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

10
11 In the Matter of:

12 BARON P. BRUNO FOR 62ND
13 ASSEMBLY CA 2016 AND BARON P.
14 BRUNO,

15 Respondents.

FPPC Case No. 18/779

STIPULATION, DECISION AND ORDER

16
17 **INTRODUCTION**

18 Respondent Baron P. Bruno for 62nd Assembly CA 2016 (the “Committee”) was the candidate-
19 controlled committee of Respondent Baron P. Bruno (“Bruno”) in the November 8, 2016 General
20 Election. Bruno was also the Committee’s treasurer at the time of the violations, and was an
21 unsuccessful candidate.

22 The Committee was the subject of a Franchise Tax Board audit, which revealed that
23 Respondents committed violations of the Political Reform Act (the “Act”), including failure to timely
24 file two semiannual and two preelection campaign statements; failure to timely file eight 24-hour
25 contribution reports disclosing contributions received by the Committee; and making campaign
26 expenditures that were not processed through the Committee’s designated campaign bank account.¹

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28 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and 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 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 For this reason,
8 the 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 Mandatory Filing of Campaign Statements

15 At the core of the Act’s campaign reporting system is the requirement that committees file
16 campaign statements and reports for certain reporting periods and by certain deadlines.⁷

17 The Act requires a candidate-controlled committee to file preelection campaign statements prior
18 to elections in which the candidate appears on the ballot.⁸ For the November 8, 2016 General Election, a
19 candidate-controlled committee was required to file a preelection campaign statement for the period of
20 July 1, 2016 to September 24, 2016 no later than September 29, 2016, and for the period of September
21 25, 2016 to October 22, 2016 no later than October 27, 2016.

22 The Act requires candidates and committees to file semiannual campaign statements twice per
23 year disclosing campaign contributions and expenditures. They must file a semiannual campaign
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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 Sections 84200, *et seq.*

⁸ Section 84200.5.

1 statement by January 31 for the period ending December 31 and by July 31 for the period ending June
2 30, or the next business day if the deadline falls on a weekend or holiday.⁹

3 Duty to File 24-Hour Contribution Reports

4 Each candidate or committee that makes or receives a late contribution must file a report within
5 24 hours of making or receiving the contribution.¹⁰ A “late contribution” includes a contribution
6 aggregating \$1,000 or more that is made to or received by a candidate, controlled committee, or primarily
7 formed committee within 90 days before the date of the election at which the pertinent candidate or
8 measure is to be voted on.¹¹

9 One Bank Account Rule

10 To ensure full disclosure of campaign activity and to guard against improper use of campaign
11 funds, a candidate must establish a single, designated campaign bank account upon filing a statement of
12 intention to be a candidate.¹² All campaign contributions and loans must be deposited into the campaign
13 account.¹³ Personal funds of the candidate that will be used for the campaign must be deposited in the
14 campaign account prior to expenditure.¹⁴ All campaign expenditures must be made from the campaign
15 account.¹⁵

16 Joint and Several Liability of Committee, Controlling Candidate, and Treasurer

17 Every committee must have a treasurer.¹⁶ It is the duty of a committee’s treasurer to ensure that
18 the committee complies with all of the requirements of the Act concerning the receipt and expenditure of
19 funds and the reporting of such funds.¹⁷ Any person who violates any provision of the Act, who
20 purposely or negligently causes any other person to violate any provision of the Act, or who aids and
21 abets any other person in the violation of the Act is liable under the Act if the person has filing or
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⁹ Section 84200, subd. (a); Regulation 18116, subd. (a).

24 ¹⁰ Section 84203.

25 ¹¹ Section 82036.

26 ¹² Section 85201, subd. (a).

27 ¹³ Section 85201, subd. (c).

28 ¹⁴ Section 85201, subd. (d).

¹⁵ Section 85201, subd. (e).

¹⁶ Section 84100.

¹⁷ Section 84104 and Regulation 18427, subd. (a).

