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7
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

12 PATRICK J. FUREY, PAT FUREY FOR
MAYOR 2014, TORRANCE VOTERS
13 PAC TO SUPPORT PAT FUREY FOR
MAYOR 2014, RICHARD ROESCH, and
14 TINA McKINNOR,

15 Respondents.

FPPC Case No. 14/1118

STIPULATION, DECISION AND ORDER

16
17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Patrick J. Furey, Pat Furey for Mayor 2014, Torrance Voters PAC to Support Pat Furey for
20 Mayor 2014, Richard Roesch, and Tina McKinnor hereby agree that this Stipulation will be submitted for
21 consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

22 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
23 matter and to reach a final disposition without the necessity of holding an administrative hearing to
24 determine the liability of Respondents pursuant to Government Code section 83116.

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

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

4 It is further stipulated and agreed that Respondents violated the Political Reform Act as set forth
5 in Exhibit 1, which is a true and accurate summary of the facts in this matter—and which is incorporated
6 by reference as though fully set forth herein.

7 Respondents agree to the issuance of the Decision and Order, which is attached hereto. Also,
8 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
9 \$35,000, of which Respondents Patrick J. Furey and Pat Furey for Mayor 2014 are jointly and severally
10 liable for half—and Respondents Torrance Voters PAC to Support Pat Furey for Mayor 2014, Richard
11 Roesch, and Tina McKinnor are jointly and severally liable for the other half. One or more cashier's
12 checks or money orders totaling said amount—to be paid to the General Fund of the State of California—
13 is/are submitted with this Stipulation as full payment of the administrative penalty described above, and
14 same shall be held by the State of California until the Commission issues its Decision and Order
15 regarding this matter. The parties agree that in the event the Commission refuses to accept this
16 Stipulation, it shall become null and void, and within fifteen business days after the Commission meeting
17 at which the Stipulation is rejected, all payments tendered by Respondents in connection with this
18 Stipulation shall be reimbursed to Respondents.

19 Respondents further stipulate and agree that in the event the Commission rejects the Stipulation
20 and a full evidentiary hearing before the Commission becomes necessary, neither any member of the

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1 Commission, nor the Executive Director, shall be disqualified because of prior consideration of this
2 Stipulation.

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

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8 Dated: _____
9 Patrick J. Furey, individually and on behalf of Pat Furey
10 for Mayor 2014, Respondents

11 Dated: _____
12 Richard Roesch, individually and on behalf of Torrance
13 Voters PAC to Support Pat Furey for Mayor 2014,
14 Respondents

15 Dated: _____
16 Tina McKinnor, Respondent

17 **DECISION AND ORDER**

18 The foregoing Stipulation of the parties “In the Matter of Patrick J. Furey, Pat Furey for Mayor
19 2014, Torrance Voters PAC to Support Pat Furey for Mayor 2014, Richard Roesch, and Tina
20 McKinnor,” FPPC Case No. 14/1118, including all attached exhibits, is hereby accepted as the final
21 decision and order of the Fair Political Practices Commission, effective upon execution below by the
22 Chair.

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24 IT IS SO ORDERED.

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26 Dated: _____
27 Joann Remke, Chair
28 Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Patrick J. Furey first was elected to the Torrance City Council in 2008.

In 2014, he was a successful candidate for Mayor of Torrance. Pat Furey for Mayor 2014 was his candidate controlled committee, and Furey served as his own committee treasurer.

Torrance Voters PAC to Support Pat Furey for Mayor 2014 was a recipient committee, which was wholly funded by McCormick Ambulance and the Torrance Firefighters PAC. The principal officer and the treasurer of Torrance Voters PAC were Richard Roesch and Tina McKinnor, respectively. Also, Roesch was President of McCormick Ambulance.

This case involves contributions (totaling more than \$35,000) from Torrance Voters PAC to the Furey campaign, which were improperly reported as independent expenditures in violation of the Political Reform Act (the "Act").¹ (The election in question was subject to Torrance's local contribution limit of \$1,000.² However, the Fair Political Practices Commission does not have jurisdiction to enforce local contribution limits.) Also, this case involves failure to report required information about payments to subvendors.

