

1 GALENA WEST
Chief of Enforcement
2 CHRISTOPHER BURTON
Senior Commission Counsel
3 Fair Political Practices Commission
1102 Q Street, Suite 3000
4 Sacramento, CA 95811
Telephone: (916) 322-5660

5 Attorneys for Complainant
6 Fair Political Practices Commission, Enforcement Division

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

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11 In the Matter of:

12 WEST COVINA FIREFIGHTERS
POLITICAL ACTION COMMITTEE,
13 MICHELLE MOORE SANDERS, AND
HARDY MOSLEY,

14 Respondents.

FPPC Case No. 19/1379

15 STIPULATION, DECISION AND ORDER

16 INTRODUCTION

17 West Covina Firefighters Political Action Committee (the “Committee”) is a city general purpose
18 committee that was active prior to the November 6, 2018 General Election. The Committee is sponsored
19 by the West Covina Firefighters Association, Local 3226. The principal officer of the Committee is
20 Michelle Moore Sanders (“Sanders”) and its treasurer is Hardy Mosley (“Mosley”).

21 Respondents committed numerous violations of the Political Reform Act (the “Act”),¹ including a
22 failure to timely report \$41,139 in independent expenditures on two campaign campaign statements, and
23 failure to timely file eight 24-hour independent expenditure reports.

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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 and 2019. For this reason, all legal references and discussions of law pertain to the Act’s provisions
4 as they 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 Disclosure of Expenditures on Campaign Statements

15 A committee must disclose on campaign statements the total amount of all expenditures made.
16 For expenditures of \$100 or more, the statements must provide certain identifying information about the
17 recipient of an expenditure. Further, for expenditures of \$100 or more that are independent expenditures,
18 the statements must provide the date of the expenditure; the cumulative amount of independent
19 expenditures made relative to a candidate or measure; the full name of the candidate, and the office and
20 district for which he or she seeks nomination or election, or the number or letter of the measure; and the
21 jurisdiction in which the measure or candidate is voted upon.⁷

22 Duty to File 24-Hour Independent Expenditure Reports

23 When a committee makes a late independent expenditure, the committee must disclose the
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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 Section 84211, subs. (b), (i), and (k).

1 expenditure in a 24-hour independent expenditure report filed in the places where it would be required
2 to file campaign statements as if it were formed or existing primarily to support or oppose the candidate
3 or measure for or against which it is making the late independent expenditure within 24 hours of making
4 the late independent expenditure.⁸ A “late independent expenditure” means any independent expenditure
5 which totals in the aggregate \$1,000 or more and is made for or against any specific candidate or
6 measure involved in an election within 90 days before the date of the election or on the date of the
7 election.⁹

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

9 It is the duty of a committee treasurer to ensure that the committee complies with the campaign
10 reporting provisions of the Act.¹⁰ It is the duty of the committee’s principal officer to authorize the
11 content of communications made by the committee, authorize expenditures made by the committee, and
12 determine the committee’s campaign strategy.¹¹ A treasurer and principal officer may be held jointly
13 and severally liable, along with the committee, for violations committed by the committee.¹²

14 **SUMMARY OF THE FACTS**

15 In 2018, the Committee received contributions totaling \$64,287 and made expenditures of
16 \$53,594. In advance of the November 6, 2018 General Election, the Committee paid for various
17 independent expenditure advertisements supporting Dario Castellanos, Tony Wu, and opposing James
18 Toma, candidates for West Covina City Council; supporting Colleen Rozatti, candidate for West Covina
19 Treasurer; and opposing West Covina Ballot Measures T and V. Castellanos, Wu, and Rozatti were
20 successful in the election, while Toma was not. Measures T and V were unsuccessful.

21 Despite its activity prior to the November 6, 2018 General Election, the Committee failed to
22 timely report a total of \$41,139 in independent expenditures on its campaign statements, or file the
23 necessary 24-hour reports. In particular, the Committee failed to timely and accurately report \$4,506
24 spent on advertisements supporting/opposing the aforementioned candidates and measures on its

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26 ⁸ Section 84204.
27 ⁹ Section 82036.5.
28 ¹⁰ Sections 81004, 84100, 84104, and 84213; Regulation 18427.
¹¹ Section 82047.6; Regulation 18402.1, subd. (b).
¹² Sections 83116.5 and 91006.

