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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

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11 In the Matter of:

12 COMMITTEE IN SUPPORT OF
13 MEASURE G 2018, AND MICHELE
PERRAULT,

14 Respondents.

FPPC Case No. 18/443

STIPULATION, DECISION AND ORDER

15
16 **INTRODUCTION**

17 Committee in Support of Measure G 2018 (the “Committee”) is a committee primarily formed to
18 support Plumas Lake Elementary School District Measure G, which appeared on the ballot in the June 5,
19 2018 Primary Election. Michele Perrault (“Perrault”) is the principal officer of the Committee.
20 Respondents violated the Political Reform Act (the “Act”)¹ by failing to include the necessary
21 disclosures on six different advertisements paid for by the Committee.

22 **SUMMARY OF THE LAW**

23 The Act and its regulations are amended from time to time. The violations in this case occurred in
24 2018. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
25 existed at that time.

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27 ¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the
28 Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in
Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2,
Division 6 of the California Code of Regulations, unless otherwise indicated.

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

2 When enacting the Act, the people of California found and declared that previous laws regulating
3 political practices suffered from inadequate enforcement by state and local authorities.² To that end, the
4 Act is to be construed liberally to accomplish its purposes.³ Further, the Act provides adequate
5 enforcement mechanisms so that the Act will be “vigorously enforced.”⁴

6 Advertisement Disclosure

7 An “advertisement” under the Act means any general or public communication that is authorized
8 and paid for by a committee for the purpose of supporting or opposing a candidate(s) for elective office
9 or a ballot measure(s).⁵

10 Under the Act, generally, any advertisement paid for by a primarily formed committee shall
11 include the words “Paid for by” followed by the name of the committee.⁶

12 The Act sets out certain display requirements for these disclosures as displayed on print
13 advertisements. Print ad disclosures must appear in a printed or drawn box with a solid white background
14 on the bottom of at least one page, set apart from other printed matter, and must use text that is in a
15 contrasting color.⁷ Disclosures on ads individually distributed, including mailers and flyers, must use text
16 that is in Arial font, at least 10-point in size.⁸ Disclosures on advertisements larger than those designed to
17 be individually distributed, including yard signs, shall be in Arial equivalent type with a total height of at
18 least five percent of the height of the advertisement, and printed on a solid background with sufficient
19 contrast that is easily readable by the average viewer.⁹

20 The Act also sets out display requirements for electronic advertisements. Electronic media
21 advertisements that are not websites must include the text “Who funded this ad?” in a contrasting color
22 and a font size that is easily readable that hyperlinks to a website containing the required disclosures in a
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24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (f).

27 ⁵ Section 84501.

28 ⁶ Section 84502.

⁷ Section 84504.2, subd. (a)(1).

⁸ Section 84504.2, subd. (a)(2).

⁹ Section 84504.2, subd. (b).

1 contrasting color and no less than 8-point font, instead of displaying the required disclosures on the ad
2 itself.¹⁰ If it is impracticable to print “Who funded this ad?,” then only a hyperlink is necessary.¹¹

3 Joint and Several Liability of Committee and Principal Officer

4 It is the duty of the committee’s principal officer to authorize the content of communications
5 made by the committee, authorize expenditures made by the committee, and determine the committee’s
6 campaign strategy.¹² A principal officer may be held jointly and severally liable, along with the
7 committee, for violations committed by the committee.¹³

8 **SUMMARY OF THE FACTS**

9 The Committee qualified on March 28, 2018 and filed its initial statement of organization on
10 March 29, 2018. The Committee received \$10,600 in contributions and made \$8,513.07 in expenditures
11 during the period of January 1, 2018 to June 30, 2018.

12 Measure G, a bond measure, was unsuccessful, with approximately 50.89 percent of voters voting
13 against the measure.

14 The Committee paid for a variety of advertising activity prior to the election, including yard
15 signs, mailers, flyers, and electronic ads. Each advertisement failed to comply with the advertising
16 disclosure rules of the Act in some way.

17 On March 30, 2018 and April 6, 2018, the Committee purchased 250 copies of a yard sign
18 advertisement. The advertisement failed to include any disclosure whatsoever. On or around May 1,
19 2018, prior to the election, after being contacted by the Enforcement Division, the Committee added
20 corrective stickers to the ads that included the required disclosure “Paid for by Committee in Support of
21 Measure G – 2018,” along with the Committee’s identification number, although not required.