SUMMARY OF THE LAW

The Act and its regulations are amended from time to time. The violations in this case occurred during the first half of 2014 (and the latter part of 2013). For this reason, all legal references and discussions of law pertain to the Act's provisions as they existed at that time.

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

When enacting the Political Reform Act, the people of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities.³ For this reason, the Act is to be construed liberally to accomplish its purposes.⁴

One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁵ Along these lines, the Act includes a

¹ The Act is contained in Government Code sections 81000 through 91014. 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. All regulatory references are to this source.

² Torrance Municipal Code, section 17.1.4.

³ Section 81001, subdivision (h).

⁴ Section 81003.

⁵ Section 81002, subdivision (a).

comprehensive campaign reporting system.⁶ Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁷

Difference Between Independent Expenditures and Contributions

The definition of “independent expenditure” includes an expenditure made by any person in connection with a communication that expressly advocates the election or defeat of a clearly identified candidate, or taken as a whole and in context, unambiguously urges a particular result in an election—where the expenditure is not made to or at the behest of the affected candidate or committee.⁸

Generally speaking, a “contribution” includes a payment—except to the extent that full and adequate consideration is received—unless it is clear from the surrounding circumstances that it is not made for political purposes.⁹ When such a payment is made at the behest of a candidate or committee, it is a contribution to the candidate/committee.¹⁰

“Made at the behest of” means made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.¹¹

The most common type of contribution results in the payment of money to a candidate or committee. Such contributions are referred to as “monetary contributions,” but sometimes a contribution of goods or services is made to a candidate or committee—rather than an outright payment to the candidate or committee. Such contributions are referred to as “in-kind” or “non-monetary” contributions. For example, if you pay for a billboard in support of a candidate at the candidate’s behest, you are making an in-kind/non-monetary contribution to the candidate because your money is not going directly to the candidate, but the candidate is receiving the benefit of your money in the form of a billboard. The terms “in-kind” and “non-monetary” are interchangeable.¹²

An expenditure is not an independent expenditure—and must be treated as a contribution to the candidate on whose behalf, or for whose benefit, the expenditure is made—if the expenditure is made under any of the following circumstances:¹³

- ❖ the expenditure is made with the cooperation of, or in consultation with, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate;

⁶ Sections 84200, et seq.

⁷ Section 81002, subdivision (f).

⁸ Section 82031.

⁹ Section 82015, subdivision (a).

¹⁰ Section 82015, subdivision (b).

¹¹ Regulation 18225.7, subdivision (a).

¹² See Section 84203.3 as compared to Regulation 18421.1, subdivision (f).

¹³ Section 85500, subdivision (b).

- ❖ the expenditure is made in concert with, or at the request or suggestion of, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate; or
- ❖ the expenditure is made under any arrangement, coordination, or direction with respect to the candidate or the candidate’s agent and the person making the expenditure.

Along these lines, there is a presumption that an expenditure funding a communication that expressly advocates the nomination, election or defeat of a clearly identified candidate is *not* independent of the candidate when the person making the expenditure retains the services of someone who provides the candidate with professional services related to campaign or fundraising strategy for that same election.¹⁴ Stated another way, when a candidate and a third party share an agent, that agent is a servant with two masters, and any purported independent expenditures made by the third party in support of the candidate are presumed to be contributions to the candidate—which are subject to contribution limits and the Act’s reporting requirements.

This burden shifting presumption helps “guard against circumvention of candidate contribution limits and disclosure obligations through the medium of professionals who act as conduits of strategic information between candidates and ostensibly ‘independent’ groups who wish to spend efficiently in support of the candidates.”¹⁵ The law “would fail in its purpose if expenditures made at the behest of a candidate could readily be disguised as expenditures of a person not subject to the contribution limits and disclosure obligations designed for candidates.”¹⁶

Mandatory Filing of 24-Hour Contribution Reports

At the core of the Act’s campaign reporting system is the requirement that committees must file campaign statements and reports for certain reporting periods and by certain deadlines.¹⁷

For example, each committee that makes or receives a late contribution, must file a Form 497—also known as a 24-Hour Contribution Report (and previously known as a late contribution report)—within 24 hours of making or receiving the contribution.¹⁸ A “late contribution” includes a contribution that totals, in the aggregate, \$1,000 or more and is made to or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate within 90 days before the date of the election.¹⁹

In the case of a late contribution that is an in-kind or non-monetary contribution, the normal 24-hour reporting deadline is extended to 48 hours, but only with respect to reporting

¹⁴ Regulation 18550.1, subdivision (b)(3).

