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

10 In the Matter of:

11 KEN SEATON FOR NATIONAL CITY
COUNCIL 2014, KEN SEATON-
12 MSEMAJI, AND SAMANTHA
OLLINGER,

13 Respondents.
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FPPC Case No. 15/249

STIPULATION, DECISION AND ORDER

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16 INTRODUCTION

17 This matter arose from a non-filer referral from the local filing officer, the City Clerk of National
18 City. Respondent Ken Seaton for National City 2014 (“Committee”) is the candidate-controlled
19 committee formed to support Respondent Ken Seaton-Msemaji (“Seaton-Msemaji”) in his unsuccessful
20 bid for City Council in the November 4, 2014 General Election. Samantha Ollinger served as the
21 Committee’s treasurer. The Committee violated the Political Reform Act¹ by failing to timely file a pre-
22 election statement, a semiannual campaign statement, and 24-hour reports.

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27 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections
28 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.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred in
3 2014-2015. For this reason, all legal references and discussions of law pertain to the Act’s provisions as
4 they existed at that time—unless otherwise noted.

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

6 When enacting the Political Reform Act, the people of California found and declared that
7 previous laws regulating political practices suffered from inadequate enforcement by state and local
8 authorities.² Thus, it was decreed that the Act “should be liberally construed to accomplish its
9 purposes.”³ One purpose of the Act is to promote transparency by ensuring that receipts and expenditures
10 in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
11 practices are inhibited.⁴ Another purpose of the Act is to provide adequate enforcement mechanisms so
12 that the Act will be “vigorously enforced.”⁵

13 **Pre-Election Campaign Statements**

14 A candidate-controlled committee must file pre-election statements prior to elections on which
15 the candidate appears on the ballot.⁶ Whenever the deadline falls on a Saturday, Sunday, or official state
16 holiday, the filing deadline for a statement shall be extended to the next regular business day.⁷ For the
17 November 4, 2014 General Election, a candidate-controlled committee was required to file pre-election
18 statements for the period ending September 30, no later than October 6, 2014 and for the period ending
19 October 18, no later than October 23, 2014.⁸

20 **Semiannual Campaign Statements**

21 A candidate-controlled committee must file two semi-annual campaign statements each year no
22 later than July 31 for the period ending June 30 and no later than January 31 for the period ending
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25 ² Section 81001, subdivision (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subdivision (a).

28 ⁵ Section 81002, subdivision (f).

⁶ Section 84200.5.

⁷ Regulation 18116, subdivision. (a).

⁸ Former Section 84200.7.

1 December 31.⁹ Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing
2 deadline for a statement shall be extended to the next regular business day.¹⁰

3 **24-Hour Reports**

4 Each candidate or committee that makes or receives a late contribution must file a report within
5 24 hours of making or receiving the contribution.¹¹ A “late contribution” includes a contribution
6 aggregating \$1,000 or more that is made or received by a candidate or his or her controlled committee
7 within 90 days before the date of the election at which the candidate is to be voted on.¹² The reporting
8 period for the General Election in 2014 started on August 6, 2014.

9 **Joint and Several Liability of Committee and Treasurer**

10 It is the duty of a committee treasurer to ensure that the committee complies with the campaign
11 reporting requirements of the Act.¹³ A treasurer may be held jointly and severally liable, along with the
12 committee, for violations committed by the committee.¹⁴

13 **SUMMARY OF THE FACTS**

14 The Committee was formed to support Seaton-Msemaji’s run for City Council for National City.
15 The Committee raised \$82,154.91 and spent \$79,912.16. Seaton-Msemaji unsuccessful in the November
16 4, 2014 General Election. This case was opened after the Enforcement Division received a referral from
17 the National City Clerk.

18 The Committee filed the first pre-election campaign statement on time, but failed to timely file
19 the second. This statement, for the reporting period of October 1, 2014 to October 18, 2014, was due on
20 October 23, 2014. The Committee filed this statement on November 5, 2014, a day after the General
21 Election and thirteen (13) days late. This statement reported \$15,846 in contributions and \$22,309 in
22 expenditures. The Committee failed to file the semiannual campaign statement for the reporting period
23 October 19, 2014 to December 31, 2014, by the February 2, 2015 deadline. The Committee filed this
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25 ⁹ Section 84200, subdivision. (a).