1 reporting obligations under the Act, or is paid to provide services regulated by the Act.¹⁸ If two or more
2 persons are responsible for a violation of the Act they are jointly and severally liable.¹⁹ It is the duty of a
3 committee treasurer to ensure that the committee complies with the campaign reporting provisions of the
4 Act.²⁰

5 SUMMARY OF THE FACTS

6 The Committee was controlled by Bruno, an unsuccessful candidate in the November 8, 2016
7 General Election. The Committee terminated on December 31, 2017. The Committee reported receiving
8 \$30,794 and spending \$30,665 during the audit period of January 1, 2016 through December 31, 2016.

9 Campaign Statements

10 The Committee failed to timely file two preelection campaign statements in connection with the
11 November 8, 2016 General Election. The preelection statement covering the reporting period of July 1,
12 2016 to September 24, 2016 was filed 11 days late in electronic format, and 12 days late with the
13 Secretary of State (“SOS”), but prior to the election. The preelection statement covering the reporting
14 period of September 25, 2016 to October 22, 2016 was filed 148 days late with SOS, and after the
15 election. The electronic version of this statement was filed 11 days late but prior to the election, on
16 November 7, 2016.

17 The Committee’s semiannual statement for the reporting period of January 1, 2016 to June 30,
18 2016 was not filed. The activity for this period, \$2,258 in contributions and \$1,970 in expenditures, was
19 reported on the Committee’s preelection statement filed for the period ending September 24, 2016. The
20 semiannual statement for the period of October 23, 2016 to December 31, 2016 was filed 52 days late
21 with SOS on March 24, 2017. The electronic version was filed 42 days late on March 14, 2017.

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¹⁸ Section 83116.5.

28 ¹⁹ Section 83116.5.

²⁰ Sections 81004, 84100, 84104, and 84213; Regulation 18427.
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The late-filed campaign statements are summarized below:

| Statement Type | Statement Period | Cont. Received | Exp. Made | Date Filed with SOS | Days Late | Date Filed Electronically | Days Late |
|----------------|-------------------|----------------|-----------|---------------------|-----------|---------------------------|-----------|
| Semiannual | 1/1/16-6/30/16 | \$2,258 | \$1,970 | N/A | N/A | N/A | N/A |
| Preelection | 7/1/16-9/24/16 | \$13,935 | \$8,702 | 10/11/16 | 12 | 10/10/16 | 11 |
| Preelection | 9/25/16-10/22/16 | \$4,430 | \$8,515 | 3/24/17 | 148 | 11/07/16 | 11 |
| Semiannual | 10/23/16-12/31/16 | \$3,310 | \$4,618 | 3/24/17 | 52 | 3/14/17 | 42 |

24-Hour Contribution Reports

The Committee failed to timely file eight 24-hour contribution reports for contributions received totaling \$11,305 in connection with the June 7, 2016 Primary and the November 8, 2016 General Elections. The pertinent late contributions are summarized below:

| Date Received | Date Filed | Contributor | Amount |
|---------------|------------|-------------------------|-----------------|
| 6/6/16 | N/A | Baron Bruno | \$1,035 |
| 8/19/16 | N/A | Baron Bruno | \$1,035 |
| 9/1/16 | N/A | Speiser Trust Agreement | \$2,600 |
| 9/5/16 | N/A | Baron Bruno | \$1,033 |
| 9/8/16 | N/A | Baron Bruno | \$1,433 |
| 10/15/16 | N/A | Baron Bruno | \$1,169 |
| 10/21/16 | N/A | Baron Bruno | \$2,000 |
| 11/4/16 | N/A | Baron Bruno | \$1,000 |
| | | TOTAL | \$11,305 |

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1 All of the contributions from Bruno were reported as loans to the committee. All the
2 contributions, except the June 6, 2016 contribution, were reported on the corresponding preelection and
3 semiannual statements.

