



MEMORANDUM

To: Chair Remke, and Commissioners Audero, Casher, Wasserman and Wynne

From: Erin Peth, Executive Director
Galena West, Chief of Enforcement
Angela J. Brereton, Senior Commission Counsel

Date: April 7, 2016

RE: Assignment of Hearing to Administrative Law Judge (“ALJ”)

Case Name: In the Matter of Ventura County Republican Party and Arkady Milgram (FPPC Case No. 16/100)

I. INTRODUCTION

Respondent Ventura County Republican Party (“VCRP”) was a political party committee located in Camarillo, CA. Respondent Arkady Milgram was the treasurer for VCRP.

Anthony A. “Tony” Strickland served in the California Legislature for ten years: as a State Senator, 19th District, from 2008 through 2012, and as a State Assemblymember, 37th District, from 1998 through 2004. Strickland was an unsuccessful candidate for California State Controller in the November 2, 2010 general election, and he unsuccessfully ran for Congress in 2012 and 2014. Strickland for Controller 2010, was Strickland’s candidate controlled committee. Lysa Ray was the treasurer for Strickland for Controller. Strickland, Strickland for Controller and Ray are named respondents in the companion case, FPPC Case No. 11/073.

Stanislaus Republican Central Committee (State Acct.), also known as Stanislaus County Republican Party (“SCRP”), was a political party committee located in Modesto, CA. Respondent Gary McKinsey was the treasurer for SCR. SCR and McKinsey are named respondents in the companion case, FPPC Case No. 16/178, for which a stipulation was approved by the Commission on March 17, 2016.

The Political Reform Act (“Act”)¹ requires committees to accurately disclose contributions and expenditures. The Act prohibits contributions made in the name of another, prohibits earmarking contributions unless the intermediary and original contributor information is disclosed, and imposes campaign contribution limits regarding the making and receiving of certain contributions. In 2010, an individual wishing to contribute to a candidate for California State

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.

Controller could not contribute more than \$6,500 per election. However, at that time, there was no limit on contributions from a political party county central committee to that same candidate.

In 2010, VCRP made \$45,000 in contributions to Strickland for Controller. However VCRP was not the true source of the contributions, and the true sources of the contributions were concealed. VCRP and Milgram violated the Act by failing to disclose both the intermediary and the original contributor information for the contributions and filing false campaign statements concealing that activity.

VCRP and Milgram have requested an administrative hearing on the Accusation attached hereto as Exhibit A. The Accusation alleges multiple violations of the Act.

II. COMMISSION ACTION IS ONLY REQUIRED IF THE COMMISSION DESIRES TO PARTICIPATE IN THE ADMINISTRATIVE HEARING

The Executive Director and the Chief of Enforcement are recommending that the hearing should be conducted before an ALJ pursuant to Section 11512, subdivision (a). The ALJ will then make a recommendation to the Commission on the findings of fact, law and penalty, if applicable, in the matter. The Commission will then have the opportunity to make the final determination on the case.

This memorandum is submitted to each member of the Commission pursuant to Regulation 18361.5, subdivision (b), which provides:

If the Executive Director determines that a hearing on the merits should be conducted before an administrative law judge alone pursuant to Government Code section 11512(a), he or she shall provide a copy of the accusation as well as a memorandum describing the issues involved to each member of the Commission. If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, the matter will be scheduled for a hearing before the Commission when an administrative law judge is available.

Thus, no Commission Action is required if the Commission approves of the recommendation that the administrative hearing in this matter should be conducted before an ALJ. However, two or more Commissioners may vote to keep the matter with the Commission if so desired.

III. SUMMARY OF PROCEDURAL HISTORY

The Enforcement Division served VCRP and Milgram with a Report in Support of a Finding of Probable Cause (“Report”) on June 5 and 6, 2015, respectively, and with an Amended Report on September 23, 2015. VCRP and Milgram requested a probable cause conference, which was held on November 10, 2015.

The Hearing Officer issued an Order re: Probable Cause, which was served on December 4, 2015, finding that probable cause exists to believe VCRP and Milgram violated the Act.