¹⁵ *Bieber Advice Letter* (I-04-014.)

¹⁶ *Ibid.*

¹⁷ Sections 84200, et seq.

¹⁸ Section 84203, subdivisions (a) and (b).

¹⁹ Section 82036.

receipt of the contribution; reporting the *making* of such a contribution is subject to the normal 24-hour deadline.²⁰

As for the place of filing, candidates for city office, their controlled committees, and committees formed or existing primarily to support or oppose candidates to be voted upon in one city must file with the city clerk.²¹

Mandatory Reporting of Receipts, Expenditures, and Subvendor Information

With respect to the required contents of 24-hour contribution reports:²²

- ❖ The recipient must report:
 - his or her full name and street address;
 - the date and amount of the late contribution;
 - whether the contribution was made in the form of a loan;
 - the full name of the contributor; and
 - the contributor's street address, occupation, and the name of the contributor's employer, or if self-employed, the name of the business.
- ❖ The contributor must report:
 - his or her full name and street address;
 - the full name and street address of the recipient;
 - the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure; and
 - the date and amount of the late contribution.

Other filings that are required by the Act, such as pre-election and semi-annual campaign statements, must disclose certain information about receipts and expenditures, including the following:²³

- ❖ the total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received;
- ❖ the total amount of contributions received during the period from persons who gave a cumulative amount of \$100 or more—along with the following additional information about each such contributor:
 - the contributor's full name;

²⁰ Sections 84203, subdivisions (a) and (b); and 84203.3, subdivision (b).

²¹ Section 84215, subdivision (d).

²² Section 84203, subdivision (a).

²³ Section 84211, subdivisions (a), (b), (c), (f), (i), and (k).

- his or her street address;
- his or her occupation;
- the name of his or her employer, or if self-employed, the name of the business;
- the date and amount received for each contribution received during the period, and if the contribution is a loan, the interest rate for the loan;
- the cumulative amount of contributions;
- ❖ the total amount of expenditures made during the period, including contributions, and the total cumulative amount of expenditures made;
- ❖ the total amount of expenditures made during the period to persons who received \$100 or more, including contributions—along with the following information about each recipient of such expenditures:
 - the recipient’s full name;
 - his or her street address;
 - the amount of each expenditure;
 - a brief description of the consideration for which each expenditure was made; and
 - 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.

Also, no expenditure of \$500 or more may be made (other than for overhead or normal operating expenses) by an agent or independent contractor on behalf of, or for the benefit of, any candidate or committee unless it is reported by the candidate or committee as if the expenditure were made directly by the candidate or committee.²⁴ This type of information commonly is referred to as “subvendor information.” Specifically, the following subvendor information must be reported:²⁵

- ❖ the subvendor’s full name;
- ❖ his or her street address;
- ❖ the amount of each expenditure; and
- ❖ a brief description of the consideration for which each expenditure was made.

Joint and Several Liability of the Candidate, Committee, Treasurer, and Principal Officer

It is the duty of a committee treasurer to ensure that the committee complies with the Act.²⁶ Also, the principal officer of a committee generally bears responsibility for approval of the

²⁴ Section 84303.

²⁵ Section 84211, subdivision (k)(6).

²⁶ Sections 81004, 84100, and Regulation 18427.

political activity of the committee.²⁷ The treasurer and the candidate/principal officer may be held jointly and severally liable, along with the committee, for reporting violations.²⁸ (McKinnor is named as a respondent because of her role as treasurer of Torrance Voters PAC.)