4 Campaign Bank Account

5 The Committee failed to pay expenditures of \$7,864 out of the Committee's designated bank
6 account. The expenditures were instead paid directly by the candidate using his personal funds and/or
7 personal credit card. These expenditures made were reported on the Committee's campaign statements as
8 loans from the candidate to the Committee, however, the payees for expenditures totaling \$7,195 were
9 not disclosed on the initial campaign statements filed. Although amendments were filed on December 31,
10 2017 and January 8, 2018, to disclose the payees for \$4,313 of this amount, the payees and amounts paid
11 were not itemized for another nine expenditures made totaling \$2,344 that were required to be itemized.

12 Bruno stated he only used personal funds when he didn't have sufficient funds to pay out of the
13 campaign bank account or didn't have the campaign credit card or check book with him. He added that a
14 lack of education and full understanding of the requirements led to these errors.

15 **VIOLATIONS**

16 Count 1: Failure to Timely File Campaign Statements

17 The Committee and Bruno failed to timely file two semiannual campaign statements for the
18 reporting periods January 1, 2016 to June 30, 2016 and October 23, 2016 to December 31, 2016, and two
19 preelection campaign statements for the reporting periods of July 1, 2016 to September 24, 2016 and
20 September 25, 2016 to October 22, 2016, in violation of Sections 84200 and 84200.5.

21 Count 2: Failure to Timely File 24-Hour Contribution Reports

22 The Committee and Bruno failed to timely file eight 24-hour contribution reports for
23 contributions received in connection with the June 7, 2016 Primary and the November 8, 2016 General
24 Elections, totaling \$11,305, in violation of Section 84203.

25 Count 3: Failure to Pay Expenditures from the Campaign Bank Account

26 For the audit period of January 1, 2016 through December 31, 2016, the Committee and Bruno
27 failed to pay expenditures of \$7,864 out of the Committee's designated bank account, in violation of
28 Section 85201.

1 **PROPOSED PENALTY**

2 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
3 count. Thus, the maximum penalty that may be imposed is \$15,000.²¹

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. Also, 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.²²

11 A central purpose of the Act is to ensure receipts and expenditures in election campaigns are
12 timely and truthfully disclosed. In this case, the facts suggest that the failure to timely file the campaign
13 statements and 24-hour contribution reports was negligent, as opposed to intentional or with an intent to
14 conceal. Bruno stated he was not aware of the reporting requirements since this was his first time running
15 with no help or guidance. As to the bank account violations, Bruno stated he only used personal funds
16 when he didn't have sufficient funds to pay out of the campaign bank account or didn't have the
17 campaign credit card or check book with him. He added that a lack of education and full understanding
18 of the requirements led to these errors. Respondents have no prior enforcement history.

19 The Commission also considers penalties in prior cases involving similar violations. Recent
20 similar cases involving a committee's failure to timely file campaign statements include the following:

21 • *In the Matter of Cheryl Hansen for County Superintendent of Schools 2018, Cheryl Hansen, and*
22 *William Beemer*; Case No. 18/586. The Committee, Hansen, and Beemer failed to timely file statements
23 in connection with the November 6, 2018 General Election, including a semiannual statement for the
24 reporting period of May 20, 2018 through June 30, 2018, a preelection statement for the reporting period
25 of July 1, 2018 through September 22, 2018, and the preelection statement for the reporting period of
26 September 23, 2018 through October 20, 2018, in violation of Sections 84200 and 84200.5. The first
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28 ²¹ Section 83116, subd. (c).

²² Regulation 18361.5, subd. (d).

1 preelection campaign statement was filed four days late (\$2,300 in contributions/\$2,082 in expenditures).
2 The second preelection campaign statement was filed 25 days late and after the election (\$0 in
3 contributions and \$18,560 in expenditures). Hansen was unsuccessful in this campaign, but had held
4 office, and was therefore familiar with the Act. On September 19, 2019, the Commission approved a
5 penalty of \$2,500.

6 Here, Respondents are deserving of a penalty similar to *Hansen* because the number of statements
7 untimely filed is similar. A penalty of \$2,500 is recommended for this count.