1 preelection campaign statement for the reporting period of September 23, 2018 to October 20, 2018; and
 2 \$36,632 on its semiannual campaign statement for the reporting period of October 21, 2018 to December
 3 31, 2018. Of that amount, the Committee wholly failed to timely report \$30,342 of the expenditures,
 4 either as payments or independent expenditures, on its campaign statements. However, \$10,796 of the
 5 expenditures were timely reported as payments made to the respective vendors (on Form 460, Schedule
 6 E), but not as independent expenditures (on Form 460, Schedule D).

7 The Committee further failed to timely file 24-hour independent expenditure reports for the
 8 following late independent expenditures:

9	Statement/ Report Type	Payment Date	Due Date	Date Filed	Payment Amount
10	24-Hour Independent Expenditure	10/12/2018	10/13/2018	10/7/2019	\$1,399.53
11	24-Hour Independent Expenditure	10/17/2018	10/18/2018	10/7/2019	\$3,107.15
12	24-Hour Independent Expenditure	10/21/2018	10/22/2018	10/17/2019	\$4,729.51
13	24-Hour Independent Expenditure	10/21/2018	10/22/2018	10/8/2019	\$4,729.51
14	24-Hour Independent Expenditure	10/22/2018	10/23/2018	10/17/2019	\$1,125.00
15	24-Hour Independent Expenditure	10/22/2018	10/23/2018	10/17/2019	\$717.59
16	24-Hour Independent Expenditure	10/22/2018	10/23/2018	10/7/2019	\$473.24
17	24-Hour Independent Expenditure	10/22/2018	10/23/2018	10/7/2019	\$3,107.15
18	24-Hour Independent Expenditure	10/22/2018	10/23/2018	10/7/2019	\$4,584.00
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24-Hour Independent Expenditure	10/22/2018	10/23/2018	10/7/2019	\$490.09
24-Hour Independent Expenditure	10/22/2018	10/23/2018	10/7/2019	\$717.59
24-Hour Independent Expenditure	10/22/2018	10/23/2018	10/7/2019	\$3,417.93
24-Hour Independent Expenditure	10/22/2018	10/23/2018	10/7/2019	\$473.25
24-Hour Independent Expenditure	10/22/2018	10/23/2018	10/7/2019	\$1,125.00
24-Hour Independent Expenditure	10/23/2018	10/24/2018	10/7/2019	\$3,487.15
24-Hour Independent Expenditure	10/25/2018	10/26/2018	10/7/2019	\$2,660.07
24-Hour Independent Expenditure	10/30/2018	10/31/2018	10/7/2019	\$1,125.00
24-Hour Independent Expenditure	10/31/2018	11/1/2018	10/7/2019	\$3,175.63
24-Hour Independent Expenditure	10/31/2018	11/1/2018	10/7/2019	\$494.78
TOTAL:				\$41,139.17

None of the foregoing late independent expenditures were otherwise timely reported as independent expenditures on the respective campaign statement.

VIOLATIONS

Count 1: Failure to Timely Report Financial Activity on Campaign Statements

The Committee, Sanders, and Mosley failed to timely report \$4,506 in independent expenditures on the Committee's preelection campaign statement for the reporting period of September 23, 2018 to

1 October 20, 2018; and \$36,632 in independent expenditures on the Committee’s semiannual campaign
2 statement for the reporting period of October 21, 2018 to December 31, 2018, in violation of Section
3 84211, subdivisions (b), (i), (j), and (k).

4 Count 2: Failure to Timely File 24-Hour Independent Expenditure Reports

5 The Committee, Sanders, and Mosley failed to timely file eight 24-hour independent expenditure
6 reports covering \$41,139 in late independent expenditures, in violation of Section 84204.

7 **PROPOSED PENALTY**

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

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

17 Here, the Enforcement Division found no evidence that Respondents intended to conceal,
18 deceive, or mislead the public. Further, Respondents do not have a prior history of violating the Act.

