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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

12 GREGORY KELLY MEAGHER,

13 Respondent.

FPPC Case No. 16/236

14 STIPULATION, DECISION AND ORDER

15 INTRODUCTION

16 In 2014, Gregory Kelly Meagher qualified as a major donor committee.

17 This case involves failure to file a year-end campaign statement and various 24-hour reports in
18 violation of the Political Reform Act.¹

19 SUMMARY OF THE LAW

20 The Act and its regulations are amended from time to time. The violations in this case occurred in
21 2014. For this reason, all legal references and discussions of law pertain to the Act's provisions as they
22 existed at that time.

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

24 When enacting the Political Reform Act, the people of California found and declared that
25 previous laws regulating political practices suffered from inadequate enforcement by state and local

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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 authorities.² Thus, it was decreed that the Act “should be liberally construed to accomplish its
2 purposes.”³

3 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
4 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
5 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system,
6 and certain disclosures are required for political advertisements.⁵ Another purpose of the Act is to
7 provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁶

8 **Definition of a Major Donor Committee**

9 A person qualifies as a major donor committee by making contributions totaling \$10,000 or more
10 during a calendar year.⁷

11 **Definition of a State General Purpose Committee**

12 A major donor committee also is a state general purpose committee if the major donor makes any
13 amount of contributions or expenditures during the calendar year to support or oppose candidates or
14 measures voted on in state elections, including contributions to other state committees.⁸

15 **Difference Between Independent Expenditures and Contributions**

16 The definition of “independent expenditure” includes an expenditure made by any person in
17 connection with a communication that expressly advocates the qualification, passage or defeat of a
18 clearly identified ballot measure, or taken as a whole and in context, unambiguously urges a particular
19 result in an election—where the expenditure is not made to or at the behest of the affected committee.⁹

20 Generally speaking, if a payment is made to or at the behest of a committee, the payment is a
21 “contribution.”¹⁰

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23 ² Section 81001, subdivision (h).

24 ³ Section 81003.

25 ⁴ Section 81002, subdivision (a).

26 ⁵ Sections 84200, et seq. and 84501, et seq.

27 ⁶ Section 81002, subdivision (f).

28 ⁷ Section 82013, subdivision (c).

⁸ Regulation 18227.5, subdivision (c)(3)(C).

⁹ Section 82031.

¹⁰ Section 82015.

Mandatory Filing of Campaign Statements and Reports

At the core of the Act's campaign reporting system is the requirement that committees, including major donor committees, must file campaign statements and reports for certain reporting periods and by certain deadlines.¹¹

For example, in connection with the general election that was held on November 4, 2014, major donor committees were required to file campaign statements and reports by certain deadlines as follows (only filings that are pertinent to this case are listed in the chart below):¹²

Period	Filing	Due	Note
1/1/14 – 12/31/14	Semi-Annual Statement (Form 461)	2/2/15	
8/6/14 – 11/4/14	24-Hour Contribution Report (Form 497)	w/in 24 hrs.	File if a contribution of \$1,000 or more (in the aggregate) is made to a candidate or measure on the November 4 ballot.
8/6/14 – 11/4/14	24-Hour Independent Expenditure Report (Form 496)	w/in 24 hrs.	File if an independent expenditure of \$1,000 or more (in the aggregate) is made in connection with a candidate or measure on the November 4 ballot.

In the case of a state general purpose major donor committee, semi-annual statements and 24-hour contribution reports are required to be filed with the Secretary of State.¹³ However, the place of filing for 24-hour independent expenditure reports depends upon the candidate/ballot measure that is being supported/opposed by each underlying independent expenditure. For example, if an expenditure supports or opposes a county ballot measure, then the required Form 496 must be filed with the county elections official; often, this is the county clerk/registrar of voters.¹⁴

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¹¹ Sections 84200, et seq.

¹² Sections 82036, subdivision (a); 82036.5; 82046, subdivision (b); 84200, subdivision (b); 84203; 84204; and Regulation 18116.

¹³ Sections 84203, subdivision (a); and 84215, subdivision (a).

¹⁴ See Sections 84204, subdivision (c); 84215, subdivision (c); and Elections Code section 320.