SUMMARY OF THE FACTS

In the election held June 3, 2014, Furey became the new Mayor of Torrance, garnering approximately 40.62% of the vote (compared to his two opponents, Tom Brewer and Bill Sutherland, who garnered approximately 36% and 23.38%, respectively).

Pat Furey for Mayor 2014 was his candidate controlled committee, and Furey served as his own committee treasurer.

Torrance Voters PAC to Support Pat Furey for Mayor 2014 was a recipient committee that was wholly funded by McCormick Ambulance (which contributed \$25,000) and the Torrance Firefighters PAC (which contributed \$15,000). For ease of reference, Torrance Voters PAC is referred to as the PAC (and should not be confused with Torrance Firefighters PAC).

The PAC's principal officer and treasurer were Roesch and McKinnor, respectively. Also, Roesch was President of McCormick Ambulance.

McCormick Ambulance and the Torrance Firefighters PAC both were "maxed out" contributors to Furey's mayoral campaign. They contributed the maximum allowed amount of \$1,000 apiece—pursuant to the local contribution limit that was in effect for the City of Torrance.

Before the election, Furey retained his son, Patrick P. Furey, to be his campaign manager. For ease of reference, Mayor Furey (also known as Patrick J. Furey) is referred to as Furey Sr., and his son is referred to as Furey Jr.

Furey Jr. was co-owner of Liberty Campaign Solutions with Hasan Roberson. As business partners, Roberson and Furey Jr. worked together to provide some professional services for the mayoral campaign of Furey Sr. (including creation of a mailer for the Furey campaign). The campaign filings of Furey Sr. show that his committee paid Liberty more than \$38,000 for services.

On or about April 1, 2014, Roberson started working for Torrance Voters PAC under the name Veritas Consulting—while he also was working with Furey Jr. in his other business, Liberty Campaign Solutions.

On or about May 13, 2014, the PAC paid approximately \$14,951 for postage, literature, newspaper inserts, and a phone banking program in support of the Furey campaign for mayor. On or about May 17, 2014, the PAC also paid approximately \$20,223 for a billboard, yard signs,

²⁷ Regulation 18402.1.

²⁸ Sections 83116.5 and 91006.

door hangers, walkers, literature, postage, and graphics for the same purpose. The total amount spent by the PAC in this manner was approximately \$35,174. Of this amount, more than \$32,000 was paid through Veritas Consulting, the “dba” of Roberson—who was working for the PAC and Liberty at the same time.

Campaign filings of the PAC reported that the above-described expenditures—totaling \$35,174—were independent expenditures in support of Furey Sr. (which would not have been subject to the local contribution limit of \$1,000).

However, since Roberson worked on the same election for both the PAC and the Furey campaign, and since Roberson provided the Furey campaign with professional services through Liberty related to campaign strategy, there is a legal presumption that all of the PAC’s purported independent expenditures actually were contributions to the Furey campaign.²⁹ (As such, they were subject to the local contribution limit of \$1,000.)

However, this is only one means of distinguishing between independent expenditures and contributions. An expenditure also is classified as a contribution—instead of an independent expenditure—if the expenditure is made with the cooperation of, in consultation with, in concert with, or at the request/suggestion of, an agent of the candidate on whose behalf the expenditure is made; or the expenditure is made under any arrangement, coordination, or direction with respect to the candidate’s agent and the person making the expenditure.³⁰ This is important because in addition to the legal presumption described above, the Enforcement Division’s investigation in this case found evidence of actual coordination between agents of the Furey campaign and the PAC regarding some of the PAC’s expenditures.

For example, in June 2013, Furey Sr. was in negotiations with Keith Burks, a representative of CBS Outdoor, regarding the contract price for a campaign-related billboard. Once they agreed upon a price and a particular location, Furey Sr. asked Furey Jr. to “lock in” for the agreed upon price. In order to hold the billboard, a contract was entered into between the Furey campaign and CBS Outdoor—with the understanding that payment would be made when the election drew closer.

