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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
10 STATE OF CALIFORNIA

11 In the Matter of:

12 METROPOLITAN PACIFIC CAPITAL,
13 INC. (PLAZA AT SANTA MONICA),

14 Respondent.

FPPC Case No. 17/1453

15 STIPULATION, DECISION AND ORDER

16 INTRODUCTION

17 Respondent Metropolitan Pacific Capital, Inc. (Plaza at Santa Monica) (“Plaza at Santa Monica”) was a major donor committee in the City of Santa Monica in 2016.¹ The Political Reform Act (the “Act”)² requires major donors to file semi-annual campaign statements and 24-hour contribution reports. Plaza at Santa Monica violated the Act by failing to timely file a semi-annual campaign statement and a 24-hour contribution report.

22 SUMMARY OF THE LAW

23 All legal references and discussions of law are intended to be citations to statutes and regulations as they existed at the time of the violations.

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¹ Metropolitan Pacific Capital is Plaza at Santa Monica’s parent company.

28 ² 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 Practice 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 Political Reform Act**

2 When enacting the Political Reform Act, the people of California found and declared that previous
3 laws regulating political practices suffered from inadequate enforcement by state and local authorities.³
4 For this reason, the Act is to be construed liberally to accomplish its purposes.⁴

5 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
6 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
7 practices are inhibited.⁵ Another purpose of the Act is to provide adequate enforcement mechanisms so
8 that the Act will be “vigorously enforced.”⁶

9 **Filing Semi-Annual Campaign Statements**

10 The Act defines a committee to include any person or combination of persons who directly or
11 indirectly make contributions totaling \$10,000 or more in a calendar year to or at the behest of candidates
12 or committees.⁷ This type of committee is known as a major donor committee.

13 A person who forms a major donor committee is required to file semi-annual campaign statements
14 each year no later than July 31 for the period ending June 30, and no later than January 31 for the period
15 ending December 31, if they have made contributions or expenditures during the six month period before
16 the closing date of the statements.⁸

17 **Filing 24-Hour Contribution Reports**

18 The Act defines a late contribution as “A late contribution is a contribution that totals \$1,000 or
19 more and is made or received by a committee primarily formed to support or oppose a measure in the 90-
20 days period preceding the date of the election or on the date of the election.”⁹ The 90-day period preceding
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25 ³ Section 81001, subdivision (h).

26 ⁴ Section 8100

27 ⁵ Section 81002, subdivision (a).

28 ⁶ Section 81002, subdivision (f).

⁷ Section 82013, subdivision (c).

⁸ Section 84200, subdivision (b).

⁹ Section 82036.

1 the election and the date of the election in 2016 covered August 10, 2016 – November 8, 2016.¹⁰ A
2 committee that makes a late contribution shall report the contribution within 24-hours.¹¹

3 **Notification to Contributors**

4 A committee that receives a contribution of \$5,000 or more from any person shall inform the
5 contributor within two weeks of receipt of the contribution that he or she may be required to file campaign
6 reports.¹² The notice is not required if it has been previously sent in the same calendar year.¹³

7 **SUMMARY OF THE FACTS**

8 In the November 8, 2016 City of Santa Monica General Election, Measure LV, a proposal intended
9 to place restrictions on development, was rejected by the voters. Santa Monica Forward Issues Committee
10 – No on LV (“Santa Monica Forward”), a committee primarily formed to oppose Measure LV in the City
11 of Santa Monica, was a committee campaigning against this measure. In 2016, Santa Monica Forward
12 reported receiving approximately \$762,054 and making \$743,970 in expenditures.

13 In 2016, Plaza at Santa Monica qualified as a major donor committee after making several large
14 contributions to Santa Monica Forward that aggregated to \$10,000 or more. The following chart is a list of
15 those contributions:

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Contributor Reported as:	Date Contribution Made	Amount of Contribution
Contribution not reported	June 22, 2016	\$3,250
Metropolitan Pacific Capital	August 1, 2016	\$5,000
Plaza at Santa Monica	September 28, 2016	\$25,000
	Total:	\$33,250

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21 Plaza at Santa Monica qualified as a committee on September 28, 2016, after its contributions to
22 Santa Monica Forward aggregated to \$10,000 or more in a calendar year. Plaza at Santa Monica did not
23 file a major donor semi-annual campaign statement. Plaza at Santa Monica failed to timely file a major
24 donor semi-annual campaign statement by January 31, 2017 to disclose these contributions. On January 2,
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27 ¹⁰ Fair Political Practices Commission, Committees Primarily Formed to Support/Oppose Local Candidates Being
voted on November 8, 2016, <http://fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Filing%20Schedules/2016/Local-11-8-2016-PF-Cand.pdf>

28 ¹¹ Section 84203.

¹² Section 84105.

¹³ Regulation 18427.1, subdivision (d)(1).

1 2018, Plaza at Santa Monica filed a major donor semi-annual campaign statement, which disclosed the
2 \$33,250 in contributions it made to Santa Monica Forward in 2016.

3 The Plaza at Santa Monica also failed to timely file a 24-hour contribution report to disclose that it
4 made a \$25,000 contribution to Santa Monica Forward on September 28, 2016.

