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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

FPPC No. 16/427

12 COMMITTEE FOR MEASURES T & U,
13 DARALYN REED, AND LOUISE
14 GLIATTO

STIPULATION, DECISION, AND ORDER

15 Respondents.

16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
18 respondents Committee for Measures T & U (the “Committee”), Daralyn Reed (“Reed”), and Louise
19 Gliatto (“Gliatto”) hereby agree that this Stipulation will be submitted for consideration by the Fair
20 Political Practices Commission (“Commission”) at its next regularly-scheduled meeting.

21 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this
22 matter and to reach a final disposition without the necessity of holding an additional administrative
23 hearing to determine the liability of the Committee, Reed, and Gliatto.

24 The Committee, Reed, and Gliatto understand, and hereby knowingly and voluntarily waive, any
25 and all procedural rights set forth in Government Code sections 83115.5, 11503 and 11523, and in
26 California Code of Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not
27 limited to, the right to personally appear at any administrative hearing held in this matter, to be
28 represented by an attorney at the Committee, Reed, and Gliatto’s own expense, to confront and cross-

1 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an
2 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter
3 judicially reviewed.

4 It is further stipulated and agreed that the Committee, Reed, and Gliatto violated the Political
5 Reform Act by failing to display required committee identification on advertisements, in violation of
6 Government Code section 84504, subdivision (c) and Regulation 18450.4, subdivision (b)(3)(D)
7 (1 count); and failing to timely report an expenditure made on a pre-election campaign statement, in
8 violation of Government Code section 84211, subdivisions (b) and (k), all as described in Exhibit 1.
9 Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a
10 true and accurate summary of the facts in this matter.

11 The Committee, Reed, and Gliatto agree to the issuance of the Decision and Order, which is
12 attached hereto. The Committee, Reed, and Gliatto also agree to the Commission imposing an
13 administrative penalty in the amount of \$3,500. The Committee, Reed, and Gliatto submitted with this
14 Stipulation a cashier's check in said amount, made payable to the "General Fund of the State of
15 California," as full payment of the administrative penalty that shall be held by the State of California
16 until the Commission issues its Decision and Order regarding this matter.

17 The parties agree that in the event the Commission refuses to accept this Stipulation, the check
18 shall become null and void, and within fifteen (15) business days after the Commission meeting at
19 which the Stipulation is rejected, all payments tendered by the Committee, Reed, and Gliatto in
20 connection with this Stipulation shall be reimbursed to them. The Committee, Reed, and Gliatto further

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1 stipulate and agree that in the event the Commission rejects the Stipulation, and a full evidentiary
2 hearing before the Commission becomes necessary, neither any member of the Commission, nor the
3 Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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5 Dated: _____ Galena West, Chief, on behalf of the Enforcement
6 Division of the Fair Political Practices Commission

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8 Dated: _____ Daralyn Reed, individually and on behalf of the
9 Committee for Measures T & U

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11 Dated: _____ Louise Gliatto, individually and on behalf of the
12 Committee for Measures T & U
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1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Committee for Measures T & U,
3 Daralyn Reed, and Louise Gliatto,” FPPC No. 16/427, including all attached exhibits, is hereby accepted
4 as the final decision and order of the Fair Political Practices Commission, effective upon execution
5 below by the Chair.

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7 IT IS SO ORDERED.

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9 Dated: _____

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11 Joann Remke, Chair
12 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent Committee for Measures T & U (“Committee”) is a primarily formed committee in Siskiyou County, California. Respondent Daralyn Reed (“Reed”) is the Committee’s treasurer. Respondent Louise Gliatto (“Gliatto”) is the Committee’s principal officer and assistant treasurer.

The Committee produced campaign signs supporting Measures T and U in Siskiyou County prior to the June 7, 2016 election. The signs did not contain “paid for by” disclosure statements required under the Political Reform Act (the “Act”).¹ Additionally, the Committee failed to timely disclose payment for the signs on a pre-election campaign statement, in violation of the Act.

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act’s provisions as they exist in 2016.

