

1 ANGELA J. BRERETON
Chief of Enforcement
2 JENNA C. RINEHART
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
1102 Q Street, Suite 3000
Sacramento, CA 95811
4 Telephone: (916) 323-6302
5 Email: JRinehart@fppc.ca.gov

6 Attorneys for Complainant
7 Enforcement Division of the Fair Political Practices Commission

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

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 18/991

12 **FRIENDS OF LOS BANOS - YES ON**
13 **H, BRENDA GEARY, MASON**
14 **HURLEY, and GARY BRIZZEE,**

STIPULATION, DECISION AND ORDER

15 Respondents.

16
17 **INTRODUCTION**

18 Respondent, Friends of Los Banos – Yes on H (ID# 1411346) (the “Committee”), was a ballot
19 measure committee primarily formed to support the approval of Measure H in the November 6, 2018
20 General Election. Measure H was a sales tax measure on the ballot for Los Banos voters in Merced
21 County, which was approved receiving 66.64% of the votes. Respondent, Brenda Geary (“Geary”),
22 served as the Committee’s treasurer. Respondent, Mason Hurley (“Hurley”), served as the Committee’s
23 assistant treasurer, responsible for completing and filing the Committee’s campaign statements and
24 reports at issue here. Respondent, Gary Brizzee (“Brizzee”), served as the Committee’s principal officer.

25 The Political Reform Act (the “Act”)¹ requires committees and treasurers to timely file certain
26 campaign statements and reports. The Committee, Geary, Hurley, and Brizzee violated the Act by
27 failing to timely file 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 2018. 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 **24-Hour Contribution Reports**

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

19 **Joint and Several Liability of Committee, Treasurer, Assistant Treasurer, and Principal Officer**

20 It is the duty of a committee treasurer to ensure the committee complies with the Act.⁸ A
21 treasurer and principal officer may be held jointly and severally liable, along with the committee, for
22 violations committed by the committee.⁹ With respect to statements signed by the assistant treasurer, the

23 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission are
24 contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to
25 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 82036, subdivision (a).

⁷ Section 84203, subdivisions (a)-(b).

⁸ Sections 81004, 84100, and Regulation 18427.

⁹ Sections 83116.5 and 91006.

1 treasurer and assistant treasurer shall be jointly and severally liable for any violations for which the Act
2 would otherwise hold the treasurer liable.¹⁰

3 SUMMARY OF THE FACTS

4 According to the Committee's campaign statements, the Committee qualified as a committee on
5 September 14, 2018 and raised approximately \$26,500 in contributions and spent approximately
6 \$26,500 in expenditures between July 1, 2018 and June 30, 2020. The Committee terminated as of June
7 30, 2020.

8 The 90-day period preceding the November 6, 2018 General Election began on August 8, 2018.
9 The Committee's campaign statements reported late contributions received that required 24-hour
10 contribution reports as follows:

11 DATE RECEIVED	CONTRIBUTOR	AMOUNT	DUE DATE
12 09/11/2018	Stonecreek Properties, LLC	\$1,000	09/12/2018
13 09/21/2018	Pacific Advisory Coalition PAC	\$5,000	09/24/2018
14 09/27/2018	Sutter Valley Hospitals	\$1,000	09/28/2018
15 10/01/2018	Stonecreek Properties, LLC	\$1,000	10/02/2018
16 10/11/2018	Stonefield Homes, Inc.	\$15,000	10/12/2018
17 10/29/2018	Brekke Real Estate Inc.	\$1,000	10/30/2018
18 10/29/2018	PG&E Corporation	\$1,000	10/30/2018
19 TOTAL:		\$25,000	

20 The Committee failed to timely file 24-hour contribution reports for the seven late contributions
21 received totaling \$25,000 discussed above. Although, five of these late contributions totaling \$23,000
22 were reported on pre-election campaign statements filed prior to the election.

23 VIOLATIONS

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

25 The Committee, Geary, and Hurley failed to timely file 24-hour contribution reports for seven
26 late contributions received totaling \$25,000 by the September 12, 2018, September 24, 2018, September
27 28, 2018, October 2, 2018, October 12, 2018, and October 30, 2018 due dates, in violation of
28 Government Code Section 84203.

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¹⁰ Regulation 18426.1.

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 \$5,000.¹¹

4 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
5 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
6 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division
7 considers the facts and circumstances of the violation in the context of the following factors set forth in
8 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused
9 by the specific violation; (2) The level of experience of the violator with the requirements of the
10 Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The
11 presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was
12 deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the
13 Commission staff or any other governmental agency in a manner not constituting complete defense
14 under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern
15 and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
16 (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide
17 full disclosure.¹²

18 The public harm inherent in campaign reporting violations is that the public is deprived of
19 important, time-sensitive information regarding campaign activity. Here, aside from two late
20 contributions received totaling \$2,000, the Committee’s campaign activity that was required to be
21 reported prior to the election was reported on pre-election campaign statements filed prior to the
22 election.

