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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA

10  
11 In the Matter of:

12 POWERPAC.ORG VOTER FUND, A  
13 SPONSORED COMMITTEE OF  
POWERPAC.ORG; and LISA LE,

14 Respondents.

FPPC Case No. 16/457

STIPULATION, DECISION AND ORDER

15  
16 **INTRODUCTION**

17 This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit  
18 Program for calendar years 2011 and 2012.

19 PowerPAC.org Voter Fund, a Sponsored Committee of PowerPAC.org is a state general purpose  
20 committee. Its sponsor is a non-profit organization with a stated mission of increasing voter participation  
21 among under-represented communities. Lisa Le is the committee treasurer.

22 This case involves campaign reporting violations of the Political Reform Act.<sup>1</sup>

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27 <sup>1</sup> 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 2012. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they  
4 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.<sup>2</sup> Thus, it was decreed that the Act “should be liberally construed to accomplish its  
9 purposes.”<sup>3</sup>

10 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in  
11 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper  
12 practices are inhibited.<sup>4</sup> Along these lines, the Act includes a comprehensive campaign reporting system.<sup>5</sup>  
13 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be  
14 “vigorously enforced.”<sup>6</sup>

15 **Required Filing of Campaign Statements and Reports by Specific Deadlines**

16 At the core of the Act’s campaign reporting system is the requirement that committees must file  
17 campaign statements and reports for certain reporting periods and by certain deadlines.<sup>7</sup> For example,  
18 certain committees are required to file online or electronically with the Secretary of State, including  
19 general purpose committees that cumulatively receive contributions or make expenditures totaling  
20 \$25,000 or more to support or oppose candidates for any elective state office or state measure.<sup>8</sup>  
21 Commencing 90 days prior to an election—and ending on the date of the election—when such a  
22 committee makes an independent expenditure of \$1,000 or more in connection with a state ballot  
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25 <sup>2</sup> Section 81001, subdivision (h).

26 <sup>3</sup> Section 81003.

27 <sup>4</sup> Section 81002, subdivision (a).

28 <sup>5</sup> Sections 84200, et seq.

<sup>6</sup> Section 81002, subdivision (f).

<sup>7</sup> Sections 84200, et seq.

<sup>8</sup> Section 84605, subdivision (a)(2).

1 measure, that committee must file an online or electronic independent expenditure report with the  
2 Secretary of State within 24 hours.<sup>9</sup>

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

4 It is the duty of a committee treasurer to ensure that the committee complies with the Act.<sup>10</sup> A  
5 treasurer may be held jointly and severally liable, along with the committee, for violations committed by  
6 the committee.<sup>11</sup>

7 **SUMMARY OF THE FACTS**

8 In 2012, PowerPAC.org Voter Fund, a Sponsored Committee of PowerPAC.org was required to  
9 file campaign statements and reports online or electronically with the Secretary of State.<sup>12</sup>

10 **Counts 1 through 4**

11 *Failure to File 24-Hour Independent Expenditure Reports*

12 On or about October 12, 2012, the PAC engaged in political spending in connection with get-out-  
13 the-vote efforts expressly advocating for Propositions 30, 32, 34, and 39 as follows:

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Count	Measure	Position	Amount
1	Proposition 30	Support	\$50,833
2	Proposition 32	Oppose	\$50,833
3	Proposition 34	Support	\$5,000
4	Proposition 39	Support	\$11,334

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18 These propositions were on the ballot for the election to be held November 6, 2012. These  
19 expenditures were independent expenditures. They were required to be reported online or electronically  
20 on independent expenditure reports (Form 496's)—which were required to be filed with the Secretary of  
21 State within 24 hours. However, these reports were not filed.

22 In this way, the PAC and its treasurer, Lisa Le, committed four violations of Section 85500,  
23 subdivision (a).

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26 <sup>9</sup> Sections 85204 and 85500, subdivision (a).

27 <sup>10</sup> Sections 81004, 84100, and Regulation 18427.

28 <sup>11</sup> Sections 83116.5 and 91006.

<sup>12</sup> Section 84605, subdivision (a)(2).

1 **PROPOSED PENALTY**

2 This matter consists of four counts. The maximum penalty that may be imposed is \$5,000 per  
3 count. Thus, the maximum penalty that may be imposed is \$20,000.<sup>13</sup>

4 In determining the appropriate penalty for a particular violation of the Act, the Commission  
5 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the  
6 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
7 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
8 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
9 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
10 record of violations.<sup>14</sup> Additionally, the Commission considers penalties in prior cases with comparable  
11 violations.

12 Regarding Counts 1 through 4, the public harm inherent in campaign reporting violations is that  
13 the public is deprived of important, time-sensitive information regarding political contributions and  
14 expenditures.

15 Recently, the Commission approved a settlement involving this type of violation. See *In the*  
16 *Matter of California Taxpayers Advocate and Catherine Anderson, Treasurer*; FPPC Case No. 14/324  
17 (approved Oct. 16, 2014), where the Commission imposed a penalty in the amount of \$2,500 against a  
18 state general purpose committee and its treasurer for failing to file three 24-hour independent expenditure  
19 reports for independent expenditures totaling \$58,508. Failure to file the three reports was charged as a  
20 single count. It was noted that the activity in question was reported on pre-election filings prior to the  
21 election—so there was some public disclosure. Also, there was no evidence that the violation was  
22 intentional. Additionally, the committee and its treasurer cooperated with the Enforcement Division, and  
23 they did not have a prior history of violations.

