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9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 19/1510

12 CALIFORNIA TOW TRUCK  
13 ASSOCIATION PAC and VICKIE  
14 YOUNG,

**STIPULATION, DECISION AND ORDER**

15 Respondents.

16  
17 **INTRODUCTION**

18 Respondent, California Tow Truck Association PAC (ID# 880824) (the “Committee”), is a state  
19 general purpose committee. According to campaign statements, the Committee was formed to promote  
20 and protect the interests of the towing industry in California. At all relevant times, Respondent, Vickie  
21 Young (“Young”), served as the Committee’s treasurer.

22 The Committee was the subject of a Franchise Tax Board (“FTB”) audit. The FTB audit report  
23 covered the audit period of January 1, 2015 through December 31, 2016. During the audit period, the  
24 Committee reported \$13,964 in contributions received and \$37,440 in expenditures. The FTB audit  
25 revealed the Committee and Young violated the Political Reform Act (the “Act”).<sup>1</sup> The Act requires

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27 <sup>1</sup> The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections  
28 81000 through 91014. 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. All regulatory references are to  
this source.

1 committees and treasurers to timely file applicable campaign statements and reports. The Committee and  
2 Young violated the Act by failing to timely file a 24-hour contribution report for a late contribution  
3 made prior to the June 7, 2016 Primary Election.

#### 4 **SUMMARY OF THE LAW**

5 The Act and its regulations are amended from time to time. The violation in this case occurred in  
6 2016. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they  
7 existed at that time.

#### 8 **Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act**

9 When enacting the Act, the people of California found and declared that previous laws regulating  
10 political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup> Thus, it was  
11 decreed the Act “should be liberally construed to accomplish its purposes.”<sup>3</sup>

12 A central purpose of the Act is to promote transparency by ensuring that receipts and  
13 expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed  
14 and improper practices are inhibited.<sup>4</sup> Another purpose of the Act is to provide adequate enforcement  
15 mechanisms so that the Act will be “vigorously enforced.”<sup>5</sup>

#### 16 **24-Hour Contribution Report**

17 A “late contribution” is a contribution that totals in the aggregate \$1,000 or more and is made to  
18 or received by a candidate, a controlled committee, or a committee formed or existing primarily to  
19 support or oppose a candidate or measure during the 90-day period preceding the date of the election, or  
20 on the date of the election, at which the candidate or measure is to be voted on.<sup>6</sup> Each candidate or  
21 committee that makes a late contribution shall report the late contribution within 24 hours of the time it  
22 is made.<sup>7</sup> When the Act requires a report be filed by a specified date, and that date falls on a Saturday,  
23 Sunday, or official state holiday, the filing deadline shall be extended to the next regular business day.<sup>8</sup>

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26 <sup>2</sup> Section 81001, subdivision (h).

27 <sup>3</sup> Section 81003.

28 <sup>4</sup> Section 81002, subdivision (a).

<sup>5</sup> Section 81002, subdivision (f).

<sup>6</sup> Section 82036, subdivision (a).

<sup>7</sup> Section 84203, subdivision (a)-(b).

<sup>8</sup> Regulation 18116.

1 **Joint and Several Liability of Committee and Treasurer**

2 It is the duty of a committee treasurer to ensure the committee complies with the Act.<sup>9</sup> A  
3 treasurer may be held jointly and severally liable, along with the committee and candidate, for violations  
4 committed by the committee.<sup>10</sup>

5 **Liability for Violations**

6 Any person who violates any provision of the Act, who purposely or negligently causes any  
7 other person to violate any provision of the Act, or who aids and abets any other person in the violation  
8 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.<sup>11</sup>

9 **SUMMARY OF THE FACTS**

10 The FTB audit found that, except as indicated in the audit report, the filers have, in their opinion,  
11 substantially complied with the disclosure and recordkeeping provisions of the Act and related rules and  
12 regulations of the Fair Political Practices Commission.

13 The 90-day period preceding the June 7, 2016 Primary Election began on March 9, 2016. The  
14 Committee’s semi-annual campaign statement for the reporting period of May 22, 2016 to June 30, 2016  
15 revealed a late contribution made by the Committee that required a 24-hour contribution report.

16 On June 3, 2016, the Committee reported making a \$4,200 contribution to Jim Frazier for  
17 Assembly 2016 (ID# 1373430). According to the Secretary of State, the Committee did not file a 24-  
18 hour contribution report for this late contribution by the June 6, 2016 due date. Also, according to the  
19 Secretary of State, the late contribution was not reported on any campaign statement or report filed prior  
20 to the June 7, 2016 Primary Election.

21 **VIOLATION**

22 **Count 1: Failure to Timely File 24-Hour Contribution Report**

23 Prior to the June 7, 2016 Primary Election, the Committee and Young failed to timely file a 24-  
24 hour contribution report for a late contribution made totaling \$4,200 by the June 6, 2016 due date, in  
25 violation of Government Code Section 84203.