On March 7, 2016, the Commission's Chief of Enforcement Galena West, issued an Accusation against Shifren and the Committee in this matter. On March 8, 2016, the Accusation was personally served on VCRP and Milgram. VCRP and Milgram served a Notice of Defense requesting a hearing on or about March 22, 2016.

IV. PROCEDURAL ISSUES

Every hearing in a contested case must be presided over by an ALJ. The agency itself shall determine whether the ALJ is to hear the case alone or whether the agency itself is to hear the case with the ALJ.²

When the agency itself hears the case, the ALJ shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the agency on matters of law; the agency itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the ALJ. When the ALJ alone hears a case, he or she shall exercise all powers relating to the conduct of the hearing. A ruling of the ALJ admitting or excluding evidence is subject to review in the same manner and to the same extent as the ALJ's proposed decision in the proceeding.³

V. SUMMARY OF THE ACCUSATION

Laundered Campaign Contributions

Records show that in 2010, Strickland for Controller hired Pluvios Group, a political fundraising firm located in Los Angeles, CA. Matthew Jubitz, owner of Pluvios Group, told Enforcement Division staff that he worked closely with Strickland, and reported fundraising activity directly to Strickland. Jubitz testified that Pluvios Group maintained a detailed and extensive contributor contact list, which Pluvios Group used when fundraising for Strickland's campaign. Pluvios Group promoted Strickland's campaign to contributors and communities, created fundraising materials, planned, organized and hosted fundraisers, and collected contributions for Strickland for Controller related to these efforts. Pluvios Group received a 15% commission for all contributions it secured for Strickland's campaign.

Records show that because Strickland agreed to be part of the same ticket as Meg Whitman, the 2010 Republican candidate for California governor, Strickland for Controller set a fundraising goal of \$2 million.

In 2010, VCRP also hired Pluvios Group for fundraising work. The contract stated that Pluvios Group would be paid a 15% commission for all contributions it secured for VCRP.

William M. Templeton, a resident of Dallas, TX, who had significant business interests in oil and gas production and real estate in Ventura County, CA, told Enforcement Division staff that in March 2010, Strickland telephoned him. Templeton stated that during the telephone conversation, he agreed to give \$13,000 to Strickland's campaign for State Controller, the

² See § 11512, subd. (a).

³ See § 11512, subd. (b).

maximum allowed under the Act for both the primary and general elections. On March 29, 2010, Templeton sent an email to Jubitz stating that he was sending a \$13,000 check. Templeton signed a check dated March 29, 2010, for \$13,000 to Strickland's Controller campaign. Records show that Strickland for Controller received Templeton's maximum contribution on April 6, 2010.

According to his testimony, Templeton wanted to do more to support pro-business candidates in Ventura County without getting personally involved in local races. An email thread between Templeton and Jubitz dated June 4, 2010, indicates that Strickland and Templeton had discussed Templeton making contributions to VCRP and to Meg Whitman, and Strickland was to ask Jubitz where Templeton should send his checks. Jubitz instructed Templeton to send both checks to him at Pluvius Group. On June 7, 2010, Templeton wrote a check to VCRP for \$32,400, the maximum allowed for candidate support to a political party committee. Templeton testified that he had no contact with VCRP and sent the check to Jubitz. Jubitz testified that he delivered the check to VCRP. Records show that VCRP received Templeton's check on June 11, 2010, three days after the primary election.

Similarly, Andrew Barth, an investment manager residing in San Marino, CA, made a maximum contribution to Strickland for Controller and a large contribution to VCRP. Records show that on June 10, 2010, Jubitz sent an email to Barth stating in part:

As per our conversation, I have attached the general election contribution information for Tony. You and Avery can do the max of \$13,000. I also put the form for the Ventura County Republican Party Candidate direct committee.

Really appreciate your support.

On June 11, 2010, Barth wrote two checks. He wrote the first check to Strickland for Controller for the primary election totaling \$6,500. He wrote the second check to VCRP totaling \$15,000. Jubitz testified that Barth sent the \$15,000 check to him, and he delivered the check to VCRP.

On June 15, 2010, Jubitz emailed a fundraising Progress Report for Strickland for Controller to Strickland, and his chiefs of staff, Chris Wangsaporn and Kirk Hutson. This email thread followed:

Wangsaporn: does your amount include party money? Lysa [Ray] has us taking in 452,700

Jubitz: Have we received any party money?

