 1: Failure to Properly Name the Committee

The Committee, Loebbaka, and Saavedra failed to timely change the name of the Committee to reflect its support of the pertinent ballot measure, Measure J, and failed to include the Committee’s proper name on a website advertisement, in violation of Sections 84103, 84107, and 84502.

Counts 2 and 3: Failure to Timely File 24-Hour Contribution Reports

The Committee, Loebbaka, and Saavedra failed to timely file 24-hour contribution reports for 31 different late contributions received totaling \$121,336.97, in violation of Section 84203.

PROPOSED PENALTY

This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per

1 count. Thus, the maximum penalty that may be imposed is \$15,000.¹⁹

2 In determining the appropriate penalty for a particular violation of the Act, the Commission
3 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
4 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
5 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
6 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
7 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
8 record of violations.²⁰

9 Respondents do not have a prior history of violating the Act, and the violations contained herein
10 do not appear to be part of a pattern of disregard for the Act. Further, the Enforcement Division found no
11 evidence that Respondents intended to conceal, deceive, or mislead the public.

12 Additionally, the Commission considers penalties in prior cases involving similar violations.
13 Recent similar cases involving a failure to properly name a committee include the following:

14 • *In the Matter of Fair Rents 4 Pacifica, Julie Starobin, and Thursday Roberts*; FPPC No. 17/1217.
15 Respondents, a primarily formed ballot measure committee, and its treasurer and principal officer, failed
16 to timely change the name of the committee to reflect the supported ballot measure, and failed to include
17 the ballot measure in the committee name on mass mailings and advertisements, in violation of Sections
18 84103, 84107, 84305, and 84504. In June 2018, the Commission approved a fine of \$3,500 on one count.

19 As to Count 1, Respondents are deserving of a penalty lower than that approved in the
20 comparable case since that case involved a broader scope of affected advertisements.

21 Recent similar cases involving a failure to timely file 24-hour reports include the following:

22 • *In the Matter of Citizens for Oakland, Harold Smith, and Robert Spears*; FPPC No. 16/20098.
23 Respondents, a primarily formed committee, and its principal officers and treasurer, failed to timely file a
24 24-hour contribution report for 15 late contributions received amounting to \$64,750, in violation of
25 Section 84203. In May 2019, the Commission approved a penalty of \$2,500 on one count.

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¹⁹ Section 83116, subd. (c).

²⁰ Regulation 18361.5, subd. (d).

1 As to Counts 2 and 3, Respondents are deserving of per count penalties similar to what was
2 approved in *Citizens for Oakland*. The average amount of unreported financial activity on a per count
3 basis here (\$60,668.48) is similar to the amount at issue in the comparable. Further, both cases involved
4 similar amounts of late contributions that were not otherwise reported prior to the election.

5 In aggravation of all counts, Respondents committed additional violations of the Act that are not
6 being charged herein in the interest of settlement. In particular, Respondents failed to timely file the
7 Committee’s preelection campaign statement for the reporting period of July 1, 2018 to September 22,
8 2018. Although due on September 27, 2018, the statement was not filed until September 30, 2018.
9 Further, Respondents failed to timely report required contributor information, including address,
10 occupation, and employer details, for persons who contributed \$100 or more, for contributions totaling
11 \$29,999, during three different reporting periods.

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

Count	Violation	Proposed Penalty
1	Failure to Properly Name the Committee	\$3,000
2	Failure to Timely File 24-Hour Contribution Reports	\$2,500
3	Failure to Timely File 24-Hour Contribution Reports	\$2,500
TOTAL:		\$8,000

19 CONCLUSION

20 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
21 Respondents, Committee for Excellent High Schools, Karen Loebbaka, and Kevin Saavedra, hereby
22 agree as follows:

- 23 1. Respondents violated the Act as described in the foregoing pages, which are a true and
24 accurate summary of the facts in this matter.
- 25 2. This stipulation will be submitted for consideration by the Fair Political Practices
26 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 27 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
28 of reaching a final disposition without the necessity of holding an administrative hearing to determine the

1 liability of Respondents pursuant to Section 83116.

2 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all
3 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
4 This includes, but is not limited to, the right to appear personally at any administrative hearing held in
5 this matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine
6 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
7 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
8 reviewed.

9 5. Respondents agree to the issuance of the decision and order set forth below. Also,
10 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
11 \$8,000. One or more payments totaling this amount, to be paid to the General Fund of the State of
12 California, is/are submitted with this stipulation as full payment of the administrative penalty described
13 above, and they will be held by the State of California until the Commission issues its decision and order
14 regarding this matter.

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

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

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25 Dated: _____
26 Galena West, Chief of Enforcement
27 Fair Political Practices Commission
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Dated: _____
Karen Loebbaka, individually and on behalf of
Committee for Excellent High Schools

Dated: _____
Kevin Saavedra, individually and on behalf of
Committee for Excellent High Schools

1 The foregoing stipulation of the parties “In the Matter of Committee for Excellent High Schools, Karen
2 Loebbaka, and Kevin Saavedra,” FPPC Case No. 19/219 is hereby accepted as the final decision and
3 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: _____

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