5 VIOLATIONS

6 Count 1: Failure to Timely File a Major Donor Semi-Annual Campaign Statement

7 Plaza at Santa Monica failed to timely file a major donor semi-annual campaign statement covering
8 the reporting period of January 1, 2016 through December 31, 2016, in violation of Government Code
9 Section 84200.

10 Count 2: Failure Timely File a 24-Hour Contribution Report

11 Plaza at Santa Monica failed to timely file a 24-hour contribution report to disclose contributing
12 \$25,000 on September 28, 2016 to Santa Monica Forward, in violation of Government Code Section
13 84203.

14 PROPOSED PENALTY

15 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per count.
16 Thus, the maximum penalty that may be imposed is \$10,000.¹⁴

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

24 The Enforcement Division did not find any evidence that the respondents intentionally concealed
25 their contributions from the public. The actions of the respondents appear to be negligent. The respondents
26 do not have a history of violating the Act and filed the required major donor semi-annual campaign
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28 ¹⁴ See Section 83116, subdivision (c).

¹⁵ Regulation 18361.5, subdivision (d).

1 statement.

2 Recently the Commission approved a penalty addressing the failure to file a major donor semi-
3 annual campaign statement and a 24-hour contribution report:

4 *In the Matter of Scott Schonfeld*; FPPC Case No. 17/1449 (approved Sept. 19, 2019), the
5 Commission imposed a penalty of \$2,500 against the respondent in Count 1 for failing to timely file a
6 major donor semi-annual campaign statement that would have disclosed the respondent made contributions
7 totaling approximately \$51,278 to Santa Monica Forward in the reporting period ending December 31,
8 2016. The Commission also imposed a penalty of \$1,000 for failing to timely file a 24-hour contribution
9 report after making a non-monetary contribution of t-shirts valued at \$2,278.50. The respondent in the
10 comparable case contended he was actively involved in Santa Monica Forward and worked with the
11 campaign attorney to create and draft the major donor notification memorandum – showing the respondent
12 had awareness of the requirements for a major donor committee.

13 For the late-filed major donor semi-annual campaign statement, a lower penalty than the one
14 imposed by the Commission in the comparable case is warranted in this matter. The aggregate amount
15 Plaza of Santa Monica was required to report was lower than in the comparable case, Plaza of Santa Monica
16 was not sent a Major Donor notification by the Santa Monica Forward (On September 19, 2019, the
17 Commission approved a stipulation against Santa Monica Forward for failing to send Major Donor
18 notifications in FPPC case No. 17/01441) – whereas in the comparable case the respondent had knowledge
19 of the requirement to file a semi-annual campaign statement because of his involvement in the committee,
20 and \$30,000 of the \$33,250 contributions were reported by the Santa Monica Forward prior to the election.
21 Therefore, a penalty of \$2,000 is recommended.

22 For the late-filed 24-hour contribution report, the same penalty approved by the Commission in the
23 comparable case is recommended. Plaza at Santa Monica was required to timely report that it contributed
24 \$25,000 to Santa Monica Forward on a 24-hour contribution report. This amount is significantly higher
25 than the amount that was required to be reported on a 24-hour contribution report in the comparable case.
26 However, a higher penalty is not being sought because the late-contribution was reported by Santa Monica
27 Forward prior to the election and because Plaza at Santa Monica was not sent a Major Donor notification
28 by Santa Monica Forward. Therefore, a penalty of \$1,000 is recommended.

1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, Plaza at Santa
3 Monica agrees as follows:

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

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

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

11 4. Respondent has consulted their attorney, Joseph Guardarrama, Kaufman Legal Group, and
12 hereby knowingly and voluntarily waive, any and all procedural rights set forth in Sections 83115.5, 11503,
13 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to the right to appear
14 personally at any administrative hearing held in this matter, to be represented by an attorney at
15 Respondent’s own expense, to confront and cross-examine all witnesses testifying at the hearing, to
16 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over the
17 hearing as a hearing officer, and to have the matter judicially reviewed.

18 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
19 Respondent agrees to the Commission imposing against them an administrative penalty in the amount of
20 \$3,000. One or more payments totaling said amount—to be paid to the General Fund of the State of
21 California—is/are submitted with this stipulation as full payment of the administrative penalty described
22 above, and same shall be held by the State of California until the Commission issues its decision and order
23 regarding this matter.

24 6. If the Commission refuses to approve this stipulation—then this stipulation shall become
25 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
26 rejected, all payments tendered by Respondent in connection with this stipulation shall be reimbursed to
27 Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before
28 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,

1 shall be disqualified because of prior consideration of this Stipulation.

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

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6 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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10 Dated: _____

John Warfel, o/b/o Metropolitan Pacific Capital, Inc.
(Plaza at Santa Monica), Respondent

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15 **DECISION AND ORDER**

16 The foregoing stipulation of the parties "In the Matter of Metropolitan Pacific Capital, Inc. (Plaza
17 at Santa Monica)" FPPC Case No. 17/1453 is hereby accepted as the final decision and order of the Fair
18 Political Practices Commission, effective upon execution below by the Chair.

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20 **IT IS SO ORDERED.**

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22 Dated: _____

Richard C. Miadich, Chair
Fair Political Practices Commission