Wangsaporn: I thought templetom [sic] was doing something with vc gop?

Jubitz: He did. 32,400... but I am not aware of whether or not a donation from VCRP has come in to Strickland for Controller.

Wangsaporn: You're right we have not yet. But should we add a line item for 'vc gop' It would be whatever the amount raised/pledged minus 7%

Jubitz: I know. Tony and I decided no.

///

Following up on the contributions through VCRP, on June 28, 2010, Wangsaporn sent an email to Strickland and Jubitz, subject line: "FYI VCGOP check":

Tony- you received
32,400 templeton
15,000 barth

Total of 47,400

After taking out 2800 for VCRP 7% and 7,110 for Jubitz 15% Mike [Osborn, VCRP Chairman] will be cutting you a check for 37,490.

Strickland responded to all:

No!!!! Don't take Jubitz out. We will pay Jubitz from our acct. We need to hit 2 million raised for team meg.

A few minutes later, Strickland followed up his response with:

Have mike [Osborn] write a 45k check to us. (He can get us 600 dollars). Matthew--do you think sue groff will do anything before the 30th?? If not get 45k check from vcgop.

Wangsaporn replied: "What are you talking about 600 dollars?" Strickland responded:

47,400 raised. [Minus] 7 percent 2800 equals 44,600. Vcgop gives us 400 to equal 45k. 400 not 600.

Records show that on June 28 and 30, 2010, VCRP sent two checks to Strickland for Controller, \$44,100 and \$900, totaling \$45,000. Strickland for Controller received the checks on June 30, 2010. The evidence shows that VCRP actually retained 5% of the original amounts from Templeton and Barth.

False Reporting

In its campaign statement for March 18 through May 22, 2010, Strickland for Controller reported the following contributions:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
04/06/2010	Templeton	2010P: \$6,500	\$6,500	\$13,000
04/06/2010	Templeton	2010G: \$6,500	\$6,500	\$13,000

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In its campaign statement for May 23 through June 30, 2010, Strickland for Controller reported the following contributions:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
06/30/2010	Barth	2010P: \$6,500	\$6,500	\$6,500
06/30/2010	VCRP	2010P: \$45,000	\$44,100	\$45,000
06/30/2010	VCRP	2010P: \$45,000	\$900	\$45,000

In its campaign statement for June 6 through June 30, 2010, VCRP reported the following contributions:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
06/11/2010	Templeton	None	\$32,400	\$32,400
06/28/2010	Barth	None	\$15,000	\$15,000

And VCRP reported the following expenditures supporting candidates/committees:

Schedule(s)	Date	Recipient	Description	Amount
E	n/a	Strickland for Controller	Monetary Contribution	\$44,100
D and E	06/30/2010	Strickland for Controller	Monetary Contribution – to support Tony Strickland	\$900

None of the above campaign statements disclose that Templeton and Barth were the true sources of the \$45,000 in contributions from VCRP and that VCRP was the intermediary for the contributions earmarked for Strickland for controller, as required.

Violations

The Accusation consists of three counts:

Laundered Campaign Contributions

Count 1: Failure to Disclose Intermediary and Original Contributor Information

VCRP and Milgram, in June 2010, while acting as the intermediary for Templeton, failed to disclose both the intermediary and the original contributor information for a contribution of approximately \$30,759 (\$32,400 minus VCRP’s approximate 5% fee) from Templeton to Strickland for Controller, violating Section 84302.

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Count 2: Failure to Disclose Intermediary and Original Contributor Information

VCRP and Milgram, in June 2010, while acting as the intermediary of Barth, failed to disclose both the intermediary and the original contributor information for a contribution of approximately \$14,241 (\$15,000 minus VCRP's approximate 5% fee) from Barth to Strickland for Controller, violating Section 84302.

False Reporting

Count 3: Disclosure of False Information in Campaign Statements

VCRP and Milgram, on or about July 27, 2010, filed a false campaign statement for the reporting period of June 6 through June 30, 2010, concealing the violations described in Counts 1 and 2, by falsely reporting that VCRP made a \$45,000 contribution to Strickland for Controller, when it was not the true source of the contributions and was the intermediary for the transactions, violating Section 84211, subdivision (k).