8 Recent similar cases involving a committee's failure to timely 24-hour reports include the
9 following:

10 • *In the Matter of Scott Kwong for San Marino City Council 2015 and Scott Kwong*; Case No.
11 16/760. The Committee and Kwong failed to timely file six 24-hour contribution reports totaling
12 \$12,100, in violation of Section 84203. All the contributions were reported on other statements prior to
13 the election. On February 20, 2020, the Commission approved a penalty of \$1,500 on this count. The
14 Committee and Kwong also failed to timely file three 24-hour contribution reports totaling \$4,500. The
15 contributions were all reported on the appropriate semiannual campaign statement, but it was not due
16 until after the election. The Commission approved a penalty of \$2,500 on this count. All of the
17 contributions were timely reported on the appropriate semiannual campaign statement with
18 approximately 72% being reported prior to the election.

19 Here, a penalty slightly higher to the first count, and slightly lower than the second count in the
20 *Kwong* matter is justified. Here, eight reports are being charge as one violation, rather than nine reports
21 split into two counts. The number of reports is lower here than count 1 in *Kwong*, but the amount
22 unreported is similar. Therefore, a penalty of \$2,000 is recommended for this count.

23 Recent similar cases involving a committee's failure to pay expenditures from the campaign bank
24 account include the following:

25 • *In the Matter of Friends of Frank Bigelow for Assembly 2016, Frank Bigelow, and Vona L. Copp*,
26 FPPC Case No. 17/0079. In December 2017, the Commission approved a stipulated decision for one
27 count involving respondents making campaign expenditures totaling \$2,189.78 that were not paid from
28 the campaign bank account, in violation of Section 85201. In aggravation, campaign funds were used, in

1 small amounts, for personal use and over \$500 in unitemized expenditures were not reported on
2 campaign statements. The Commission imposed a penalty of \$2,000 for this violation.

3 Here, the Committee failed to pay expenditures of \$7,864 out of the Committee’s designated bank
4 account. A penalty similar to *Bigelow* is recommended, although there was no personal use here, the
5 expenditures made were reported on the Committee’s campaign statements as loans from the candidate to
6 the Committee and the payees for expenditures totaling \$7,195 were not disclosed on the initial campaign
7 statements filed. Then the amended statements disclosed the payees for \$4,313, but the payees and
8 amounts paid were not itemized for another nine expenditures made totaling \$2,344 that were required to
9 be itemized. A penalty of \$2,000 is recommended for this count.

10 Based on the foregoing, the below penalty is recommended:

| Ct. | Violation | Amount |
|-----|--|----------------|
| 1 | Failure to Timely File Campaign Statements | \$2,500 |
| 2 | Failure to Timely File 24-Hour Contribution Reports | \$2,000 |
| 3 | Failure to Pay Expenditures from the Campaign Bank Account | \$2,000 |
| | TOTAL | \$6,500 |

18 CONCLUSION

19 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
20 Respondents, Baron P. Bruno for 62nd Assembly CA 2016, and Baron P. Bruno, hereby agree as
21 follows:

- 22 1. Respondents violated the Act as described in the foregoing pages, which are a true and
23 accurate summary of the facts in this matter.
- 24 2. This stipulation will be submitted for consideration by the Fair Political Practices
25 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 26 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
27 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
28 liability of Respondents pursuant to Section 83116.

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

8 5. Respondents agree to the issuance of the decision and order set forth below. Also,
9 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
10 \$6,500. One or more payments totaling this amount, to be paid to the General Fund of the State of
11 California, is/are submitted with this stipulation as full payment of the administrative penalty described
12 above, and they will be held by the State of California until the Commission issues its decision and order
13 regarding this matter.

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

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

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24 Dated: _____

_____ Galena West, Chief of Enforcement
Fair Political Practices Commission

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26 Dated: _____

_____ Baron P. Bruno, individually and on behalf of Baron P.
Bruno for 62nd Assembly CA 2016

1 The foregoing stipulation of the parties “In the Matter of Baron P. Bruno for 62nd Assembly CA
2 2016, and Baron P. Bruno,” FPPC Case No. 18/779 is hereby accepted as the final decision and order of
3 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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