19 Additionally, the Commission considers penalties in prior cases involving similar violations.
20 Recent similar cases involving a failure to timely report financial activity on campaign statements
21 include the following:

- 22 • *In the Matter of Privacy for All Students, Karen England, and John Fugatt*; FPPC No. 14/1111.
23 Respondents, a primarily formed ballot measure committee, and its principal officer and treasurer, failed
24 to timely report a total of \$43,257 in contributions and \$55,088 in expenditures on three different
25 campaign statements, in violation of Section 84211, subdivisions (a), (b), (c), (f), (i), (k), and (l). In

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28 ¹³ Section 83116, subd. (c).

¹⁴ Regulation 18361.5, subd. (d).

1 August 2018, the Commission approved a penalty of \$3,000 on one count.

2 As to Count 1, a penalty lower than that approved in the comparable case is justified, given the
3 lower amount of both financial activity and number of impacted campaign statements at issue in this
4 case. Further, as provided above, a portion of the subject independent expenditures were otherwise
5 reported on the Committee’s campaign statement as payments; therefore, there was some disclosure.

6 Recent similar cases involving a failure to timely file 24-hour independent expenditure reports
7 include the following:

8 • *In the Matter of Butte County Awareness and Accountability and Thomas Kozik*; FPPC No.
9 16/706. Respondents, a county general purpose committee, and its principal officer-treasurer, failed to
10 timely file three 24-hour independent expenditure reports for \$14,378 in late independent expenditures,
11 in violation of Section 84204. In January 2020, a penalty of \$2,500 on one count was approved by the
12 Commission.

13 As to Count 2, a penalty higher than that awarded in the comparable case is warranted given the
14 higher amount of financial activity at issue here. In mitigation, the related independent expenditure
15 advertisements included “Paid for by” and the name of the Committee, so there was some public
16 disclosure despite the missing 24-hour reports.

17 In aggravation of all counts, Respondents committed additional violations of the Act that are not
18 being charged herein in the interest of settlement, given the lower level of public harm involved. In
19 particular, the Committee also failed to timely file one 24-hour contribution report for a \$5,000 late
20 contribution; however, the report was filed prior to the election. The Committee also failed to timely file
21 a verification of independent expenditures, pursuant to Section 84213, subdivision (b). Finally, the
22 Committee paid for 11 different advertisements that failed to state the specific language required under
23 Section 84506.5. Although the disclaimer must state that the ad is “not authorized by a candidate or a
24 committee controlled by a candidate,” the ads instead provided that they were not authorized by the
25 specific candidate featured in the ad.

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Based on the foregoing, the following penalties are recommended:

Count	Violation	Proposed Penalty
1	Failure to Timely Report Financial Activity on Campaign Statements	\$2,500
2	Failure to Timely File 24-Hour Independent Expenditure Reports	\$3,000
TOTAL:		\$5,500

CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondents, West Covina Firefighters Political Action Committee, Michelle Moore Sanders, and Hardy Mosley, hereby agree as follows:

1. Respondents 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 Respondents pursuant to Section 83116.

4. Respondents have consulted with their attorney, Joseph A. Guardarrama. Kaufman Legal Group, and understand, and hereby knowingly and voluntarily waive, 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 Respondents' 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. Respondents agree to the issuance of the decision and order set forth below. Also, Respondents agree to the Commission imposing against them an administrative penalty in the amount of

1 \$5,500. One or more payments totaling this amount, to be paid to the General Fund of the State of
2 California, is/are submitted with this stipulation as full payment of the administrative penalty described
3 above, and they will be held by the State of California until the Commission issues its decision and order
4 regarding this matter.

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

11 7. The parties to this agreement may execute their respective signature pages separately. A
12 copy of any party’s executed signature page including a hardcopy of a signature page transmitted via fax
13 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 Michelle Moore Sanders, individually and on behalf of
20 West Covina Firefighters Political Action Committee

21 Dated: _____
22 Hardy Mosley, individually and on behalf of West
23 Covina Firefighters Political Action Committee

1 The foregoing stipulation of the parties “In the Matter of West Covina Firefighters Political Action
2 Committee, Michelle Moore Sanders, and Hardy Mosley,” FPPC Case No. 19/1379 is hereby accepted as
3 the final decision and order of the Fair Political Practices Commission, effective upon execution below
4 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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