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

When enacting the Political Reform Act, the people of the State of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities.² To that end, the Act must be liberally construed to achieve its purposes.³

Advertisement

The Act governs any general or public advertisement authorized and paid for by a committee to support or oppose a ballot measure.⁴ Under the Act, an advertisement includes oversized print media and yard signs produced in quantities of more than 200.⁵

Advertisement Disclosure

The Act requires any committee supporting a ballot measure to print or broadcast its name as part of any advertisement.⁶ The disclosure must include the words “paid for by”

¹The Political Reform Act is contained in Government Code sections 81000 through 91014, and 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, and all regulatory references are to this source.

² Section 81001, subdivision (h).

³ Section 81003.

⁴ Section 84501, subdivision (a).

⁵ Regulations 18450.4, subdivision (b)(3)(D) and 18450.1, subdivision (a)(5).

⁶ Section 84504, subdivision (c).

followed by the name of the committee or person who paid for the advertisement.⁷ On oversized print media, the “paid for by” identification must be at least 5% of the height of the advertisement, printed in a color contrasting with the sign background.⁸

Disclosing Expenditures on Campaign Statements

The Act requires a committee to file campaign statements disclosing the total amount of expenditures the committee makes and providing information about the recipient of any expenditure valued at \$100 or more.⁹ Prior to the June 7, 2016 election, a committee was required to file a pre-election campaign statement on or before April 28 that disclosed the committee’s financial activity between January 1 and April 23, 2016.¹⁰

Treasurer and Principal Officer Liability

Every committee is required to have a treasurer.¹¹ It is the duty of the committee’s treasurer and principal officer to ensure compliance with the Act.¹² A committee treasurer and principal officer may be held jointly and severally liable with the committee for violations committed by the committee.¹³

SUMMARY OF THE FACTS

In April 2016, the Committee distributed signs in Siskiyou County supporting Measures T and U, two county measures appearing on the June 7, 2016 ballot. The signs were blue with yellow lettering stating, “Yes on T” above “Yes on U.” Approximately 500 of the signs were 18”x24” yard signs, 50 were 4’x4’ signs, and 50 were 4’x8’ signs. All signs lacked “paid for by” language followed by the Committee’s name.

A pre-election campaign statement filed by the Committee on April 28, 2016 did not disclose any expenditures related to campaign signs.

After receiving a complaint regarding the signs, the Enforcement Division contacted Reed and Gliatto on May 20, 2016 about the required disclosure statement. The same day, Reed and Gliatto agreed to the Fair Political Practice Commission’s issuance of a press release provided to the local media and posted on the Commission’s website. The press release identified the Committee as being responsible for the signs in order to achieve disclosure prior to the election.

⁷ Regulation 18450.4, subdivision (b)(1).

⁸ Regulation 18450.4, subdivision (b)(3)(D).

⁹ Section 84211, subdivisions (b) and (k).

¹⁰ Section 84200.8, subdivision (a).

¹¹ Section 84100.

¹² Section 81004 and 84100.

¹³ Sections 83116.5, 84104 and 91006; Regulations 18316.6 and 18402.1.

On May 23, 2016 Reed amended the Committee's pre-election campaign statement to reflect the Committee's \$5,753 expenditure to VictoryStore.com for the signs. The signs were paid for on March 31, 2016. These expenses were 36 percent of the Committee's total expenditures from January to June 2016, and were disclosed prior to the June 2016 election.

Voters passed both measures, with 58% voting in favor of Measure T, and 39% voting against it. Fifty-seven percent of voters supported Measure U, and 40% voted against it.

VIOLATIONS

Count 1 – Failure to Display Required Committee Identification

The Committee, Reed, and Gliatto failed to place a disclosure statement on approximately 500 yard signs, fifty 4'x4' campaign signs, and fifty 4'x8' campaign signs, in violation of Government Code section 84504 subdivision (c), and Regulation 18450.4 subdivision (b)(3)(D).

Count 2 – Failure to Timely Report Expenditures Made

The Committee, Reed, and Gliatto failed to timely disclose an expenditure of \$5,753 for the campaign signs on a pre-election campaign statement filed April 28, 2016, in violation of Section 84211, subdivisions (b) and (k).

CONCLUSION

This matter consists of two counts of violating the Act, which carries a maximum administrative penalty of \$5,000 per violation, or \$10,000.