26 ¹⁰ Regulation 18116, subdivision. (a).

27 ¹¹ Section 84203.

28 ¹² Section 82036.

¹³ Sections 81004, 84100, and Regulation 18427.

¹⁴ Sections 83116.5 and 91006.

statement on August 25, 2015—204 days late. The late semi-annual campaign statement reported \$13,765 in contributions and \$29,799 in expenditures.

After reviewing all the statements, other violations were found. Specifically, the Committee failed to timely file 24-hour reports or failed to file these reports at all. In total, the Committee failed to timely report 13 late contributions on a 24-hour report. The following chart details these late contributions. The contributions labeled with an asterisk were timely reported by the Contributor.

	Contributor	Amount Received by Committee	Date Received by Committee	Late Contribution Report Filed
	1st pre-election statement period of July 1, 2014 through September 30, 2014			
1	Vargas for Congress	\$10,000	8/11/2014	15 days late
2	International Brotherhood of Electrical Workers Local 569*	\$1,000	9/3/2014	Not Reported
3	Patricia Browning	\$1,000	9/30/2014	Not Reported
	2nd pre-election statement period of October 1, 2014 through October 18, 2014			
4	Steve Peace	\$1,000	10/1/2014	21 days late
5	United Food and Commercial Workers	\$5,000	10/7/2014	15 days late
6	Mel Katz	\$1,000	10/12/2014	10 days late
7	International Union of Operating Engineers	\$1,000	10/16/2014	5 days late
19	Unite Here Local 30	\$1,000		
8	Xtreme Green Electric Vehicles	\$1,000	10/18/2014	3 days late
	Semi-Annual statement period of October 19, 2014 through December 31, 2014			
9	District Council of Ironworkers PAC*	\$1,000	10/27/2014	Not Reported
23	Southwest Regional Council of Carpenters PAC*	\$1,000		
10	Laborers International Union of North America, Local 89*	\$3,000	10/31/2014	Not Reported
25	San Diego Imperial Counties*	\$2,000		
	Total Late Contributions	\$29,000		

1 **VIOLATIONS**

2 **Count 1**

3 **Failure to Timely File a Pre-election Campaign Statement**

4 The Committee, Seaton-Msemaji, and Ollinger failed to timely file one pre-election statement for
5 the period of October 1, 2014 through October 18, 2014, in violation of Section 84200.5 and 84200.7.

6 **Count 2**

7 **Failure to Timely File a Semiannual Campaign Statement**

8 The Committee, Seaton-Msemaji, and Ollinger failed to timely file one semiannual campaign
9 statement for the period of October 19, 2014 to December 31, 2014, in violation of Section 84200.

10 **Count 3**

11 **Failure to Timely File 24-Hour Reports**

12 The Committee, Seaton-Msemaji, and Ollinger failed to timely file ten (10) 24-hour Reports, in
13 violation of Section 84203, subdivision (a).

14 **PROPOSED PENALTY**

15 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
16 count. Thus, the maximum penalty that may be imposed is \$15,000.¹⁵

17 In determining the appropriate penalty for a particular violation of the Act, the Commission
18 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
19 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
20 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
21 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
22 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
23 record of violations.¹⁶ The public harm inherent in campaign reporting violations is that the public is
24 deprived of important, time-sensitive information regarding political contributions. Here, the violations
25 appear largely negligent, but not deliberate. There is no prior enforcement history and the respondents
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15 See Section 83116, subdivision (c).

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16 Regulation 18361.5, subdivision (d).

1 cooperated with the Enforcement Division and filed all required corrective amendments. The respondents
2 have remained current on subsequent filing obligations.

