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8
9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 20/135

12 OCEANO 911 COMMITTEE FOR
13 MEASURE A-20, BEVERLY
14 DAVIDE, AND KAREN WHITE,

STIPULATION, DECISION AND ORDER

15 Respondents.
16

17 **INTRODUCTION**

18 Respondent, Oceano 911 Committee for Measure A-20 (ID# 1423403) (the “Committee”), was a
19 ballot measure committee primarily formed to support the approval of Measure A-20 in the March 3,
20 2020 Primary Election. Measure A-20 was a parcel tax measure on the ballot for Oceano Community
21 Services District voters in San Luis Obispo County, which was defeated receiving 66.14% of the votes
22 (66.67% was required for approval). Respondent, Beverly Davide (“Davide”), served as the
23 Committee’s treasurer. Respondent, Karen White (“White”), served as the Committee’s assistant
24 treasurer, responsible for completing and filing the Committee’s campaign statements at issue here.

25 The Political Reform Act (the “Act”)¹ requires committees and treasurers to timely file certain
26 campaign statements and reports. The Committee, Davide, and White violated the Act by failing to
27 timely file a pre-election campaign statement and 24-hour contribution reports.

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¹ The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections

1 **SUMMARY OF THE LAW**

2 The violations in this case occurred in 2020. For this reason, all legal references and discussions
3 of law pertain to the Act’s provisions as they existed at that time.

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

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

8 A central purpose of the Act is to promote transparency by ensuring that receipts and
9 expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed
10 and improper practices are inhibited.⁴ Another purpose of the Act is to provide adequate enforcement
11 mechanisms so that the Act will be “vigorously enforced.”⁵

12 **Committee**

13 “Committee” means any person or combination of persons who directly or indirectly receives
14 contributions totaling \$2,000 or more in a calendar year. This type of committee is generally referred to
15 as a recipient committee.

16 **Primarily Formed Committee**

17 A “primarily formed committee” includes a recipient committee which is formed or exists
18 primarily to support or oppose a single candidate or measure or a group of candidates or measures.⁶

19 **Pre-Election Campaign Statements**

20 Primarily formed committees formed to support or oppose a measure appearing on the ballot
21 must file applicable pre-election campaign statements.⁷ The first pre-election campaign statement, for
22 the period ending 45 days before the election, shall be filed no later than 40 days before the election.⁸

24 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission are
25 contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to
this source.

26 ² Section 81001, subdivision (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subdivision (a).

⁵ Section 81002, subdivision (f).

⁶ Section 82047.5.

⁷ Section 84200.5.

⁸ Section 84200.8, subdivision (a).

1 The second pre-campaign statement, for the period ending 17 days before the election, shall be filed no
2 later than 12 days before the election.⁹

3 **24-Hour Contribution Reports**

4 A “late contribution” is a contribution that totals in the aggregate \$1,000 or more and is made to
5 or received by a candidate, a controlled committee, or a committee formed or existing primarily to
6 support or oppose a candidate or measure during the 90-day period preceding the date of the election, or
7 on the date of the election, at which the candidate or measure is to be voted on.¹⁰ Each committee that
8 makes or receives a late contribution shall report the late contribution within 24 hours of the time it is
9 made or received.¹¹

10 **Joint and Several Liability of Committee, Treasurer, and Assistant Treasurer**

11 It is the duty of a committee treasurer to ensure the committee complies with the Act.¹² A
12 treasurer may be held jointly and severally liable, along with the committee, for violations committed by
13 the committee.¹³ With respect to statements signed by the assistant treasurer, the treasurer and assistant
14 treasurer shall be jointly and severally liable for any violations for which the Act would otherwise hold
15 the treasurer liable.¹⁴

16 **Liability for Violations**

17 Any person who violates any provision of the Act is liable for administrative penalties up to
18 \$5,000 per violation.¹⁵

19 **SUMMARY OF THE FACTS**

20 The Committee, Davide, and White were unsuccessful in their campaign to support the approval
21 of Measure A-20 in the March 3, 2020 Primary Election. Measure A-20 was defeated, receiving 66.14%
22 of the votes (66.67% was required for approval).