Along these lines, for the period ending December 31, 2013, the Furey campaign filed a semi-annual statement, which reported an accrued expense (unpaid bill) in the approximate amount of \$2,363 for the billboard. However, this expense was reported as canceled on the next campaign statement, which was filed March 24, 2014. Furey Sr. maintains that he canceled the expense for financial reasons and no longer intended to pursue the billboard.

On or about March 17, 2014, Furey Jr. emailed Jeff Taylor Graphics about the design and funding for the billboard. In the email, Furey Jr. stated that there “[m]ight be somebody else paying for it, if you know what I mean.” Three days later, on or about March 20, 2014, in another email to Jeff Taylor Graphics, Furey Jr. stated that Roberson would be contacting Taylor about the billboard, and Furey Jr. added: “An IE will be handling it.”

²⁹ See Regulation 18550.1, subdivision (b)(3).

³⁰ See Section 85500, subdivision (b).

In late March, Burks/CBS Outdoor followed up with Furey Jr. via email about payment for the billboard. Furey Jr. replied that a separate organization would be handling payment and submitting design. He added, “They are running a little behind (waiting on Torrance Firefighters basically).” (Note: Torrance Firefighters PAC contributed \$15,000 to Torrance Voters PAC on or about May 6, 2014. The only other contributor to Torrance Voters PAC was McCormick Ambulance, which contributed \$25,000 on or about April 2, 2014.)

On or about April 1, 2014, Burks indicated to Furey Jr. that they were running out of time to proceed with the billboard.

The next day, on or about April 2, 2014, Furey Jr. replied via email. He stated that the paying party emailed and called Burks “today,” and he asked Burks to confirm this. Burks replied that he had just spoken with Roberson, and they were in progress.

Two days later, on or about April 4, 2014, Roberson asked Burks to change the invoice to Torrance Voters PAC “as the client is not Pat Furey but an organisation [*sic*] that is supporting him.”

On or about April 7, 2014, Furey Jr. sent an email to Roberson about the timing and amount of the billboard payment. However, instead of using his normal email account, he used an alternate email account. The email, with a subject of “Billboard,” included the payment amount and payment instructions. Also, the email noted: “If it [the check] is hand delivered, they can begin work ASAP and they will get the invoice to Tina [McKinnor] ASAP.” Additionally, the email instructed Roberson to tell McKinnor to move forward without an invoice.

Ultimately, Torrance Voters PAC paid for the billboard (approximately \$2,363 to CBS Outdoor and \$350 to Jeff Taylor Graphics for the design), which prominently displayed the following message: “SOUTH BAY’S EMERGENCY RESPONDERS SUPPORT: PAT FUREY for TORRANCE MAYOR.”

On or about April 17, 2014, Furey Jr. emailed Burks, stating: “Just wanted to let you know I saw the billboard up yesterday. However it was not lit at nighttime. You may want to look into that, since that was part of the deal.”

This evidence of intentional coordination between agents of the Furey campaign and the PAC is significant because it illustrates an additional means of proving that the PAC’s expenditures were contributions to the Furey campaign—not independent expenditures.³¹

For the foregoing reasons, the PAC was required to report its expenditures, which totaled approximately \$35,174, as non-monetary contributions to the Furey campaign, and the Furey

³¹ See Section 85500, subdivision (b), which provides that an expenditure is not an independent expenditure—and must be treated as a contribution to the candidate on whose behalf, or for whose benefit, the expenditure is made—if the expenditure is made with the cooperation of, in consultation with, in concert with, or at the request/suggestion of, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate; or the expenditure is made under any arrangement, coordination, or direction with respect to the candidate or the candidate’s agent and the person making the expenditure.

campaign was required to report receipt of these contributions. However, this required reporting never happened. Instead, the PAC improperly reported its spending as independent expenditures on multiple filings, including a pre-election campaign statement filed for the period ending May 17, 2014; a supplemental independent expenditure report filed for the same reporting period; independent expenditure reports filed on May 20 and 21, 2014; and a Form 462 (verification of independent expenditures) in which Roesch, as principal officer for the PAC, verified that there was no coordination with the Furey campaign.