3 Additionally, the Commission considers penalties in prior cases with comparable violations. With
4 regard to Count 1: *In the Matter of San Joaquin County Democratic Central Committee and Dyane*
5 *Burgos*, FPPC No. 16/082 (The Commission approved a stipulation on June 29, 2017.) The respondents
6 had a duty to file three pre-election statements in connection with a State General Election and a Special
7 State Election. Two of the statements were filed well after the election, disclosing a substantial amount of
8 reportable activity. In one statement, the respondents had \$10,800 in contributions and \$101,325 in
9 expenditures and in the other \$58,000 in contributions and \$72,889 in expenditures. The Commission
10 imposed a penalty of \$2,500 for each statement.

11 As in the comparable case, the Committee failed to file the pre-election statement until after the
12 election. However, in mitigation, the amount undisclosed was less. Therefore, a penalty of \$2,000 is
13 recommended.

14 With regard to Count 2: *In the Matter of Vote Latino Action Fund PAC and Maria Teresa Kumar*,
15 FPPC No. 16/338 (The Commission approved a stipulation on March 16, 2017.) The respondents had a
16 duty to file a semiannual campaign statement for the reporting period of October 21, 2012 to December
17 31, 2012. That statement, filed four years late, disclosed \$65,771 in contributions and an equal amount in
18 expenditures. The Commission imposed a penalty of \$2,500 for this count.

19 Here, the Committee also filed a semiannual campaign statement late, however, in mitigation, the
20 statement disclosed a smaller amount in contributions and expenditures. The statement was filed eight
21 months late, not four years late, and the Committee has remained current on its filing obligations since.
22 The Committee was cooperative with the Enforcement Division and filed all corrective amendments.
23 Therefore, a penalty of \$1,500 is recommended.

24 With regard to Count 3: *In the Matter of YES on Measure U – Kids Need U and Kelly Brown*,
25 FPPC No. 16/19824. (The Commission approved a stipulated decision on January 19, 2017.) The
26 respondents failed to timely file six 24-Hour Reports for monetary contributions totaling \$70,500. The
27 Commission imposed a penalty of \$2,000.

1 For Count 3, though the case here involves more reports (ten as compared to six), the amount of
2 money that was not timely reported was less than in the comparable case (\$29,000 compared to \$70,500.)
3 Some of the contributions were timely reported on the other end of the transaction. Based on these facts,
4 the recommendation is a penalty of \$1,500.

5 After considering the factors listed in Regulation §18361.5 and penalties in prior similar cases, a
6 penalty of \$5,000 is recommended.

8 CONCLUSION

9 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
10 Respondents Ken Seaton for National City Council 2014, Ken Seaton-Msemaji, and Samantha Ollinger
11 hereby agree as follows:

12 1. Respondents violated the Act as described in the foregoing pages, which are a true and
13 accurate summary of the facts in this matter.

14 2. This stipulation will be submitted for consideration by the Fair Political Practices
15 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

16 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
17 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
18 liability of Respondents pursuant to Section 83116.

19 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all
20 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
21 This includes, but is not limited to the right to appear personally at any administrative hearing held in this
22 matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine all
23 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
24 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
25 reviewed.

26 5. Respondents agree to the issuance of the decision and order set forth below. Also,
27 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
28 \$5,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General

1 Fund of the State of California—is/are submitted with this stipulation as full payment of the
2 administrative penalty described above, and same shall be held by the State of California until the
3 Commission issues its decision and order regarding this matter.

4 6. If the Commission declines to approve this stipulation—then this stipulation shall become
5 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
6 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to
7 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing
8 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
9 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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14 Dated: _____

_____ Galena West, Chief of Enforcement
Fair Political Practices Commission

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17 Dated: _____

_____ Ken Seaton-Msemaji, individually and on behalf of Ken
Seaton for National City Council 2014, Respondents

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20 Dated: _____

_____ Samantha Ollinger, Respondent

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1 The foregoing stipulation of the parties “Ken Seaton For National City Council 2014, Ken
2 Seaton-Msemaji, and Samantha Ollinger,” FPPC Case No. 15/249, is hereby accepted as the final
3 decision and order of the Fair Political Practices Commission, effective upon execution below by the
4 Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

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