

1 GALENA WEST
Chief of Enforcement
2 MEGAN A. VAN ARSDALE
Commission Counsel
3 Fair Political Practices Commission
1102 Q Street, Suite 3000
4 Sacramento, CA 95811
Telephone: (916) 738-6411
5 Email: mvanarsdale@fppc.ca.gov

6 Attorneys for Complainant
Fair Political Practices Commission, Enforcement Division
7

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

11 In the Matter of:

FPPC Case No. 18/1240

STIPULATION, DECISION AND ORDER

12
13 COMMITTEE TO ELECT LIZ AMES
FOR BART BOARD DIRECTOR
14 DISTRICT 6 2018, LIZ AMES, AND
CATHERINE KEESEE,
15

16 Respondents.

17 **INTRODUCTION**

18 Respondent Committee to Elect Liz Ames for BART Board Director District 6 2018
19 (“Committee”) was the candidate controlled committee of Respondent Liz Ames (“Ames”). The
20 Committee’s treasurer at the time of the violations was Respondent Catherine Keesee (“Keesee”). Ames
21 was a successful candidate for BART Board Director, District 6, in the November 6, 2018 General
22 Election.

23 In 2018, the Committee reported receiving contributions of approximately \$16,077 and making
24 expenditures of approximately \$13,970. Respondents committed violations of the Political Reform Act
25

1 (the “Act”), including failure to timely file a preelection campaign statement, and failure to timely file
2 four 24-hour contribution reports disclosing contributions received by the Committee.¹

3 **SUMMARY OF THE LAW**

4 The Act and its regulations are amended from time to time. The violations in this case occurred in
5 2018. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
6 existed at that time.

7 Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

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

11 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
12 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
13 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵
14 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
15 “vigorously enforced.”⁶

16 Mandatory Filing of Campaign Statements

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

19 The Act allows for a short form for filing reports for candidates who receive contributions of less
20 than \$2,000, and who make expenditures of less than \$2,000, in a calendar year.⁸ Every candidate who
21 has filed a short form and who thereafter receives contributions or makes expenditures totaling \$2,000 or
22

23 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this
24 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.

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 84206, subd. (a).

1 more in a calendar year, shall send written notification to the Secretary of State, the local filing officer,
2 and each candidate contending for the same office within 48 hours of receiving or expending a total of
3 \$2,000. The written notification shall revoke the previously filed short form statement.⁹

4 The Act requires a candidate-controlled committee to file preelection campaign statements prior
5 to elections in which the candidate appears on the ballot.¹⁰ For the November 6, 2018 General Election, a
6 candidate-controlled committee was required to file a preelection campaign statement for the period of
7 July 1, 2018-September 22, 2018 no later than September 27, 2018, and for the period of September 23,
8 2018-October 20, 2018 no later than October 25, 2018.

9 Duty to File 24-Hour Contribution Reports

10 Each candidate or committee that makes or receives a late contribution must file a report within 24
11 hours of making or receiving the contribution.¹¹ A “late contribution” includes a contribution aggregating
12 \$1,000 or more that is made to or received by a candidate, controlled committee, or primarily formed
13 committee within 90 days before the date of the election at which the pertinent candidate or measure is to
14 be voted on.¹²

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

16 Every committee must have a treasurer.¹³ It is the duty of a committee’s treasurer to ensure that the
17 committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds
18 and the reporting of such funds.¹⁴ Any person who violates any provision of the Act, who purposely or
19 negligently causes any other person to violate any provision of the Act, or who aids and abets any other
20 person in the violation of the Act is liable under the Act if the person has filing or reporting obligations
21 under the Act, or is paid to provide services regulated by the Act.¹⁵ If two or more persons are responsible
22 for a violation of the Act they are jointly and severally liable.¹⁶ It is the duty of a committee treasurer to
23

24 ⁹ Section 84206, subd. (c), and Regulation 18406.

25 ¹⁰ Section 84200.5.

26 ¹¹ Section 84203.

27 ¹² Section 82036.

28 ¹³ Section 84100.

¹⁴ Section 84104 and Regulation 18427, subd. (a).

¹⁵ Section 83116.5.

¹⁶ Section 83116.5.

1 ensure that the committee complies with the campaign reporting provisions of the Act.¹⁷

2 SUMMARY OF THE FACTS

3 The Committee was controlled by Ames, a successful candidate for the San Francisco BART
4 Director, in the November 6, 2018 General Election. In 2018, the Committee reported receiving
5 contributions of approximately \$16,077 and making expenditures of approximately \$13,970.