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28 <sup>9</sup> Sections 81004, 84100, and Regulation 18427.

<sup>10</sup> Sections 83116. 5 and 91006.

<sup>11</sup> Sections 83116 and 83116. 5.

1 **PROPOSED PENALTY**

2 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per  
3 count. Thus, the maximum penalty that may be imposed here is \$5,000.<sup>12</sup>

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. Further, 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.<sup>13</sup>

11 The public harm inherent in campaign reporting violations is that the public is deprived of  
12 important, time-sensitive information regarding campaign activity. The late contribution violation at  
13 issue here was aggravated because the campaign activity was not reported on any campaign statement or  
14 report filed prior to the election. Thus, the public was deprived of this information until after the  
15 pertinent election.

16 In this case, the evidence supports there was no intent to conceal, deceive or mislead the public  
17 as to the Committee's campaign activity. However, the violation appears to be negligent as the  
18 Committee and Young had timely filed a 24-hour contribution report for a late contribution made prior  
19 to the June 7, 2016 Primary Election and so knew of this filing obligation. The Committee claims Young  
20 was a volunteer treasurer and was not sophisticated with the Act. The violation committed here was  
21 isolated as the Committee and Young do not have prior enforcement history for failing to timely file  
22 campaign statements or reports.

23 The Commission considers penalties in prior cases with the same or similar violations and  
24 comparable facts.

25 *In the Matter of Donna Munoz for County Supervisor 2016, Donna Munoz, and Max Hazard;*  
26 FPPC Case No. 17/140. Respondents, an unsuccessful candidate for San Bernardino County Supervisor,  
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28 <sup>12</sup> Section 83116, subdivision (c).

<sup>13</sup> Regulation 18361. 5, subdivision (d).

1 her controlled-committee and its treasurer, failed to timely file two 24-hour contribution reports totaling  
2 \$3,275. However, Respondents disclosed the late contributions on campaign statements timely filed  
3 prior to the election. From January 1, 2015 through June 30, 2016, the Committee received a total of  
4 \$30,838 in contributions and made a total of \$30,836 in expenditures. On April 19, 2018, the  
5 Commission approved a penalty of \$1,500 for this count.

6 A slightly higher penalty than that approved in the *Munoz* case is recommended. Similar to  
7 *Munoz*, the Committee and Young failed to timely file one 24-hour contribution report totaling \$4,200.  
8 Unlike *Munoz*, the Committee and Young did not disclose the late contribution on another statement or  
9 report filed prior to the election. In aggravation, the Committee and Young failed to maintain detailed  
10 campaign records for approximately 44% of the total contributions received during the FTB audit  
11 period. Also, in aggravation, the Committee and Young failed to timely file the first pre-election  
12 campaign statement prior to the November 8, 2016 General Election. However, the campaign activity  
13 was reported prior to the pertinent election on the Committee's timely filed second pre-election  
14 campaign statement. Therefore, a penalty of \$2,000 is recommended.

15 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty  
16 in the amount of \$2,000 is justified.

### 17 CONCLUSION

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
19 Respondents, California Tow Truck Association PAC and Vickie Young, hereby agree as follows:

- 20 1. Respondents violated the Act as described in the foregoing pages, which are a true and accurate  
21 summary of the facts in this matter.
- 22 2. This stipulation will be submitted for consideration by the Fair Political Practices Commission at  
23 its next regularly scheduled meeting – or as soon thereafter as the matter may be heard.
- 24 3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose  
25 of reaching a final disposition without the necessity of holding an administrative hearing to  
26 determine the liability of Respondents pursuant to Section 83116.
- 27 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all  
28 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through

1 18361.9. This includes, but is not limited to the right to appear personally at any administrative  
2 hearing held in this matter, to be represented by an attorney at Respondents' own expense, to  
3 confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to  
4 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a  
5 hearing officer, and to have the matter judicially reviewed.

6 5. Respondents agree to the issuance of the decision and orders set forth below. Also,  
7 Respondents agree to the Commission imposing against them an administrative penalty in the  
8 amount of \$2,000. One or more cashier's checks or money orders totaling said amount – to be  
9 paid to the General Fund of the State of California – is/are submitted with this stipulation as full  
10 payment of the administrative penalty described above, and same shall be held by the State of  
11 California until the Commission issues its decision and order regarding this matter.

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

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

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Galena West, Chief of Enforcement  
Fair Political Practices Commission

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Dated: \_\_\_\_\_  
\_\_\_\_\_ Vickie Young, Former Treasurer,  
Respondent

Dated: \_\_\_\_\_  
\_\_\_\_\_, on behalf of Respondent  
California Tow Truck Association PAC

The foregoing stipulation of the parties “In the Matter of California Tow Truck Association PAC and Vickie Young,” FPPC Case No. 19/1510, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution by the Chair.

IT IS SO ORDERED.

Dated: \_\_\_\_\_  
\_\_\_\_\_ Richard C. Miadich, Chair  
Fair Political Practices Commission