As for the payments that the Furey campaign made to Liberty (more than \$38,000), and the payments that the PAC made to Veritas (more than \$32,000), neither filer reported any of the required information about payments of \$500 or more that were made to subvendors. (The Furey campaign and the PAC maintain that they did not receive information from Liberty and Veritas about these payments to subvendors.) Proper subvendor reporting would have revealed that the PAC and the Furey campaign shared the same printer.

For the period ending June 2014 (the month of the election), the Furey campaign reported receipts and expenditures for 2014 of approximately \$95,883 and \$77,484, respectively.

VIOLATIONS

Counts 1-4: Failure to File 24-Hour Contribution Reports

Count 1: Failure to Report the Making of the Contributions of May 13, 2014 (\$14,951)

As described above, on or about May 13, 2014, the PAC made non-monetary contributions to the Furey campaign in the approximate amount of \$14,951. As principal officer, Roesch bore primary responsibility for approval of the spending. Roesch, McKinnor, and the PAC were required to report the making of these contributions by filing a Form 497 (also known as a 24-hour contribution report) within 24 hours, but they failed to do so—in violation of Section 84203, subdivisions (a) and (b).

Count 2: Failure to Report the Making of the Contributions of May 17, 2014 (\$20,223)

As described above, on or about May 17, 2014, the PAC made non-monetary contributions to the Furey campaign in the approximate amount of \$20,223. As principal officer, Roesch bore primary responsibility for approval of the spending. Roesch, McKinnor, and the PAC were required to report the making of these contributions by filing a Form 497 within 24 hours, but they failed to do so—in violation of Section 84203, subdivisions (a) and (b).

Count 3: Failure to Report Receipt of the Contributions of May 13, 2014 (\$14,951)

Regarding the non-monetary contributions that are the subject of Count 1, Furey Sr. and his controlled committee were required to report receipt of the contributions by filing a Form 497 within 48 hours, but they failed to do so—in violation of Sections 84203, subdivisions (a) and (b), and 84203.3, subdivision (b).

Count 4: Failure to Report Receipt of the Contributions of May 17, 2014 (\$20,223)

Regarding the non-monetary contributions that are the subject of Count 2, Furey Sr. and his controlled committee were required to report receipt of the contributions by filing a Form 497 within 48 hours, but they failed to do so—in violation of Sections 84203, subdivisions (a) and (b), and 84203.3, subdivision (b).

Counts 5-6: Failure to Report the Making and Receipt of
Non-Monetary Contributions on Pre-Election Campaign Statements

Count 5: Failure to Report the Making of the PAC’s Contributions

On or about May 23, 2014, the PAC filed a pre-election campaign statement for the period ending May 17, 2014. On the filing, the PAC, Roesch, and McKinnor were required to report the making of the non-monetary contributions that are the subject of Counts 1 and 2 (totaling approximately \$35,174), but they failed to do so—in violation of Section 84211, subdivisions (b), (i), and (k).

Count 6: Failure to Report Receipt of the PAC’s Contributions

On or about May 20, 2014, Furey Sr. and his controlled committee filed a pre-election campaign statement for the period ending May 17, 2014 (incorrectly designated as the period ending May 18, 2014), but they failed to report receipt of the non-monetary contributions that are the subject of Counts 1 and 2 (totaling approximately \$35,174)—in violation of Section 84211, subdivisions (a), (c), and (f).

Counts 7-8: Failure to Report Subvendor Information

Count 7: Subvendor Reporting by the PAC

On or about May 23, 2014, the PAC filed a pre-election campaign statement for the period ending May 17, 2014. Also, in August 2014, the PAC filed a semi-annual campaign statement for the period ending June 30, 2014.

On these filings, the PAC, Roesch, and McKinnor were required to report subvendor information regarding payments of \$500 or more that were made by agents (Roberson/Veritas) on behalf of the PAC, but they failed to do so. This included failure to report at least the following required subvendor information:

Period Ending	Subvendor	Amount
5/17/14	AmericasPrinter	\$2,601.72
5/17/14	Copyland	\$2,209.56
5/17/14	CampaignLA	\$1,218.00
5/17/14	Jorge Rivas	\$500.00
6/30/14	Copyland	\$5,917.86
Total: \$12,447.14		

In this way, the PAC, Roesch, and McKinnor violated the subvendor reporting requirements of Sections 84211, subdivision (k), and 84303.