6 On July 17, 2018, Ames filed a Candidate Campaign Statement, short form, also known as a Form
7 470. On September 1, 2018 Ames had more than \$2,000 of campaign activity and therefore needed to file
8 a supplemental Form 470 within 48 hours. On October 25, 2018, after being contacted by the Enforcement
9 Division, she filed a Form 470 supplement and a preelection campaign statement for the period of July 1,
10 2018- October 20, 2018. The Committee qualified as a recipient committee on or about September 1, 2018.
11 Therefore, the Committee was required, and failed, to timely file the first preelection campaign statement
12 for the reporting period of July 1, 2018-September 22, 2018 no later than September 27, 2018. The
13 Committee instead filed one statement covering the reporting periods for both preelection statements of July
14 1, 2018- October 20, 2018 on October 25, 2018.¹⁸

15 The Committee also failed to timely file certain 24-hour contribution reports, as follows:

16 Statement/ 17 Report Type	18 Payment 19 Date	20 Due Date	21 Date 22 Filed	23 Contribution 24 Amount
25 24-Hour 26 Contribution	27 8/23/18	28 8/24/18	N/A	\$1,245
29 24-Hour 30 Contribution	31 9/14/18	9/17/18	N/A	\$3,000
32 24-Hour 33 Contribution	34 9/28/18	10/1/18	N/A	\$10,000
35 24-Hour 36 Contribution	37 10/18/18	10/19/18	N/A	\$2,500

38 On the only preelection statement filed, the Committee failed to report the \$2,500 contribution
39 received on October 18, 2018, from Peace Officers Research Association of California PAC. The
40

41 ¹⁷ Sections 81004, 84100, 84104, and 84213; Regulation 18427.

42 ¹⁸ October 25, 2018 was the date the second preelection statement was due.

1 contribution was reported after the election, on the semi-annual campaign statement for the reporting
2 period of October 21, 2018- December 31, 2018. The other three contributions above were disclosed prior
3 to the election on the Committee’s preelection campaign statement filed on October 25, 2018.

4 **VIOLATIONS**

5 Count 1: Failure to Timely File a Preelection Campaign Statement and 24-Hour Contribution Reports

6 The Committee, Ames, and Keesee failed to timely file a preelection campaign statement for the
7 period of July 1, 2018-September 22, 2018 by September 27, 2018, in violation of Government Code
8 Section 84200.5. In 2018, the Committee, Ames, and Keesee failed to timely file four 24-hour contribution
9 reports for late contributions received totaling approximately \$16,745, in violation of Government Code
10 Section 84203.

11 **PROPOSED PENALTY**

12 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per count.
13 Thus, the maximum penalty that may be imposed is \$5,000.¹⁹

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

20 A central purpose of the Act is to ensure receipts and expenditures in election campaigns are timely
21 and truthfully disclosed. In this case, the facts suggest that the failure to timely file the preelection statement
22 and 24-hour late contribution reports was negligent, as opposed to intentional or with an intent to conceal.
23 Once Ames was contacted by Enforcement, she filed a supplement 470 and cooperated with the
24 investigation. Further, Respondents have no prior enforcement history.

25 The Commission also considers penalties in prior cases involving similar violations. Recent similar
26 cases involving a committee’s failure to timely file campaign statements and reports include the following:

27
28 ¹⁹ Section 83116, subd. (c).

²⁰ Regulation 18361.5, subd. (d).

- 1 • *In the Matter of Tim Nonn for CRPUSD Board of Trustees 2016, Tim Nonn, Gabriele Schmitz, and*
2 *Elizabeth Rudick*; FPPC No. 16/19918. The Nonn Committee, Nonn, and Rudick failed to timely
3 file a pre-election campaign statement for the reporting period July 1, 2016 through September 24,
4 2016 by the deadline of September 29, 2016 and semiannual campaign statements for the reporting
5 periods of January 1, 2017 through June 30, 2017 by the deadline of July 31, 2017 and July 1, 2017
6 through December 31, 2017, by the deadline of January 31, 2018, in violation of Section 84200.5
7 and 84200. The Nonn Committee, Nonn, and Rudick failed to file four 24-hour contribution reports
8 for a total of \$6,969 of late contributions by the deadline, in violation of Section 84203. Nonn ran
9 successfully as a candidate for Board Member of the Cotati-Rohnert Park Unified School District
10 during the November 8, 2016 General Election. For the 2016 General Election, the Committee
11 raised approximately \$13,215 and spent approximately \$12,147. The first pre-election statement
12 was filed at the same time the second pre-election statement was filed, resulting in disclosure prior
13 to the election. The Committee reported all but one of the late contributions on other campaign
14 statements. On November 21, 2019, the Commission approved a penalty of \$2,000 for this count.

15 Here the Respondents violations are very similar to the comparable case. Respondents here did not
16 file the first preelection at the same time as the second, but did report all the first preelection activity on
17 the timely filed second statement, amounting to a similar result in reporting as in *Nonn*. As in *Nonn*,
18 Respondents here also failed to timely file four 24-hour reports and all but one of the contributions were
19 reported on other statements prior to the election. Therefore, a penalty similar to *Nonn* is warranted here.

20 Based on the foregoing, a penalty of \$2,000 is recommended.

21 CONCLUSION

22 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
23 Respondents, Committee to Elect Liz Ames for BART Board Director District 6 2018, Liz Ames, and
24 Catherine Keesee, hereby agree as follows:

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

27 2. This stipulation will be submitted for consideration by the Fair Political Practices
28

1 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

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

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

12 5. Respondents agree to the issuance of the decision and order set forth below. Also,
13 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
14 \$2,000. One or more payments totaling this amount, to be paid to the General Fund of the State of
15 California, is/are submitted with this stipulation as full payment of the administrative penalty described
16 above, and they will be held by the State of California until the Commission issues its decision and order
17 regarding this matter.

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

24 ///

25 ///

26 ///

27 ///

28 ///