22 On April 11, 2018, the Committee purchased six large sign advertisements, which also failed to
23 include any disclosure. As with the yard signs, the Committee corrected the signs by adding complying
24 stickers following contact from the Enforcement Division.

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¹⁰ Section 84504.3, subd. (a).

27 ¹¹ Section 84504.3, subd. (b).

28 ¹² Section 82047.6; Regulation 18402.1, subd. (b).

¹³ Sections 83116.5 and 91006.

1 The Committee paid for other print advertisements, including mailers and flyers, as well. In
2 particular, the Committee paid for 3,500 total copies of two different mailers, and 1,000 copies of a flyer
3 advertisement that were distributed prior to the election. However, each of these print ads failed to
4 identify the Committee by its correct name. Instead of “Committee in Support of Measure G 2018,” the
5 ads identified the responsible committee as “Committee to Vote Yes on Measure G.” Further, the ads
6 also failed to print the disclosures in a printed or drawn box, as required by the Act. Finally, the mailer
7 advertisements also ran afoul of the display requirements of the Act by failing to print the disclosures in
8 the appropriate size font. Instead of the required 10-point font, the disclosure was printed in
9 approximately 7-point font.

10 The Committee also paid for 97,917 impressions of an electronic banner-style advertisement
11 through Radio Chico. Although the advertisement included the disclosure “Paid for by the Committee to
12 Vote Yes on Measure G,” it failed to include the required “Who funded this ad?” hyperlink.

13 VIOLATIONS

14 Count 1: Failure to Comply With Disclosure Requirements for Political Advertisements

15 The Committee and Perrault failed to include the necessary disclosures on six different
16 advertisements, in violation of Sections 84502, 84504.2, and 84504.3.

17 PROPOSED PENALTY

18 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
19 count. Thus, the maximum penalty that may be imposed is \$5,000.¹⁴

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

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¹⁴ Section 83116, subd. (c).

28 ¹⁵ Regulation 18361.5, subd. (d).

1 Respondents do not have a prior history of violating the Act, and the violations contained herein
2 do not appear to be part of a pattern of disregard for the Act. Further, there is no evidence of an intent to
3 conceal, deceive, or mislead the public.

4 Additionally, the Commission considers penalties in prior cases involving similar violations.
5 Comparable cases in which a penalty was charged for failure to comply with disclosure requirements for
6 political advertisements include the following:

- 7 • *In the Matter of Preserve Tracy / “No on Measure M” and Dana Richards*; FPPC No. 18/1104.

8 Respondents, a primarily formed ballot measure committee and its treasurer, failed to include the proper
9 disclosures on two yard sign advertisements and one website advertisement, in violation of Sections
10 84502, 84504.2, subdivision (b), and 84107. The committee paid for one yard sign ad that failed to
11 include the necessary “Paid for by” or committee name disclosures. Respondents quickly modified the
12 sign by adding corrective stickers; however, the added disclosure was too small and did not print the full
13 name of the committee. The committee paid for a second yard sign advertisement that failed to print the
14 full name of the committee. Finally, the committee maintained a website that failed to include the
15 required “Paid for by” phrase. In February 2019, the Commission approved a fine of \$2,500 on one
16 count.

17 As to Count 1, the violations in this case are deserving of a penalty higher than that approved in
18 the *Preserve Tracy* case. Like in the comparable case, Respondents here added corrective stickers to the
19 deficient advertisements that originally included no disclosure at all. However, given that the Committee
20 here paid for more violating advertisements, a higher penalty is warranted.

21 Based on the foregoing, a penalty in the amount of \$3,000 is recommended.

22 CONCLUSION

23 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
24 Respondents, Committee in Support of Measure G 2018, and Michele Perrault, 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
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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
8 this matter, to be represented by an attorney at Respondents’ own expense, to confront and cross-examine
9 all 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 \$3,000. 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
22 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
23 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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Dated: _____
Galena West, Chief of Enforcement
Fair Political Practices Commission

Dated: _____
Michele Perrault, individually and on behalf of
Committee in Support of Measure G 2018

1 The foregoing stipulation of the parties “In the Matter of Committee in Support of Measure G 2018, and
2 Michele Perrault,” FPPC Case No. 18/443 is hereby accepted as the final decision and order of the Fair
3 Political Practices Commission, effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: _____
8 Richard C. Miadich, Chair
9 Fair Political Practices Commission