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

11  
12 In the Matter of:

FPPC No. 18/1285

13 KURT DEMEIRE,

STIPULATION, DECISION, AND ORDER

14 Respondent.  
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16

17 **INTRODUCTION**

18 Respondent Kurt DeMeire (“DeMeire”) qualified as an independent expenditure committee that  
19 supported and opposed a number of candidates and ballot measures in the November 6, 2018 General  
20 Election. DeMeire violated the Political Reform Act (the “Act”)<sup>1</sup> by failing to comply with disclosure  
21 requirements for political advertisements and failing to timely file a semi-annual campaign statement.

22 **SUMMARY OF THE LAW**

23 The violations in this case occurred in 2018, and all legal references and discussions of law pertain  
24 to the Act’s provisions as they existed at that time.

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28 <sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014, and 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, and all regulatory references are to this source.

1 Need for Liberal Construction and Vigorous Enforcement of the Act

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

9 Independent Expenditure Committee

10 One of the ways a committee qualifies as a committee under the Act is by making independent  
11 expenditures totaling \$1,000 or more in a calendar year.<sup>6</sup> An independent expenditure is an expenditure  
12 made by any person in connection with a communication which expressly advocates the election or defeat  
13 of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or  
14 taken as a whole and in context, unambiguously urges a particular result in an election but which is not  
15 made to or at the behest of the affected candidate or committee.<sup>7</sup>

16 Advertisement Disclosure

17 An advertisement is any general or public communication that is authorized and paid for by a  
18 committee for the purpose of supporting or opposing one or more candidates for elective office or one or  
19 more ballot measures.<sup>8</sup> Any advertisement paid for by an independent expenditure committee must include  
20 the words “Paid for by” followed by the committee’s name.<sup>9</sup> An advertisement supporting or opposing a  
21 candidate that is paid for by an independent expenditure must also include a statement that it was not  
22 authorized by a candidate or a candidate-controlled committee.<sup>10</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> Section 81002, subd. (f).

<sup>6</sup> Section 82013, subd. (b).

<sup>7</sup> Section 82031.

<sup>8</sup> Section 84501.

<sup>9</sup> Section 84502, subd. (b).

<sup>10</sup> Section 84506.5.

1 For print advertisements, these disclosures must appear in a printed or drawn box with a solid  
2 white background on the bottom of at least one page, set apart from other printed matter with the text in a  
3 contrasting color.<sup>11</sup> Disclosures on print advertisements designed to be individually distributed must use  
4 text that is in Arial-equivalent type and in 10-point font.<sup>12</sup>

5 Semi-Annual Campaign Statements

6 An independent expenditure committee must file two semi-annual campaign statements each year  
7 no later than July 31 for the period ending June 30 and no later than January 31 for the period ending  
8 December 31 if they have made independent expenditures during the respective six-month period.<sup>13</sup>

9 Liability

10 Any person who violates, causes any other person to violate, or aids and abets any other person in  
11 the violation of the Act may be held liable.<sup>14</sup>

12 **SUMMARY OF THE FACTS**

13 DeMeire qualified as an independent expenditure committee when he made \$3,934.68 in  
14 independent expenditures in advance of the November 6, 2018 General Election, thereby meeting the  
15 \$1,000 threshold. Specifically, DeMeire paid \$983.67 each for four full-page advertisements in the *Sun*  
16 *Newspaper* that were printed in October 11, 2018; October 18, 2018; October 25, 2018; and  
17 November 1, 2018 to support and oppose multiple measures and candidates. The advertisements supported  
18 Proposition 6, Dana Rohrabacher, John Cox, Janet Nguyen, Tyler Diep, and City Council candidates who  
19 opposed Measure BB. The advertisements also opposed Measure BB and Proposition 10.

20 The advertisements were identical except for the disclosure included at the bottom of each  
21 advertisement. The advertisement from October 11, 2018 stated that it was “Paid by Seal Beach  
22 Taxpayers,” and the advertisement from October 18, 2018 stated that it was “Paid for by a Seal Beach  
23 citizen for NO on BB.” The advertisements from October 25, 2018 and November 1, 2018 correctly  
24 disclosed that they were “Paid for by Kurt DeMeire, a private citizen, for NO on BB.” None of the

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27 <sup>11</sup> Section 84504.2, subd. (a)(1).

28 <sup>12</sup> Section 84504.2, subd. (a)(2).

<sup>13</sup> Section 84200, subd. (b).

<sup>14</sup> Sections 83116.5.

1 disclosures were placed in white boxes set apart from other printed matter, nor did they include a statement  
2 that they were not authorized by a candidate or candidate-controlled committee.

3 DeMeire made \$3,934.68 in independent expenditures for the four advertisements on  
4 September 28, 2018 but failed to timely file a semi-annual campaign statement by January 31, 2019.  
5 DeMeire filed the semi-annual campaign statement after receiving contact from the Enforcement Division.