VI. CONCLUSION

If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, the matter will be scheduled for a hearing before the Commission when an ALJ is available.⁴ Otherwise, hearing of this matter will be conducted before an ALJ alone pursuant to Section 11512, subdivision (a).

* * * * *

⁴ Regulation 18361.5, subd. (b).

Exhibit A

GALENA WEST
Chief of Enforcement
ANGELA J. BRERETON
Senior Commission Counsel
FAIR POLITICAL PRACTICES COMMISSION
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Attorneys for Complainant
Enforcement Division of the Fair Political Practices Commission

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

In the Matter of) FPPC Nos. 16/100
)
)
)
 VENTURA COUNTY REPUBLICAN) **ACCUSATION**
 PARTY and ARKADY MILGRAM,)
)
)
 Respondents.) (Gov. Code §11503)

Complainant, the Enforcement Division of the Fair Political Practices Commission, after a finding of probable cause pursuant to Government Code Section 83115.5, alleges the following:

JURISDICTION

1. Complainant is the Enforcement Division of the Fair Political Practices Commission and makes this Accusation pursuant to the Political Reform Act (the “Act”),¹ in its official capacity and in the public interest.²

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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.

² §§ 83111, 83116, and 91000.5; Reg. 18361 and 18361.4, subd. (e).

2. In 1974, California voters found and declared that previous laws regulating political practices had suffered from inadequate enforcement, and they intended that the Act be vigorously enforced.³ To that end, the Act must be liberally construed to achieve its purposes.⁴

3. The Act is intended to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁵

RESPONDENTS

4. Respondent Ventura County Republican Party (“VCRP”) was a political party committee located in Camarillo, CA.

5. Respondent Arkady Milgram was the treasurer for VCRP.

6. The actions of VCRP and Milgram – failing to disclose both the intermediary and the original contributor information for earmarked contributions, and filing false campaign statements concealing that activity – are in violation of the law and public policies of the State of California.

RELATED CASES

7. Anthony A. “Tony” Strickland served in the California Legislature for ten years: as a State Senator, 19th District, from 2008 through 2012, and as a State Assemblymember, 37th District, from 1998 through 2004. Strickland was an unsuccessful candidate for California State Controller in the November 2, 2010 general election, and he unsuccessfully ran for Congress in 2012 and 2014. Strickland for Controller 2010, was Strickland’s candidate controlled committee. Lysa Ray was the treasurer for Strickland for Controller. Strickland, Strickland for Controller and Ray are named respondents in the companion case, FPPC Case No. 11/073.

8. Stanislaus Republican Central Committee (State Acct.), also known as Stanislaus County Republican Party (“SCRCP”), was a political party committee located in Modesto, CA. Gary McKinsey was the treasurer for SCRCP. SCRCP and McKinsey are named respondents in the companion case, FPPC Case No. 16/178.

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³ §§ 81001, subd. (h), and 81002, subd. (f).

⁴ § 81003.

⁵ § 81002, subd. (a).

APPLICABLE LAW

9. All applicable law in this Accusation is the law as it existed during 2010, the relevant time for the alleged violations.

Definition of Political Party Committee

10. A “political party committee” includes the county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code.⁶

Duty to Disclose Intermediary

11. The Act prohibits any person from making a contribution while acting as the intermediary of another, without disclosing to the recipient of the contribution both the intermediary’s own full name, street address, occupation, and employer, and the original contributor’s full name, street address, occupation, and employer.⁷ The Act also states that a person is an intermediary for a contribution if the recipient of the contribution “would consider the person to be the contributor without the disclosure of the identity of the true source of the contribution.”⁸

Prohibition on Earmarking

12. It is unlawful to make a contribution to a committee on the condition or with the agreement that it will be contributed to any particular candidate unless the contribution is fully disclosed pursuant to Section 84302.⁹

Campaign Contribution Limits

13. The Act imposes campaign contribution limits with respect to the making and receiving of certain contributions. These limits are adjusted periodically, and different limits apply depending upon who is contributing and who is receiving.¹⁰

14. In 2010, an individual wishing to contribute to a candidate for California State Controller could not contribute more than \$6,500 per election.¹¹ However, at that time, there was no limit on

⁶ § 85205.

