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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
10

11 In the Matter of:

FPPC Case No. 16/378

12 DEMOCRATS UNITED FOR PUBLIC
EDUCATION and DIANE PEETE,

STIPULATION, DECISION AND ORDER

13 Respondents.
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15 INTRODUCTION

16 Democrats United for Public Education (the "Committee") is a state general purpose committee
17 that filed its first statement of organization in June 2015. Diane Peete ("Peete") is the treasurer of the
18 Committee.

19 On November 2, 2015, the Committee timely filed a paper version of an "odd-numbered year"
20 quarterly campaign statement (Form 460), covering the reporting period July 1, 2015 to September 30,
21 2015, with the Secretary of State. In addition to the paper version of the campaign statement, the
22 Committee was also required to timely file the statement electronically. Despite this requirement,
23 however, the Committee did not file the pertinent statement electronically until March 6, 2017, and
24 thereby violated Sections 84202.7, subdivision (a); and 84605, subdivision (a)(2), of the Political Reform
25 Act (the "Act").¹

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

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violation in this case occurred in
3 2015. For this reason, all legal references and discussions of law pertain to the Act's provisions as they
4 existed at that time.

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

6 When enacting the Act, the people of California found and declared that previous laws regulating
7 political practices suffered from inadequate enforcement by state and local authorities.² For this reason,
8 the Act is to be construed liberally to accomplish its purposes.³

9 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
10 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
11 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting
12 system—and the true sources of campaign contributions may not be concealed.⁵ Another purpose of the
13 Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁶

14 Mandatory Filing of Campaign Statements

15 At the core of the Act's campaign reporting system is the requirement that committees file
16 campaign statements and reports for certain reporting periods and by certain deadlines.⁷

17 The Act requires all committees that make contributions totaling \$10,000 or more to elected state
18 officers, their controlled committees, or committees primarily formed to support or oppose any elected
19 state office, to file certain quarterly campaign statements during odd-numbered years.⁸

20 Duty to File Electronically

21 In order to maximize the availability of information regarding campaign disclosure to the public,
22 the Act requires any general purpose committee to file its statements and reports online or electronically
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25 ² Section 81001, subd. (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subd. (a).

28 ⁵ Sections 84200, et seq., and 84301.

⁶ Section 81002, subd. (f).

⁷ Sections 84200, et seq.

⁸ Section 84202.7, subd. (a).

1 when the committee cumulatively receives contributions or makes expenditures totaling \$25,000 or
2 more.⁹ Once a person or entity is required to file online or electronically, the person or entity is required
3 to file all subsequent reports online or electronically, as well.¹⁰

4 Joint and Several Liability of Committee and Treasurer

5 It is the duty of a committee treasurer to ensure that the committee complies with the Act.¹¹ A
6 treasurer may be held jointly and severally liable, along with the committee, for violations committed by
7 the committee.¹²

8 **SUMMARY OF THE FACTS**

9 According to its campaign filings, the Committee is a general purpose committee. On November
10 2, 2015, the Committee timely filed a paper version of an “odd-numbered year” quarterly campaign
11 statement (Form 460), covering the period July 1, 2015 to September 30, 2015, with the Secretary of
12 State. The statement disclosed a \$50,000 contribution received from donor Aaron Sosnick on August 26,
13 2015; and a \$10,000 contribution made to California Works, the ballot measure committee of then-
14 speaker of the State Assembly, Toni Atkins, on September 2, 2015.

15 Although the Committee filed a paper version of the campaign statement, the Committee was also
16 required to file the statement electronically with the Secretary of State, pursuant to 84605, subdivision
17 (a)(2), since it received contributions totaling \$25,000 or more. The Committee did not file the pertinent
18 statement electronically by the due date of November 2, 2015.

19 On June 17, 2016, the Enforcement Division of the Fair Political Practices Commission (the
20 “Commission”) sent a letter to Peete, requesting that the past-due campaign statement be filed
21 electronically within 30 days. The Committee did not comply with this request. On March 2, 2017,
22 Counsel for the Enforcement Division spoke with Peete and asked her to file the missing statement
23 electronically. On March 6, 2017, Peete complied and filed the statement electronically with the
24 Secretary of State.

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⁹ Section 84605, subd. (a)(2).

27 ¹⁰ Section 84605, subd. (d).

28 ¹¹ Sections 81004, 84100, 84104, and 84213; Regulation 18427.