24 As in the *California Taxpayers* case, there is no evidence in the current case that the violations  
25 were intentional, and there was some public disclosure prior to the election. In the current case, most of  
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<sup>13</sup> See Section 83116, subdivision (c).

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<sup>14</sup> Regulation 18361.5, subdivision (d).

1 the spending in question was reported in late October on a pre-election filing—albeit incorrectly and 12  
2 days after the spending was required to be reported on 24-hour reports. (In some cases, the spending was  
3 reported incorrectly as non-monetary contributions. In other cases, the spending was reported incorrectly  
4 as accrued expenses.)

5 However, there are three important differences between the current case and the *California*  
6 *Taxpayers* case. Because of these differences, it is recommended that each failure to file an independent  
7 expenditure report in the current case should be charged as a separate count (instead of consolidating  
8 them all into a single count as in *California Taxpayers*).

9 The first difference is that the current case involves roughly twice as much reportable activity as  
10 *California Taxpayers* (\$118,000 compared to \$58,508).

11 Second, the current case involves a sophisticated treasurer with ample reason to be very familiar  
12 with the Act. Le is a certified public accountant who has been a professional treasurer for many years.  
13 (On the other hand, the *California Taxpayers* stipulation did not reflect that the parties were sophisticated  
14 in that case.)

15 Third, unlike *California Taxpayers*, in the current case, the committee and its treasurer do have a  
16 history of prior campaign reporting violations, as noted below:

- 17 ➤ On July 14, 2010, a warning letter was issued to Le (and the PowerPAC.org Issues  
18 Committee) in FPPC Case No. 10/159 for campaign reporting violations, which occurred in  
19 2008 and 2009. (This case involved a different committee—but the same treasurer as the  
20 current case.)
- 21 ➤ On May 20, 2011, a warning letter was issued to Le and the committee in FPPC Case No.  
22 11/357 for campaign reporting violations, which occurred in 2007 and/or 2008. The noted  
23 violations included non-filing of supplemental independent expenditure reports.
- 24 ➤ In February 2013, Le and the committee were fined \$3,000 in FPPC Case No. 10/558 for a  
25 campaign reporting violation, which occurred in 2010.<sup>15</sup>
- 26 ➤ In August 2015, Le and the committee were fined \$13,500 in FPPC Case No. 14/259 for  
27 campaign reporting violations, which occurred in 2010 and 2011. The violations were for  
28 failure to timely file supplemental independent expenditure reports and failure to timely report  
the making of independent expenditures.<sup>16</sup>

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<sup>15, 16</sup> Although the penalties noted above in FPPC Case Nos. 10/558 and 14/259 were not imposed until after the violations that occurred in this case—the violations in those cases did take place before the violations in this case.

1 Under these circumstances (especially considering the foregoing history of the parties with  
2 respect to improper reporting of independent expenditures), penalties in the amounts of \$3,000 per count  
3 for Counts 1 and 2—and \$2,500 per count for Counts 3 and 4 are recommended. (Lower penalties are  
4 being recommended for Counts 3 and 4 because they involve substantially less unreported activity than  
5 Counts 1 and 2.)

6 Higher penalties are not being sought because the parties cooperated with the Enforcement  
7 Division and agreed to an early settlement.

8 For the foregoing reasons, the total, agreed-upon penalty that is being recommended in this case  
9 is as follows:

Count	Description	Penalty
1	Failure to File 24-Hour Independent Expenditure Report re: Proposition 30	\$3,000
2	Failure to File 24-Hour Independent Expenditure Report re: Proposition 32	\$3,000
3	Failure to File 24-Hour Independent Expenditure Report re: Proposition 34	\$2,500
4	Failure to File 24-Hour Independent Expenditure Report re: Proposition 39	\$2,500
		<b>Total: \$11,000</b>

## 14 CONCLUSION

15 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
16 Respondents PowerPAC.org Voter Fund, a Sponsored Committee of PowerPAC.org; and Lisa Le hereby  
17 agree as follows:

- 18 1. Respondents violated the Act as described in the foregoing pages, which are a true and  
19 accurate summary of the facts in this matter.
- 20 2. This stipulation will be submitted for consideration by the Fair Political Practices  
21 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 22 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose  
23 of reaching a final disposition without the necessity of holding an administrative hearing to determine the  
24 liability of Respondents pursuant to Section 83116.
- 25 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all  
26 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.  
27 This includes, but is not limited to the right to appear personally at any administrative hearing held in this  
28 matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine all

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

4 5. Respondents agree to the issuance of the decision and order set forth below. Also,  
5 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
6 \$11,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General  
7 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
8 administrative penalty described above, and same shall be held by the State of California until the  
9 Commission issues its decision and order regarding this matter.

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

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

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21 Dated: \_\_\_\_\_

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Galena West, Chief of Enforcement  
Fair Political Practices Commission

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24 Dated: \_\_\_\_\_

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Lisa Le, individually and on behalf of PowerPAC.org  
Voter Fund, a Sponsored Committee of PowerPAC.org,  
Respondents

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27 The foregoing stipulation of the parties "In the Matter of PowerPAC.org Voter Fund, a Sponsored  
28 Committee of PowerPAC.org; and Lisa Le," FPPC Case No. 16/457, is hereby accepted as the final

1 decision and order of the Fair Political Practices Commission, effective upon execution below by the  
2 Chair.

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4 IT IS SO ORDERED.

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6 Dated: \_\_\_\_\_

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7 Joann Remke, Chair  
8 Fair Political Practices Commission  
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