⁷ § 84302.

⁸ Reg. 18432.5, subd. (a).

⁹ § 85704.

¹⁰ §§ 83124, 85301 and 85303, and Reg. 18545.

¹¹ § 85301, subd. (b); Reg. 18545, subd. (a)(2).

contributions from a political party committee (such as a county central committee) to that same candidate. In 2010, there was a calendar year limit of \$32,400 with respect to how much an individual could contribute to a political party committee for the purpose of making contributions to candidates for State Controller.¹² Individuals could exceed this amount so long as the excess was not used by the committee to support/oppose candidates for elective state office.

Duty to Disclose Accurate Expenditure Information on Campaign Statements

15. The Act requires committees to report on campaign statements the following information about its expenditures, including those expenditures which are contributions to candidates: (1) the payee's full name; (2) his or her street address; (3) the amount of each expenditure; (4) a brief description of the consideration for which each expenditure was made; and (5) in the case of an expenditure which is a contribution to a candidate, elected officer, or committee, the date of the contribution, the cumulative amount of contributions made to that recipient, the full name of the recipient, and the office and district/jurisdiction for which he or she seeks nomination or election.¹³

Liability for Violations

16. Any person who violates any provision of the Act, who purposely or negligently causes any other person to violate any provision of the Act, or who aids and abets any other person in the violation of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.¹⁴ This only applies to persons who have filing or reporting obligations under the Act, or who are compensated for services involving the planning, organizing or directing of any activity regulated or required by the Act.¹⁵

Treasurer Liability

17. Every committee must have a treasurer.¹⁶ It is the duty of a committee's treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and

¹² § 85303, subd. (b); Reg. 18545, subd. (a)(8).

¹³ § 84211, subd. (k).

¹⁴ §§ 83116, and 83116.5.

¹⁵ § 83116.5.

¹⁶ § 84100.

expenditure of funds and the reporting of such funds.¹⁷ A committee's treasurer may be held jointly and severally liable with the committee for any reporting violations.¹⁸

Joint and Several Liability

18. If two or more parties are responsible for a violation of the Act, they are jointly and severally liable.¹⁹

Probable Cause Proceedings

19. "Service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action."²⁰

20. A finding of probable cause is prohibited unless the person alleged to have violated the Act is 1) notified of the violation by service of process or registered mail with return receipt requested; 2) provided with a summary of the evidence; and 3) informed of his right to be present in person and represented by counsel at any proceeding of the Fair Political Practices Commission held for the purpose of considering whether probable cause exists for believing the person violated the Act.²¹ The required notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office.²²

21. Administrative action alleging a violation of the Act must be commenced within five years after the date on which the violation occurred.²³

Factors to be Considered by the Fair Political Practices Commission

22. In framing a proposed order following a finding of a violation pursuant to Section 83116, the Fair Political Practices Commission and the administrative law judge shall consider all the surrounding circumstances including but not limited to: (1) The seriousness of the violation; (2) The presence or absence of any intention to conceal, deceive or mislead; (3) Whether the violation was deliberate, negligent or inadvertent; (4) Whether the violator demonstrated good faith by consulting the

¹⁷ §§ 81004, 84100, 84104 and 84213, and Reg. 18427.

¹⁸ §§ 83116.5 and 91006.

¹⁹ § 91006.

²⁰ § 91000.5, subd. (a).

²¹ § 83115.5.

²² *Ibid.*

²³ § 91000.5.

Commission staff or any other government agency in a manner not constituting a complete defense under Section 83114(b); (5) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and (6) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.²⁴

GENERAL FACTS

23. Complainant incorporates paragraphs 4 – 8 of this Accusation, as though completely set forth herein.

Laundered Campaign Contributions

24. Records show that in 2010, Strickland for Controller hired Pluvius Group, a political fundraising firm located in Los Angeles, CA. Matthew Jubitz, owner of Pluvius Group, told Enforcement Division staff that he worked closely with Strickland, and reported fundraising activity directly to Strickland. Jubitz testified that Pluvius Group maintained a detailed and extensive contributor contact list, which Pluvius Group used when fundraising for Strickland's campaign. Pluvius Group promoted Strickland's campaign to contributors and communities, created fundraising materials, planned, organized and hosted fundraisers, and collected contributions for Strickland for Controller related to these efforts. Pluvius Group received a 15% commission for all contributions it secured for Strickland's campaign.