23 In this case, there is no evidence to support an intent to conceal, deceive or mislead the public as
24 to the Committee’s activity. The violations appear to be inadvertent as Geary and Hurley are first-time
25 treasurers with no prior campaign experience and Brizzee is a first-time principal officer with no prior

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28 ¹¹ Section 83116, subdivision (c).
¹² Regulation 18361.5, subdivision (e).

1 campaign experience. Also, the Committee, Geary, Hurley, and Brizzee do not have prior enforcement
2 history.

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

5 *In the Matter of Friends of Action-Agua Dulce Schools Yes on Measure "CK" Committee, Lee*
6 *Jennings, and Christine Johnson*; FPPC Case No. 18/1270. Respondents, a primarily formed ballot
7 measure committee, its treasurer and principal officer, failed to timely file 24-hour contribution reports
8 for six late contributions received totaling \$9,000. These late contributions amount to approximately
9 85% of the total contributions received by the committee. In mitigation, all but one late contribution
10 received totaling \$1,000 were disclosed prior to the election on pre-election campaign statements.
11 Measure CK failed with 57.99% of the votes against its passage. Throughout 2018, the committee
12 reported \$10,600 in contributions and \$7,488 in expenditures. In aggravation, the committee failed to
13 timely file a pre-election campaign statement (8 days late) and two semi-annual campaign statements
14 (38 to 41 days late). Since the pre-election campaign statement was filed prior to the election and the
15 two semi-annual campaign statements showed minimal campaign activity, these violations were not
16 charged separately. On August 20, 2020, the Commission approved a penalty of \$2,000 for this count.

17 A higher penalty than that approved in *Friends of Action-Agua Dulce Schools* is recommended.
18 Here, the Committee failed to timely file 24-hour contribution reports for seven late contributions
19 received totaling \$25,000. These late contributions amount to approximately 94% of the total
20 contributions received by the committee. In mitigation, all but two late contributions received totaling
21 \$2,000 were disclosed prior to the election on pre-election campaign statements. Measure H was
22 successful receiving 66.64% of the votes. Throughout its existence, the Committee reported
23 approximately \$26,500 in contributions and \$26,500 in expenditures.

24 In aggravation, the Committee failed to timely file a pre-election campaign statement (6 days
25 late) and three semi-annual campaign statements (4 to 272 days late). Similar to *Friends of Action-Agua*
26 *Dulce Schools*, since the pre-election campaign statement was filed prior to the election and two of the
27 late-filed semi-annual campaign statements showed minimal campaign activity, these violations are not
28 being charged separately. However, one of the late-filed semi-annual campaign statements reported

1 \$2,000 in contributions and \$12,123 in expenditures. A higher penalty is justified here because of the
2 late contributions and semi-annual campaign statements at issue.

3 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
4 in the amount of \$3,000 is justified.

5 CONCLUSION

6 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
7 Respondents, Friends of Los Banos - Yes on H, Brenda Geary, Mason Hurley, and Gary Brizzee, hereby
8 agree as follows:

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

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

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

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

23 5. Respondents agree to the issuance of the decision and orders set forth below. Also,
24 Respondents agree to the Commission imposing against them an administrative penalty in the
25 amount of \$3,000. One or more cashier's checks or money orders totaling said amount – to be
26 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
27 payment of the administrative penalty described above, and same shall be held by the State of
28 California until the Commission issues its decision and order regarding this matter.

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

8 7. The parties to this agreement may execute their respective signature pages separately. A
9 copy of any party’s executed signature page, including a hardcopy of a signature page
10 transmitted via fax or as a PDF email attachment, is as effective and binding as the original.
11

12 Dated: _____
13 _____
14 Angela J. Brereton, Chief of Enforcement
15 Fair Political Practices Commission

16 Dated: _____
17 _____
18 Brenda Geary, individually and on behalf of
19 Friends of Los Banos - Yes on H, Respondents

20 Dated: _____
21 _____
22 Mason Hurley, individually and on behalf of
23 Friends of Los Banos - Yes on H, Respondents

24 Dated: _____
25 _____
26 Gary Brizzee, individually and on behalf of
27 Friends of Los Banos - Yes on H, Respondents
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1 The foregoing stipulation of the parties “In the Matter of Friends of Los Banos - Yes on H,
2 Brenda Geary, Mason Hurley, and Gary Brizzee,” FPPC Case No. 18/991, is hereby accepted as the
3 final decision and order of the Fair Political Practices Commission, effective upon execution by the
4 Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

Richard C. Miadich, Chair
Fair Political Practices Commission

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