1 **SUMMARY OF THE FACTS**

2 In 2014, Meagher made the following political contributions:

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Recipient	Date	Amount
Chico Conservation Voters	1/22/2014	\$2,000
Citizens Action Network – Frack Free Butte County	4/01/2014	\$500
Chico Conservation Voters	8/01/2014	\$3,000
Lupe Arim-Law for Chico City Council 2014	8/25/2014	\$250
Jim Reed for Assembly 2014	9/02/2014	\$1,000
Chico Conservation Voters	9/10/2014	\$5,000
Lupe Arim-Law for Chico City Council 2014	9/13/2014	\$50
Chico Conservation Voters	9/28/2014	\$5,000
Elect Molina for Council 2014	10/08/2014	\$250
Jim Reed for Assembly 2014	10/20/2014	\$2,200
Elect Molina for Council 2014	11/18/2014	\$250
Total: \$19,500		

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12 These contributions qualified Meagher as a major donor committee on September 10, 2014—
13 which is the first day that Meagher’s contributions for the year totaled \$10,000 or more. Since Meagher’s
14 contributions included a contribution to a candidate for California State Assembly, Meagher was a state
15 general purpose major donor committee.

16 With respect to the election that was held on November 4, 2014, the ballot included two Butte
17 County medical marijuana measures.

18 Measure A was a medical marijuana ordinance referendum. The measure sought to overturn an
19 ordinance, which set limits on the size of medical marijuana growing areas and which established
20 minimum distances from property lines for marijuana plants. (A “yes” vote was in favor of the ordinance,
21 and a “no” vote was in favor of rejecting the ordinance.)

22 Measure B was a competing measure, which would have repealed the county’s regulation of
23 medical marijuana cultivation/retail—and replaced it with more lenient restrictions.

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1 In addition to his contributions (and still prior to the election), in September and October 2014,
2 Meagher made independent expenditures for radio advertising, billboards, yard signs, and stickers—
3 which contained express advocacy in opposition to Measure A and in support of Measure B. These
4 expenditures are noted below:

Payee	Amount
Stott Outdoor Advertising	\$3,949
Ed's Printing	\$1,799
Radio Chico	\$3,063
Total: \$8,811	

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9 Ultimately, Measure A passed (with approximately 60% of the vote), and Measure B failed (only
10 garnering approximately 34% of the vote).

11 VIOLATIONS

12 Count 1

13 *Failure to File 24-Hour Reports*

14 As noted above, Meagher qualified as a state general purpose major donor committee on
15 September 10, 2014, which obligated him to file certain campaign statements and reports.

16 For example, as noted above, in September and October 2014, Meagher made three payments for
17 advertisements, which contained express advocacy in opposition to Measure A and in support of Measure
18 B. (Each payment was in excess of \$1,000. The total of all three payments was \$8,811.) These were
19 independent expenditures, and Meagher was required to report them by filing 24-hour independent
20 expenditure reports with the Butte County Clerk within 24 hours.

21 Also, as noted above, on or about October 20, 2014, Meagher contributed \$2,200 to the Jim Reed
22 for Assembly 2014 committee. Meagher was required to report the making of this contribution on a 24-
23 hour contribution report, which was required to be filed with the Secretary of State within 24 hours.

24 However, Meagher failed to file these 24-hour reports—in violation of Sections 84203,
25 subdivisions (a) and (b); and 84204, subdivision (a).

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1 **Count 2**

2 *Failure to File Semi-Annual Statement*

3 For the reporting period of January 1, 2014 through December 31, 2014, Meagher was required to
4 file a semi-annual campaign statement with the Secretary of State by February 2, 2015. This filing was
5 required to disclose the contributions and independent expenditures noted above (totaling approximately
6 \$19,500 and \$8,811, respectively).

7 However, Meagher failed to file this statement—in violation of Section 84200, subdivision (b).

8 **PROPOSED PENALTY**

9 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
10 count. Thus, the maximum penalty that may be imposed is \$10,000.¹⁵

11 In determining the appropriate penalty for a particular violation of the Act, the Commission
12 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
13 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
14 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
15 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
16 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
17 record of violations.¹⁶ Additionally, the Commission considers penalties in prior cases with comparable
18 violations.

19 The Commission has found disclosure to be essential, especially before an election. In this case,
20 the Enforcement Division did not find evidence of intentional concealment or deception. Rather, it
21 appears that Meagher’s violations were the result of negligence and a lack of diligence in learning the
22 requirements of the Act. Also, it appears that Meagher failed to consult Commission staff for guidance.
23 When viewed in connection with the prior Meagher stipulation (which is discussed below)—Meagher’s
24 violations demonstrate a repeated pattern of disregard for the Act over a lengthy period of time. During
25 this time, there was ample opportunity for Meagher to realize that he was not reporting his activity in a
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¹⁵ See Section 83116, subdivision (c).

28 ¹⁶ Regulation 18361.5, subdivision (d).

1 timely or transparent manner. Also, Meagher has filed as a major donor in the past, which is another
2 reason why he should have been aware of his filing obligations.

3 Regarding Count 1, the public harm inherent in failure to file 24-hour reports is that the public is
4 deprived of important, time-sensitive information regarding political contributions and expenditures. In
5 the case of 24-hour reports, the reportable activity is meant to be disclosed to the public before the
6 election.