25. Records show that because Strickland agreed to be part of the same ticket as Meg Whitman, the 2010 Republican candidate for California governor, Strickland for Controller set a fundraising goal of \$2 million.

26. In 2010, VCRP also hired Pluvius Group for fundraising work. The contract stated that Pluvius Group would be paid a 15% commission for all contributions it secured for VCRP.

27. William M. Templeton, a resident of Dallas, TX, who had significant business interests in oil and gas production and real estate in Ventura County, CA, told Enforcement Division staff that in March 2010, Strickland telephoned him. Templeton stated that during the telephone conversation, he agreed to give \$13,000 to Strickland's campaign for State Controller, the maximum allowed under the

²⁴ Reg. 18361.5, subd. (d).

Act for both the primary and general elections. On March 29, 2010, Templeton sent an email to Jubitz stating that he was sending a \$13,000 check. Templeton signed a check dated March 29, 2010, for \$13,000 to Strickland's Controller campaign. Records show that Strickland for Controller received Templeton's maximum contribution on April 6, 2010.

28. According to his testimony, Templeton wanted to do more to support pro-business candidates in Ventura County without getting personally involved in local races. An email thread between Templeton and Jubitz dated June 4, 2010, indicates that Strickland and Templeton had discussed Templeton making contributions to VCRP and to Meg Whitman, and Strickland was to ask Jubitz where Templeton should send his checks. Jubitz instructed Templeton to send both checks to him at Pluvius Group. On June 7, 2010, Templeton wrote a check to VCRP for \$32,400, the maximum allowed for candidate support to a political party committee. Templeton testified that he had no contact with VCRP and sent the check to Jubitz. Jubitz testified that he delivered the check to VCRP. Records show that VCRP received Templeton's check on June 11, 2010, three days after the primary election.

29. Similarly, Andrew Barth, an investment manager residing in San Marino, CA, made a maximum contribution to Strickland for Controller and a large contribution to VCRP. Records show that on June 10, 2010, Jubitz sent an email to Barth stating in part:

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30. On June 15, 2010, Jubitz emailed a fundraising Progress Report for Strickland for Controller to Strickland, and his chiefs of staff, Chris Wangsaporn and Kirk Hutson. This email thread followed:

Wangsaporn: does your amount include party money? Lysa [Ray] has us taking in 452,700
Jubitz: Have we received any party money?
Wangsaporn: I thought templeton [sic] was doing something with vc gop?
Jubitz: He did. 32,400... but I am not aware of whether or not a donation from VCRP has come in to Strickland for Controller.
Wangsaporn: You're right we have not yet. But should we add a line item for 'vcgop' It would be whatever the amount raised/pledged minus 7%
Jubitz: I know. Tony and I decided no.

31. Following up on the contributions through VCRP, on June 28, 2010, Wangsaporn sent an email to Strickland and Jubitz, subject line: "FYI VCGOP check":

Tony- you received
32,400 templeton
15,000 barth

Total of 47,400
After taking out 2800 for VCRP 7% and 7,110 for Jubitz 15% Mike [Osborn, VCRP Chairman] will be cutting you a check for 37,490.

Strickland responded to all:

No!!!! Don't take Jubitz out. We will pay Jubitz from our acct. We need to hit 2 million raised for team meg.

A few minutes later, Strickland followed up his response with:

Have mike [Osborn] write a 45k check to us. (He can get us 600 dollars). Matthew--do you think sue groff will do anything before the 30th?? If not get 45k check from vcgop.

Wangsaporn replied: "What are you talking about 600 dollars?" Strickland responded:

47,400 raised. [Minus] 7 percent 2800 equals 44,600. Vcgop gives us 400 to equal 45k. 400 not 600.

