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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of	) OAH No. 2019010677) FPPC No. 15/1045
FRIENDS OF CHRIS STAMPOLIS, FRIENDS OF CHRIS STAMPOLIS FOR SANTA CLARA SCHOOL BOARD 2012, and CHRIS STAMPOLIS,	) COMPLAINANT'S OPENING BRIEF IN SUPPORT OF THE PROPOSED DECISION
Respondents.	) Hearing Judge: Juliet E. Cox) Hearing Date: **October 1, 2019**) Hearing Time: 9:00 a.m.) Hearing Place: 1515 Clay Street, Suite 206 Oakland, CA 94612

Complainant, the Enforcement Division of the Fair Political Practices Commission (the "Commission"), submits this brief pursuant to Government Code section 83116 and the California Code of Regulations, title 2, sections 18361.5 and 18561.9.[1] The proposed decision of Administrative Law Judge Juliet E. Cox, dated October 23, 2019, for the most part, states findings of fact that are supported by and consistent with the evidence presented at the hearing in this matter on October 1, 2019, in Oakland, California. The proposed decision also contains an accurate statement and application of the law pertinent to this mater.

[1] The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in §§ 18110 through 18997 of title 2 of the California Code of Regulations, and all regulatory references are to this source. See §§ 83111 and 83116.

The purpose of this brief is to provide Enforcement Division's recommendation regarding this proposed decision pursuant to Regulation 18361.9(b)(1)(D). Regulation 18361.9 refers to Government Code section 11517 for the possible actions the Commission can take regarding this proposed decision from the Administrative Law Judge after a full hearing on this matter.

Enforcement Division's recommendation is that the Commission make technical and minor changes to the proposed decision and then adopt it.[2] The Enforcement Division recommends the following technical and minor changes to the proposed decision since the agency may make clarifying changes or a change of a similar nature so long as the change does not affect the factual or legal basis of the proposed decision:

1. On page 5, paragraph 14, there is a misstatement of fact. Amend as follows: "On May 3, 2016, complainant notified the County of Santa Clara by letter, with a copy to respondent, that the Fair Political Practices Commission's Enforcement Division would be taking "no further action" with respect to the late statements described in Findings 11 ~~and 13~~."[3] The letter referenced in this paragraph only pertains to the late statement described in Finding 11.
2. On page 14, paragraph 20, there is a misstatement of law. Amend as follows: "A committee that continues in existence from year to year must pay a $50 fee each year to the Secretary of State. (Gov. Code § 84101.5, subd. (c)(1).) The penalty for late payment (after ~~April 30~~ January 15) is $150. (*Id.*, subds. (c)(1), (d)(1).) Although the fee is due to the Secretary of State, the Commission must enforce this requirement. (*Id.*, subd. (d)(2).)"

The Enforcement Division agrees with the proposed total administrative penalty of $9,500 for the nineteen proven violations of the Political Reform Act and makes this recommendation to adopt the proposed decision. The law is properly stated and applied in the proposed decision, and the factors identified in Regulation 18361.5 are properly stated and applied. Furthermore, the proposed decision seems to be keenly affected by the mitigating factors present in the case. Respondents filed delinquent campaign statements soon after receiving an email from an Enforcement Division attorney, reported no

[2] Gov. Code section 11517, subd. (c)(2)(C).
[3] Respondent's Ex. D.

activity in the late-filed campaign statements, would have qualified for the Commission's Streamline Program, and have timely filed campaign statements since receiving the email from the attorney assigned to this case.

While accepting the total administrative penalty of $9,500, it is necessary to note that the Administrative Law Judge did not appreciate the importance of filing campaign statements prior to the Enforcement Division's first contact. In Finding 14, the Administrative Law Judge placed great weight on a letter from the Enforcement Division to the County of Santa Clara, dated May 3, 2016.[4] The Administrative Law Judge focused on the portion where the Enforcement Division stated it would take "no further action" against the 2012 Committee and Stampolis, but makes no mention of the rest of the letter, which explained the reasoning behind that decision. It was pivotal that the 2012 Committee and Stampolis filed a delinquent campaign statement *prior to* contact from the Enforcement Division. Due to the timing of the late filing, the Enforcement Division closed the case against the 2012 Committee and Stampolis with "no further action." A copy of the letter from May 3, 2016 was sent to Stampolis. Although no action was taken at that time, the pattern of late filing is clear.

The Enforcement Division ultimately decided to pursue nine late-filing counts against the Friends Committee, the 2012 Committee, and Stampolis due to circumstances present in this case. The Friends Committee, the 2012 Committee, and Stampolis have been involved in Stampolis's candidacy for many years for many different offices, received ample notices from the County of Santa Clara regarding their failure to timely file campaign statements, and received the letter from May 3, 2016, which indicated that the Enforcement Division actively enforced the laws concerning the timely filing of campaign statements. For these reasons, Respondents knew or should have known about their campaign filing obligations at the time of their filing violations. Respondents eventually filed their delinquent campaign statements, but that occurred only *after* an Enforcement Division attorney contacted Stampolis. The delinquent statements were filed 4 to 14 months after they were due.

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[4] Respondent's Ex. D.

The Enforcement Division pursued all nine late-filing counts and ten annual fee counts against Respondents with the understanding that the Administrative Law Judge might not adhere to the fine amounts normally approved by the Commission for similar violations, since the reporting (when the campaign statements were finally filed) showed no activity, and with the consideration that all late filer counts would be included in an Enforcement Streamline settlement,. The Enforcement Division presented this case to the Administrative Law Judge with the intent of securing legal findings in its favor for all nineteen counts, to bolster the Commission's dedication to promoting and upholding transparency in California's political system. The Enforcement Division believes that the proposed decision accomplishes that mission.

No additional material evidence could have been discovered, using reasonable diligence, and presented at the administrative hearing. Thus, the Enforcement Division respectfully requests that the Commission make technical and minor changes in the proposed decision and adopt it as the decision.

Dated: 11/8/2019

FAIR POLITICAL PRACTICES COMMISSION
Galena West
Chief of Enforcement

By: Ruth Yang
Commission Counsel
Enforcement Division

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811. On November 12, 2019, I served the following document(s):

1. Complainant's Opening Brief in Support of the Proposed Decision.

In the Matter of Friends of Chris Stampolis, Friends of Chris Stampolis for Santa Clara School Board 2012, and Chris Stampolis – OAH No. 2019010677; FPPC No. 15/1045

☒ By United States Postal Service. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the addresses listed below and placed the envelope or package for collection and mailing by first-class mail following my company's ordinary business practices. I am readily familiar with this business' practice for collection and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

☒ By Email or Electronic Transmission. I caused the document(s) to be sent to the person(s) at the e-mail address(es) listed below. I did not receive, within a reasonable time after transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ By Personal Delivery. I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

SERVICE LIST

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 12, 2019.

Ruth Yang