## 6 VIOLATIONS

### 7 Count 1: Failure to Comply with Disclosure Requirements for Political Advertisements

8 DeMeire failed to disclose his name, properly format the disclosure statements, and/or include a  
9 “not authorized” disclaimer on four print advertisements from October 11, 2018 through  
10 November 1, 2018, in violation of Government Code Sections 84502, subdivision (b); 84504.2,  
11 subdivision (a); and 84506.5.

### 12 Count 2: Failure to Timely File a Semi-Annual Campaign Statement

13 DeMeire failed to timely file a semi-annual campaign statement for the reporting period covering  
14 July 1, 2018 through December 31, 2018 by January 31, 2019, in violation of Government Code Sections  
15 84200, subdivision (b).

## 16 PROPOSED PENALTY

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

19 In determining the appropriate penalty for a particular violation of the Act, the Commission  
20 considers the facts of the case, the public harm involved, and the purpose of the Act. Also, the Commission  
21 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention  
22 to conceal, deceive, or mislead; (c) whether the violation was deliberate, negligent, or inadvertent; (d)  
23 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily  
24 were filed to provide full disclosure; and (f) whether the violator has a prior record of violations.<sup>15</sup>

25 These violations resulted in a lack of transparency and caused public confusion regarding who  
26 paid for two of the newspaper advertisements. However, the Enforcement Division did not find evidence  
27 of any intention to conceal, deceive, or mislead, particularly since DeMeire named himself in the last two  
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<sup>15</sup> Regulation 18361.5, subd. (d).

1 advertisements. Additionally, DeMeire fully cooperated with the investigation and late-filed a semi-annual  
2 campaign statement to disclose his independent expenditure after receiving contact from the Enforcement  
3 Division. The violations were negligent and isolated occurrences, and DeMeire does not have prior  
4 enforcement history.

5 The Commission also considers penalties in prior cases with comparable violations. Recent cases  
6 with similar violations include the following:

7 Count 1

8 *In the Matter of Mark Foster*; FPPC No. 18/349. (The Commission approved a stipulated  
9 agreement on September 19, 2019.) Respondent made an independent expenditure in the amount of  
10 \$2,225.00 to print and distribute flyers that expressly advocated against two local ballot measures. The  
11 flyers failed to include the “Paid for by” phrase with Respondent’s name but instead listed the website  
12 address [www.PasadenaVoteNo.com](http://www.PasadenaVoteNo.com). The website appeared to be created by “Pasadena Vote No – Against  
13 Pot Shops in Pasadena” or “Pasadena Against Pot Shops,” neither of which were a registered committee.  
14 The Commission approved a penalty of \$2,000 for failure to comply with disclosure requirements for  
15 political advertisements.

16 A similar penalty is recommended in this case. As in *Foster*, DeMeire is inexperienced with the  
17 Act and paid a similar amount for the newspaper advertisements. In mitigation, DeMeire included the  
18 proper “Paid for by” disclosure on the final two newspaper advertisements. A penalty of \$2,000 is  
19 recommended for this violation.

20 Count 2

21 *In the Matter of Better Millbrae and Alan R. Wong*; FPPC No. 18/762. (The Commission approved  
22 a stipulated agreement on April 16, 2020.) Respondents failed to timely file a semi-annual campaign  
23 statement. In a late-filed campaign statement, Respondents reported that they received \$25,100 in  
24 contributions and made \$12,702 in expenditures. The Commission approved a penalty of \$1,500 for  
25 failure to comply with disclosure requirements for political advertisements.

26 A lesser penalty is recommended in this case. As in *Better Millbrae*, DeMeire failed to timely file  
27 a post-election annual campaign statement, and the information was not required to be disclosed prior to  
28 the election. Further, DeMeire was not familiar with the Act, did not have prior enforcement history, and

late-filed the campaign statement after receiving contact from the Enforcement Division. Unlike *Better Millbrae*, DeMeire did not have contributions to report and reported spending less than a third in independent expenditures. A penalty of \$1,000 is recommended for this violation.

Based on the foregoing, the following penalty is recommended:

Count #	Violation	Penalty Amount
1	Failure to Comply with Disclosure Requirements for Political Advertisements	\$2,000
2	Failure to Timely File a Semi-Annual Campaign Statement	\$1,000
	<b>Total:</b>	<b>\$3,000</b>

### CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondent Kurt DeMeire hereby agree as follows:

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

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

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

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

5. The Respondent agrees to the issuance of the decision and order set forth below. Also, the Respondent agrees to the Commission imposing against it an administrative penalty in the amount of \$3,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General

1 Fund of the State of California—is/are submitted with this stipulation as full payment of the administrative  
2 penalty described above, and same shall be held by the State of California until the Commission issues its  
3 decision and order regarding the matter.

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

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

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15 Dated: \_\_\_\_\_  
16 Galena West, Chief of Enforcement  
17 Fair Political Practices Commission

18 Dated: \_\_\_\_\_  
19 Kurt DeMeire, Respondent

1           The foregoing stipulation of the parties “In the Matter of Kurt DeMeire,” FPPC No. 18/1285, is  
2 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon  
3 execution below by the Chair.  
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5 IT IS SO ORDERED.  
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7           Dated: \_\_\_\_\_

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