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26 ⁹ Section 84200.8, subdivision (b).

27 ¹⁰ Section 82036, subdivision (a).

28 ¹¹ Section 84203, subdivisions (a)-(b).

¹² Sections 81004, 84100, and Regulation 18427.

¹³ Sections 83116. 5 and 91006.

¹⁴ Regulation 18426.1.

¹⁵ Sections 83116 and 83116. 5.

1 According to the Committee's campaign statements, the Committee qualified as a committee on
2 January 18, 2020 and raised approximately \$9,712 in contributions and spent approximately \$9,712 in
3 expenditures throughout its campaign. The Committee terminated as of April 30, 2020.

4 **Failure to Timely File Pre-Election Campaign Statements**

5 After receiving contact from Enforcement on or around January 30, 2020, the Committee filed
6 the first pre-election campaign statement. The Committee, Davide, and White filed pre-election and
7 semi-annual campaign statements as follows:

| 8 STATEMENT | REPORTING PERIOD | DUE DATE | REPORTING PERIOD USED | DATE FILED | AMOUNT REPORTED |
|------------------------|-------------------------|------------|-------------------------|------------------------------|------------------------------------|
| 9 First Pre-Election | 01/01/2020 - 01/18/2020 | 01/23/2020 | 11/01/2019 - 01/31/2020 | 01/31/2020 (8 days late) | CTB: \$3,819 EXP: \$2,197.15 |
| 10 Second Pre-Election | 01/19/2020 - 02/15/2020 | 02/20/2020 | 01/19/2020 - 02/15/2020 | 03/12/2020 (21 days late) | CTB: \$2,475 EXP: \$1,858.27 |
| 11 Semi-Annual | 02/16/2020 - 06/30/2020 | 07/31/2020 | 11/01/2019 - 05/11/2020 | 05/11/2020 | CTB: \$9,712.19 EXP: \$9,712.19 |

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14 The County of San Luis Obispo requires all campaign statements and reports to be filed
15 electronically through the NetFile software program. The Committee, Davide, and White claim they had
16 multiple issues when attempting to file electronically through NetFile. The Committee, Davide, and
17 White claim they attempted to timely file the first pre-election campaign statement in paper format
18 which the County of San Lius Obispo eventually accepted eight days late. Because Davide and White
19 were both first-time treasurers with no prior campaign experience, had issues with the NetFile software
20 program, and attempted to timely file the first pre-election campaign statement in paper format, this
21 violation will not be charged. Additionally, the Committee, Davide, and White claim the NetFile issues
22 continued through to the second pre-election campaign statement reporting period.

23 **Failure to Timely File 24-Hour Contribution Reports**

24 The 90-day period preceding the March 3, 2020 Primary Election began on December 4, 2019.
25 The Committee's second pre-election and semi-annual campaign statements revealed late contributions
26 received that required 24-hour contribution reports as follows:

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| DUE DATE | CONTRIBUTOR | AMOUNT | DATE FILED |
|------------|------------------------------------|----------------|------------------------------|
| 02/07/2020 | American Promotional Events | \$2,000 | 05/01/2020 (84 days late) |
| 03/03/2020 | California Association of Realtors | \$1,500 | 05/01/2020 (59 days late) |
| | TOTAL: | \$3,500 | |

VIOLATIONS

Count 1: Failure to Timely File Pre-Election Campaign Statement and 24-Hour Contribution Reports

The Committee, Davide, and White failed to timely file the pre-election campaign statement for the reporting period of January 19, 2020 to February 15, 2020 by the February 20, 2020 due date, in violation of Government Code Sections 84200.5 and 84200.8, subdivision (b). Additionally, the Committee, Davide, and White failed to timely file 24-hour contribution reports for two late contributions received totaling \$3,500 by the February 7, 2020 and March 3, 2020 due dates, in violation of Government Code Section 84203.

PROPOSED PENALTY

This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per count. Thus, the maximum penalty that may be imposed here is \$5,000.¹⁶

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

The public harm inherent in campaign reporting violations is that the public is deprived of important, time-sensitive information regarding campaign activity. Here, approximately 64% of the

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¹⁶ Section 83116, subdivision (c).