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Commission considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d): 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3) whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated good faith in consulting with Commission staff; 5) whether there was a pattern of violations; and 6) whether, upon learning of the violation, the violator voluntarily filed amendments to provide full disclosure.

Count 1 – Failure to Display Required Committee Identification

Failure to include the proper committee identification on an advertisement can be a serious violation of the Act because it deprives the public of important information regarding who paid for the advertisement. In this matter, the public was deprived of a means to discover the identity of the committee who paid for the yard signs and oversized print media signs.

In mitigation, the Committee, Reed, and Gliatto consented to having the Commission publicize the source of the funds used to purchase the signs so that the public was aware of the identity of the committee who paid for the signs prior to the June 6, 2016 election. Reed stated that she was unaware of the sign disclosure requirements, and no evidence was obtained showing this violation was deliberate.

The Committee, Reed, and Gliatto's failure to include proper committee identification in yard signs is similar to these cases recently approved by the Commission:

- *In the Matter of Southern California Taxpayers Association, Sponsored by and with Major Funding from Milan Rei IV, LLC, et al.*, FPPC No. 12/782 (Commission approved stipulated decision on November 20, 2014). In this case, the respondents failed to display required committee identification on 750 lawn signs supporting a city measure prior to the November 6, 2012 election. The Commission approved a penalty of \$2,500 for the violation.
- *In the Matter Citizens for a Safer Butte County*, FPPC No. 16/432 (Commission approved stipulated decision on August 18, 2016). In this case, the respondent committee distributed thirty 4'x8' campaign signs fifty 4'x4' campaign signs. The signs failing to disclose the committee's name in font spanning at least 5% of each sign's height. After being contacted by the Enforcement Division, the committee agreed to have the Fair Political Practices Commission issue a press release to local media identifying the committee as being responsible for the signs prior to the June 7, 2016 election. The Commission approved a penalty of \$2,000 for the violation.

The Committee, Reed, and Gliatto failed to include proper disclosure statements on their campaign signs. However, a lower penalty than that issued by the Commission in the *Southern California Taxpayers Association* case cited above is warranted because the Committee took responsibility for the signs and worked with the Commission to achieve disclosure before the election with the issuance of a press release identifying the Committee as the true source of the signs. This case is similar to *Butte County* because disclosure was achieved prior to the election. Therefore, a penalty of \$2,000 is warranted for Count 1.

Count 2 – Failure to Timely Report Expenditures Made

The Committee, Reed, and Gliatto's failure to timely report expenditures on a pre-election campaign statement is similar to these cases recently approved by the Commission:

- *In the Matter of Gregory Kelly Meagher*, FPPC No. 14/32. (Commission approved a stipulated decision on May 19, 2016.) The respondent qualified as an independent expenditure committee and spent \$14,669 in advertisements, including 1,000 yard signs. Meagher failed to file any campaign statements or late contribution reports prior to the election to disclose these and other expenditures. Because of the lack of public disclosure prior to the election, the Commission imposed a total penalty of \$2,500 for Meagher's failure to file a pre-election campaign statement.
- *In the Matter of Gary Kreep and Citizens to Elect Gary Kreep to the Superior Court 2012*, FPPC No. 14/850 (Commission approved stipulated decision on September 17,

2015): The respondents failed to disclose accrued expenses of \$8,835 on two statements, one of which was a pre-election campaign statement. The second statement was a semi-annual campaign statement. The accrued expenses were approximately 17% of the committee's expenditures in 2012. The committee amended both statements after the June 2012 election. The Commission imposed a total penalty of \$2,500 for the violations.

In this case, an expenditure of \$5,753 not timely reported was less than the amount of advertising not disclosed in the *Meagher* and *Kreep* cases. However, this Committee's advertising expenditure was disclosed prior to the election, unlike in the *Meagher* and *Kreep* cases. And, unlike the *Meagher* and *Kreep* cases, this case involved a single expenditure on one statement which was not timely reported, rather than multiple expenditures different statements which went unreported until after the election. Therefore, a penalty of \$1,500 is warranted for Count 2.

PROPOSED PENALTY

After considering the factors listed in Regulation 18361.5, the penalties in prior cases, and other relevant factors, it is respectfully requested that the Commission impose a penalty of \$2,000 for Count 1 and \$1,500 for Count 2, totaling \$3,500.