32. Records show that on June 28 and 30, 2010, VCRP sent two checks to Strickland for Controller, \$44,100 and \$900, totaling \$45,000. Strickland for Controller received the checks on June 30, 2010. The evidence shows that VCRP actually retained approximately 5% of the original amounts from Templeton and Barth.

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33. The evidence shows that Strickland for Controller received a total of \$45,000 in contributions from Templeton and Barth through VCRP.

False Reporting

34. In its campaign statement for March 18 through May 22, 2010, Strickland for Controller reported the following contributions:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
04/06/2010	Templeton	2010P: \$6,500	\$6,500	\$13,000
04/06/2010	Templeton	2010G: \$6,500	\$6,500	\$13,000

35. In its campaign statement for May 23 through June 30, 2010, Strickland for Controller reported the following contributions:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
06/30/2010	Barth	2010P: \$6,500	\$6,500	\$6,500
06/30/2010	VCRP	2010P: \$45,000	\$44,100	\$45,000
06/30/2010	VCRP	2010P: \$45,000	\$900	\$45,000

36. In its campaign statement for June 6 through June 30, 2010, VCRP reported the following contributions:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
06/11/2010	Templeton	None	\$32,400	\$32,400
06/28/2010	Barth	None	\$15,000	\$15,000

And VCRP reported the following expenditures supporting candidates/committees:

Schedule(s)	Date	Recipient	Description	Amount
E	n/a	Strickland for Controller	Monetary Contribution	\$44,100
D and E	06/30/2010	Strickland for Controller	Monetary Contribution – to support Tony Strickland	\$900

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37. None of the above campaign statements disclose that Templeton and Barth were the true sources of the \$45,000 in contributions from VCRP and that VCRP was the intermediary for the contributions earmarked for Strickland for controller, as required.

PROCEDURAL HISTORY

38. The Enforcement Division initiated the administrative action against VCRP and Milgram in this matter by serving them with a packet containing a cover letter, a Report in Support of a Finding of Probable Cause (Report), a fact sheet regarding probable cause proceedings, selected sections of the California Government Code regarding probable cause proceedings for the Fair Political Practices Commission, and selected regulations of the Fair Political Practices Commission regarding probable cause proceedings.²⁵

39. VCRP and Milgram were served by certified mail, return receipt requested.²⁶ The original return receipt addressed to VCRP and was signed on June 5, 2015, and was returned to the Enforcement Division, and the original return receipt addressed to Milgram and was signed on June 6, 2015, and was returned to the Enforcement Division.²⁷ So the administrative action commenced on June 5 and 6, 2015, the dates the certified mail receipt was signed, and the five year statute of limitations was effectively tolled on those dates.

40. The Enforcement Division served VCRP and Milgram with an Amended Report in Support of a Finding of Probable Cause (Amended Report).²⁸

41. VCRP and Milgram were served by certified mail, return receipt requested.²⁹ The original return receipt addressed to VCRP and Milgram was signed on September 23, 2015, and was returned to the Enforcement Division.³⁰

42. The information contained in the packet advised VCRP and Milgram that they each had 21 days in which to request a probable cause conference and/or to file a written response to the Report.

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²⁵ §§ 83115.5 and 91000.5. See attached Exhibit A.

²⁶ §§ 8311(Mailing by Certified Mail) and 83115.5.

²⁷ See attached Exhibit B.

²⁸ §§ 83115.5 and 91000.5. See attached Exhibit C.

²⁹ §§ 8311(Mailing by Certified Mail) and 83115.5.

³⁰ See attached Exhibit D.

43. VCRP and Milgram requested a probable cause conference, which was held on November 10, 2015.

44. The Hearing Officer issued an Order re: Probable Cause, which was served on December 4, 2015, finding that probable cause exists to believe VCRP and Milgram violated the Act.³¹

VIOLATIONS

45. Complainant incorporates paragraphs 1 – 44 of this Accusation, as though completely set forth herein.

46. VCRP and Milgram committed three violations of the Act, as follows:

Count 1: Failure to Disclose Intermediary and Original Contributor Information

47. VCRP and Milgram, in June 2010, while acting as the intermediary for Templeton, failed to disclose both the intermediary and the original contributor information for a contribution of approximately \$30,759 (\$32,400 minus VCRP's approximate 5% fee) from Templeton to Strickland for Controller, violating Section 84302.