Count 8: Subvendor Reporting by the Furey Campaign

On or about March 24, 2014, the Furey campaign filed a pre-election campaign statement for the period ending March 17, 2014 (which was incorrectly designated as the period ending March 17, 2013, but this typographical error was corrected with an amendment later that year—and in all other respects, the original filing purported to be a filing for the period ending March 17, 2014). Also, on or about May 20, 2014 the Furey campaign filed a pre-election campaign statement for the period ending May 17, 2014 (which was incorrectly designated as the period ending May 18, 2014).

On these filings, Furey Sr. and his committee were required to report subvendor information regarding payments of \$500 or more that were made by agents (Liberty/Furey Jr.) on behalf of the Furey campaign, but they failed to do so. This included failure to report at least the following required subvendor information:

Period Ending	Subvendor	Amount
3/17/14	Jeff Taylor Graphics	\$1,000.00
3/17/14	S & S Printers	\$3,084.70
5/18/14	AmericasPrinter	\$19,886.32
Total:		\$23,971.02

In this way, Furey Sr. and his committee violated the subvendor reporting requirements of Sections 84211, subdivision (k), and 84303.

PROPOSED PENALTY

This matter consists of eight counts. The maximum penalty that may be imposed is \$5,000 per count—for a total penalty of \$40,000.³²

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of violations.³³ Additionally, the Commission considers penalties in prior cases with similar violations.

In the current case, the parties do not have a history of prior campaign reporting violations. Also, Roesch, McKinnor, and Furey Sr. cooperated with the Enforcement Division by

³² See Section 83116, subdivision (c).

³³ Regulation 18361.5, subdivision (d).

agreeing to an early settlement and filing amendments to address the violations discussed above. Additionally, no direct evidence was found that Roesch, McKinnor, or Furey Sr. knew about the coordination between Furey Jr. and Roberson. However, there are other, overshadowing considerations, which are discussed below.

Regarding Counts 1 through 6, the public harm inherent in campaign reporting violations is that the public is deprived of important, time-sensitive information regarding political contributions and expenditures. The harm is even greater where there is improper reporting that serves to conceal circumvention of campaign contribution limits; this gives an unfair advantage over other candidates.

Recently, the Commission approved a settlement where this type of improper reporting was involved. See *In the Matter of Coto for Senate 2012, Joe Coto, and Vote Matters*, FPPC Case No. 12/305 (approved Aug. 20, 2015), where penalties in the range of \$3,000 to \$3,500 were imposed per count for multiple reporting violations—involving contributions totaling approximately \$117,493 that improperly were disguised as independent expenditures in order to circumvent contribution limits. As in the current case, there was a legal presumption that the purported independent expenditures were in fact contributions because certain consultants worked both for the candidate’s campaign and for the ostensibly independent committee—on the same election.

Although the current case involved smaller contributions than *Coto* (roughly \$35,000 in the current case, compared to \$117,493 in *Coto*), the current case warrants a higher penalty. Whereas *Coto* only involved the common agent presumption, the current case involves intentional coordination and concealment by agents of the committees in *addition* to the common agent presumption.

For example, Furey Jr.—in his capacity as campaign manager for his father, Furey Sr.—stated in an email to the person handling graphic design for the billboard: “I will discuss details of the design as soon as I know where the funding is coming from. *Might be somebody else paying for it, if you know what I mean.*”³⁴ A few days later, he wrote to the designer: “Haas [Roberson] will be contacting you about the billboard. An IE will be handling it.” Four days later, the billboard expense was removed from the Furey campaign’s latest campaign filing. Also, Furey Jr. used an alternate email account to remain anonymous when he coordinated with Roberson and the PAC, but when he was questioned about this by the Enforcement Division, he was uncooperative.