¹⁷ Regulation 18361. 5, subdivision (d).

1 Committee's contributions and 41% of the Committee's expenditures were reported on campaign
2 statements filed prior to the election.

3 In this case, there is no evidence to support an intent to conceal, deceive or mislead the public as
4 to the Committee's receipts and expenditures. The violations appear to be inadvertent as Davide and
5 White are first-time treasurers with no prior campaign experience. Also, the Committee, Davide, and
6 White do not have prior enforcement history.

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

9 *In the Matter of Arcadian's Rights Protection Association to Support Roger Chandler and Bob*
10 *Harbicht for Arcadia City Council 2018, Karlfeldt Su, and Joseph Su; FPPC Case No. 18/153.*
11 Respondents, a primarily formed committee supporting Chandler's and Harbicht's candidacy, its
12 treasurer and principal officer, failed to timely file a pre-election campaign statement, a 24-hour
13 independent expenditure report, and a semi-annual campaign statement in connection with the April 10,
14 2018 election. In mitigation, the pre-election campaign statement and 24-hour independent expenditure
15 report were late-filed prior to the pertinent election. In aggravation, the Respondent committee and
16 principal officer had prior enforcement history for failing to timely file campaign statements and reports.
17 Between January 1, 2018 and June 30, 2018, the committee reported raising and spending \$3,718 and
18 \$9,352, respectively. On September 19, 2019, the Commission approved a penalty of \$2,000 for this
19 count.

20 A higher penalty than that approved in *Arcadian's Rights* is recommended. Similar to *Arcadian's*
21 *Rights*, the Committee, Davide, and White failed to timely file 24-hour contribution reports for two late
22 contribution received totaling \$3,500 and a pre-election campaign statement. In aggravation, the pre-
23 election campaign statement and 24-hour contribution reports were not filed prior to the pertinent
24 election. In mitigation, the Committee, Davide, and White did not have prior campaign experience or a
25 prior enforcement history. Also, in mitigation, the Committee timely filed its post-election semi-annual
26 campaign statement and terminated the Committee. Similar to *Arcadian's Rights*, the Committee spent
27 approximately \$9,712 throughout its campaign. Therefore, a penalty of \$2,500 is recommended.

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1 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
2 in the amount of \$2,500 is justified.

3 **CONCLUSION**

4 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
5 Respondents, Oceano 911 Committee for Measure A-20, Beverly Davide, and Karen White, hereby
6 agree as follows:

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

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

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

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

21 5. Respondents agree to the issuance of the decision and orders set forth below.
22 Also, Respondents agree to the Commission imposing against them an administrative penalty in
23 the amount of \$2,500. One or more cashier's checks or money orders totaling said amount – to
24 be paid to the General Fund of the State of California – is/are submitted with this stipulation as
25 full payment of the administrative penalty described above, and same shall be held by the State
26 of California until the Commission issues its decision and order regarding this matter.

27 6. If the Commission refuses to approve this stipulation – then this stipulation shall
28 become null and void, and within fifteen business days after the Commission meeting at which

1 the stipulation is rejected, all payments tendered by Respondents in connection with this
2 stipulation shall be reimbursed to Respondents. If this stipulation is not approved by the
3 Commission, and if a full evidentiary hearing before the Commission becomes necessary, neither
4 any member of the Commission, nor the Executive Director, shall be disqualified because of
5 prior consideration of this stipulation.

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

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10 Dated: _____

Angela J. Brereton, Chief of Enforcement
Fair Political Practices Commission

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14 Dated: _____

Beverly Davide, individually and on behalf of
Oceano 911 Committee for Measure A-20, Respondents

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18 Dated: _____

Karen White, individually and on behalf of
Oceano 911 Committee for Measure A-20, Respondents

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21 The foregoing stipulation of the parties "In the Matter of Oceano 911 Committee for Measure A-
22 20, Beverly Davide, and Karen White," FPPC Case No. 20/135, is hereby accepted as the final decision
23 and order of the Fair Political Practices Commission, effective upon execution by the Chair.

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25 IT IS SO ORDERED.

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27 Dated: _____

Richard C. Miadich, Chair
Fair Political Practices Commission