Count 2: Failure to Disclose Intermediary and Original Contributor Information

48. VCRP and Milgram, in June 2010, while acting as the intermediary of Barth, failed to disclose both the intermediary and the original contributor information for a contribution of approximately \$14,241 (\$15,000 minus VCRP's approximate 5% fee) from Barth to Strickland for Controller, violating Section 84302.

Count 3: Disclosure of False Information in Campaign Statements

49. VCRP and Milgram, on or about July 27, 2010, filed a false campaign statement for the reporting period of June 6 through June 30, 2010, concealing the violations described in Counts 1 and 2, by falsely reporting that VCRP made a \$45,000 contribution to Strickland for Controller, when it was not the true source of the contributions and was the intermediary for the transactions, violating Section 84211, subdivision (k).

EXCULPATORY AND MITIGATING INFORMATION

50. Complainant incorporates paragraphs 1 – 49 of this Accusation, as though completely set forth herein.

³¹ See attached Exhibit E.

51. VCRP and Milgram have no prior history of violating the Act, and cooperated with the investigation of this case.

AGGRAVATING FACTORS AND OTHER RELEVANT MATERIALS

52. Complainant incorporates paragraphs 1 – 51 of this Accusation, as though completely set forth herein.

53. Failing to disclose intermediary and original contributor information is one of the most serious violations of the Act because such conduct circumvents campaign contribution limits, violates disclosure requirements, and deceives the voting public as to the true source of funds. Here, VCRP's and Milgram's conduct deceived the voting public as to the true sources of the \$45,000 in contributions when they failed to disclose intermediary and original contributor information and filed inaccurate information in VCRP's campaign statement concealing the true sources of the contributions.

54. The evidence shows that all parties understood that VCRP would act as the undisclosed intermediary for Templeton's and Barth's contributions to Strickland's campaign and that the \$45,000 was to go to Strickland's controller campaign. Templeton and Barth each made maximum contributions to Strickland's campaign. Yet Strickland, an experienced candidate and officeholder, continued to solicit funds from Templeton and Barth and directed them to make contributions to VCRP. Strickland made it clear that the over-the-limit funds were meant for his controller campaign. After notification that Templeton and Barth had sent checks to VCRP, Strickland specifically directed the VCRP chairman to "write a 45k check" to Strickland's campaign, and within two days, VCRP sent \$45,000 to Strickland.

55. These violations, taken as whole, show deliberate conduct which resulted in a significant lack of disclosure and deprived the public of information regarding Strickland for Controller's campaign activity and the true sources of Strickland for Controller's funds. The conduct in this case is more egregious than the conduct in comparable cases because of the active involvement of Strickland and his campaign in coordinating and concealing the true sources of the funds.

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PRAYER

WHEREFORE, Complainant prays as follows:

56. That the Fair Political Practices Commission hold a hearing pursuant to Government Code Section 83116 and Title 2, California Code of Regulations, Section 18361.5, and at such hearing find that VCRP and Milgram violated the Act as alleged herein;

57. That the Commission, pursuant to Government Code Section 83116, subdivision (c), order VCRP and Milgram to pay a monetary penalty of Five Thousand Dollars (\$5,000) per count for the violations of the Political Reform Act alleged herein in **Counts 1 – 3**;

58. That the Commission, pursuant to Title 2, California Code of Regulations, Section 18361.5, subdivision (d), consider the following factors in framing a proposed order following a finding of a violation pursuant to Government Code Section 83116: (1) the seriousness of the violation; (2) the presence or absence of any intention to conceal, deceive or mislead; (3) whether the violation was deliberate, negligent or inadvertent; (4) whether the violator demonstrated good faith by consulting the Commission staff or any other government agency in a manner not constituting a complete defense under Government Code Section 83114(b); (5) whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and (6) whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

59. That the Commission grant such other and further relief as it deems just and proper.

Dated: _____

Galena West
Chief of Enforcement
Fair Political Practices Commission