Under these circumstances, a penalty in the amount of \$4,500 per count is warranted for Counts 1 through 6.

Counts 7 and 8 involve failure to report required information about payments of \$500 or more (by agents on behalf of the committee) to subvendors. The public harm inherent in these types of violations is that the public is deprived of important information such as the names of the subvendors, the amounts of the payments to them, and the description of the products and

³⁴ Emphasis added.

services that the subvendors provided for the campaign. In the absence of subvendor reporting requirements, a single consultant could serve as a “one stop shop” for all of the campaign spending—and the only required reporting by the committee would be a single, large payment to the consultant. There would be no transparency for the public as to how the money was spent.

Recently, the Commission approved a stipulation where this type of non-reporting was involved. See *In the Matter of Million More Voters, Sponsored by the California Labor Federation, AFL-CIO, and Art Pulaski*, FPPC Case No. 14/327 (approved Aug. 20, 2015), where a penalty in the amount of \$4,000 was imposed for failure to report subvendor information on a year-end semi-annual campaign statement that was not required to be filed until after the election. The unreported information accounted for 100% of the subvendor payments that the committee was required to report for that period—and approximately 36% of all expenditures for the period. The total amount of unreported subvendor payments was approximately \$1,236,750.

In the current case, Counts 7 and 8 spanned two reporting periods each (as opposed to a single reporting period in *Million More Voters*). However, the percentages involved for Counts 7 and 8 are very similar to the percentages in *Million More Voters*. Count 7 involved non-reporting by the PAC that accounted for roughly 77% of the subvendor payments that were required to be reported for the periods in question—and approximately 31% of reported expenditures for those periods. Count 8 involved non-reporting by the Furey campaign that accounted for virtually all of the subvendor payments that were required to be reported for the periods in question—and approximately 38% of reported expenditures for those periods.

The biggest difference between *Million More Voters* and the current case is the amount of money involved. *Million More Voters* involved unreported subvendor payments totaling approximately \$1,236,750. On the other hand, Counts 7 and 8 involve unreported subvendor payments totaling approximately \$12,447 and \$23,971, respectively. Despite these smaller amounts, a comparable penalty is warranted in the current case because of the following aggravating factors:

- ❖ As noted above, Counts 7 and 8 spanned two reporting periods each (as opposed to a single reporting period in *Million More Voters*).
- ❖ Whereas *Million More Voters* involved non-reporting that was not required to be disclosed to the public until *after* the election—in the current case, most of the unreported subvendor payments were required to be reported *before* the election. This means there was greater public harm because pre-election information has the potential to affect how votes are cast.
- ❖ Proper subvendor reporting would have revealed that the Furey campaign and the PAC shared the same printer (further illustrating coordination).

Under these circumstances, a penalty in the amount of \$4,000 per count is warranted for Counts 7 and 8.

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CONCLUSION

For the foregoing reasons, the following agreed upon penalty is recommended:

Count	Description	Respondents	Penalty
1	24-Hour Contribution Reporting	Torrance Voters PAC to Support Pat Furey for Mayor 2014, Richard Roesch, and Tina McKinnor	\$4,500
2	24-Hour Contribution Reporting	Torrance Voters PAC to Support Pat Furey for Mayor 2014, Richard Roesch, and Tina McKinnor	\$4,500
3	48-Hour Contribution Reporting	Patrick J. Furey and Pat Furey for Mayor 2014	\$4,500
4	48-Hour Contribution Reporting	Patrick J. Furey and Pat Furey for Mayor 2014	\$4,500
5	Pre-Election Reporting	Torrance Voters PAC to Support Pat Furey for Mayor 2014, Richard Roesch, and Tina McKinnor	\$4,500
6	Pre-Election Reporting	Patrick J. Furey and Pat Furey for Mayor 2014	\$4,500
7	Subvendor Reporting	Torrance Voters PAC to Support Pat Furey for Mayor 2014, Richard Roesch, and Tina McKinnor	\$4,000
8	Subvendor Reporting	Patrick J. Furey and Pat Furey for Mayor 2014	\$4,000
Total:			\$35,000