¹² Sections 83116.5 and 91006.

1 **VIOLATION**

2 Count 1: Failure to Timely File Quarterly Campaign Statement

3 The Committee and Peete failed to timely file an “odd-numbered year” quarterly campaign
4 statement electronically, in violation of Sections 84202.7, subdivision (a); and 84605, subdivision (a)(2).

5 **PROPOSED PENALTY**

6 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
7 count. Thus, the maximum penalty that may be imposed is \$5,000.¹³

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

15 Additionally, the Commission considers penalties in prior cases involving similar violations.
16 Recent similar cases include the following:

17 • *In the Matter of Nancy Bui-Thompson and Nancy Bui-Thompson for SMUD 2012*; FPPC No.
18 15/586. The respondents, a candidate and her controlled committee, failed to timely file three semi-
19 annual campaign statements and were charged with two counts. One of the statements covered the
20 reporting period ending June 30, 2015 and disclosed \$4,980 in expenditures and \$31,550 in
21 contributions, with the respective violation charged separately and assessed a fine of \$1,500 by the
22 Commission in November 2016.

23 • *In the Matter of Jim Kelly and Jim Kelly for Grossmont Union High School Board 2014*; FPPC
24 No. 15/274. The respondents, a candidate and his controlled committee, participating in the November 4,
25 2014 General Election, failed to timely file the semi-annual campaign statement covering the time period
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27 _____
¹³ Section 83116, subd. (c).

28 _____
¹⁴ Regulation 18361.5, subd. (d).

1 of October 19, 2014 through December 31, 2014. The late-filed statement revealed no contributions,
2 \$2,795 in expenditures, and debts of \$750. The respondents had been previously prosecuted for failing to
3 timely file a semi-annual statement in 2012. The Commission imposed a fine of \$1,000 in July 2016.

4 Here, although the Committee timely filed the subject campaign statement in paper format,
5 electronic filing is imperative in this situation so that the public can readily access the information.
6 Further, the significant contribution obtained by the Committee from Aaron Sosnick was not sufficiently
7 reported by the donor himself either. Therefore, a penalty is warranted.

8 However, although the Commission fined the respondents \$1,500 in the *Bui-Thompson* case, the
9 violation in this matter is mitigated by the fact that the Committee timely filed the pertinent campaign
10 statement in paper format. Further, Peete cooperated by filing the statement within two business days of
11 speaking with the Enforcement Division.

12 Also, in looking at the *Kelly* case, the public harm at issue there was even greater than in this
13 matter, given that the respondents had been previously prosecuted and the statement at issue included a
14 pre-election period. Therefore, a penalty on the lower end is even more justified in this case given its
15 distinctions.

16 Based on the foregoing, a penalty in the amount of \$1,000 for Count 1 is recommended.

17 CONCLUSION

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Democrats United for Public Education and Diane Peete, hereby agree as follows:

- 20 1. The Respondents violated the Act as described in the foregoing pages, which are a true
21 and accurate summary of the facts in this matter.
- 22 2. This stipulation will be submitted for consideration by the Fair Political Practices
23 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 24 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
25 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
26 liability of the Respondents pursuant to Section 83116.
- 27 4. The Respondents understand, and hereby knowingly and voluntarily waive, any and all
28 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.

1 This includes, but is not limited to, the right to appear personally at any administrative hearing held in
2 this matter, to be represented by an attorney at the Respondents' own expense, to confront and cross-
3 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an
4 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter
5 judicially reviewed.

6 5. The Respondents agree to the issuance of the decision and order set forth below. Also, the
7 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
8 \$1,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General
9 Fund of the State of California—is/are submitted with this stipulation as full payment of the
10 administrative penalty described above, and same shall be held by the State of California until the
11 Commission issues its decision and order regarding this matter.


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

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

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22 Dated: _____

23 Galena West, Chief of Enforcement
24 Fair Political Practices Commission

25 Dated: 4/10/2017

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27 Diane Peete, individually and on behalf of
28 Democrats United for Public Education

1 The foregoing stipulation of the parties "In the Matter of Democrats United for Public Education and
2 Diane Peete," FPPC Case No. 16/378 is hereby accepted as the final decision and order of the Fair
3 Political Practices Commission, effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: _____
8 Joann Remke, Chair
9 Fair Political Practices Commission
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