7 Recently, the Commission considered a settlement involving 24-hour reports. *In the Matter of San*
8 *Joaquin County Democratic Central Committee and Dyane Burgos*; FPPC Case No. 16/82 (approved
9 Jun. 29, 2017), the Commission imposed a penalty in the amount of \$2,000 against a central committee
10 and its treasurer for failure to file two 24-hour contribution reports. Failure to file both reports was
11 charged as a single count. The reports pertained to two contributions—totaling \$33,000.

12 In the *San Joaquin County Democratic Central Committee* case, it was noted that a reduced
13 penalty was warranted because the contributions were reported on other campaign filings before the
14 election. This is not completely true in the current case. Meagher’s contribution in the amount of \$2,200
15 to the Jim Reed for Assembly committee was reported by Reed’s committee before the election—so it
16 was not difficult for the public to learn about Meagher’s contribution. The same cannot be said for
17 Meagher’s independent expenditures, which totaled approximately \$8,811. Meagher’s radio advertising
18 was not reported on any campaign filings before the election, and his other independent expenditures
19 mistakenly were reported as being expenditures of a committee known as Butte Citizens for Responsible
20 Growth, No on A and Yes on B. This provided some disclosure regarding Meagher’s involvement—
21 because Meagher was listed as the committee treasurer, and he was the only contributor to the
22 committee.

23 Also, the current case involves failure to file 24-hour reports with respect to three independent
24 expenditures and one contribution—compared to only two 24-hour reports in the *San Joaquin County*
25 *Democratic Central Committee* case. Thus, the current case involves failure to file a greater number of
26 reports, but the reportable activity in the *San Joaquin County Democratic Central Committee* case was
27 about three times the reportable activity in the current case.

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1 Under these circumstances, a penalty in the amount of \$2,000 is recommended for Count 1.

2 Regarding Count 2, the public harm in failing to file a year-end major donor campaign statement
3 is similar to the harm described above in connection with Count 1—except that the information is not
4 required to be reported until after the election.

5 Last year, Meagher was fined for this type of violation in another case. (The other case is not
6 being cited as a prior history of enforcement for Meagher because it was pending when the violations in
7 this case occurred—and the settlement in the prior case contemplated that Meagher’s 2013 and 2014
8 activity was going to be the subject of a separate case.) See *In the Matter of Gregory Kelly Meagher;*
9 *FPPC Case No. 14/32* (approved May 19, 2016), which involved violations that are very similar in
10 nature to the current case. One of the counts pertained to Meagher’s failure to file a semi-annual major
11 donor campaign statement for the period ending December 31, 2012. Reportable activity included
12 contributions totaling \$23,250. The Commission imposed a penalty in the amount of \$2,000 for this
13 violation.

14 In the current case, the reportable activity is slightly higher (encompassing contributions and
15 independent expenditures made in the approximate amounts of \$19,500 and \$8,811, respectively). Under
16 these circumstances, a penalty in the amount of \$2,500 is recommended for Count 2.

17 Higher penalties are not being sought in this case because Meagher cooperated with the
18 Enforcement Division and agreed to an early settlement. Also (besides what was mentioned above), he
19 does not have a history of prior violations of the Act. Additionally, despite Meagher’s spending in
20 opposition to Measure A and in support of Measure B—Measure A passed, and Measure B was defeated.

21 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
22 in the amount of \$4,500 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Failure to file 24-Hour Reports	\$2,000
2	Failure to File Semi-Annual Campaign Statement	\$2,500
		Total: \$4,500

26 CONCLUSION

27 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
28 Respondent Gregory Kelly Meagher hereby agree as follows:

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

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

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

8 4. Respondent understands, and hereby knowingly and voluntarily waives, any and all
9 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
10 This includes, but is not limited to the right to appear personally at any administrative hearing held in this
11 matter, to be represented by an attorney at Respondent’s own expense, to confront and cross-examine all
12 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
13 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
14 reviewed.

15 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
16 Respondent agrees to the Commission imposing against him an administrative penalty in the amount of
17 \$4,500. One or more cashier’s checks or money orders totaling said amount—to be paid to the General
18 Fund of the State of California—is/are submitted with this stipulation as full payment of the
19 administrative penalty described above, and same shall be held by the State of California until the
20 Commission issues its decision and order regarding this matter.

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

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

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

Dated: _____
Gregory Kelly Meagher, Respondent

 The foregoing stipulation of the parties “In the Matter of Gregory Kelly Meagher,” FPPC Case
No. 16/236, is hereby accepted as the final decision and order of the Fair Political Practices Commission,
effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: _____
Joann Remke, Chair
Fair Political Practices Commission