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

10  
11 In the Matter of

FPPC Case No. 16/757

12 TRACY FIREFIGHTERS  
ASSOCIATION PAC, ERIC OLIVERI,  
13 CARLOS HAMPTON, SCOTT BYERS,  
14 and JUSTIN LAGASA,

**STIPULATION, DECISION AND ORDER**

15 Respondents.  
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17 **INTRODUCTION**

18 On or about December 1, 2000, the Tracy Firefighters Association PAC qualified as a city general  
19 purpose recipient committee, which was formed to support/oppose candidates in the City of Tracy. The  
20 PAC is sponsored by the Local 3355 Tracy Firefighters Association.

21 After filing an initial Form 410 statement of organization in 2000, the PAC did not file any  
22 campaign statements or reports until 2018—after contact from the Enforcement Division.

23 Eric Oliveri and Carlos Hampton served as treasurers for the PAC at different points in time.

24 Scott Byers and Justin Lagasa served as principal officers of the PAC at different points in time.

25 Since September 2012 (which is as far back as the Enforcement Division can reach in terms of the  
26 tolling agreement that the PAC entered into with respect to the statute of limitations), the PAC failed to  
27 timely file 13 semi-annual campaign statements, six pre-election campaign statements, and four 24-hour  
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1 reports in violation of the Political Reform Act.<sup>1</sup> During this time, the PAC raised and spent  
2 approximately \$17,761 and \$43,979, respectively.

### 3 **SUMMARY OF THE LAW**

4 The Act and its regulations are amended from time to time. All legal references and discussions  
5 of law are intended to be citations to statutes and regulations as they existed at the time of the violations  
6 in this case.

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

8 When enacting the Political Reform Act, the people of California found and declared that  
9 previous laws regulating political practices suffered from inadequate enforcement by state and local  
10 authorities.<sup>2</sup> Thus, it was decreed that the Act “should be liberally construed to accomplish its  
11 purposes.”<sup>3</sup>

12 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in  
13 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper  
14 practices are inhibited.<sup>4</sup> Along these lines, the Act includes a comprehensive campaign reporting system.<sup>5</sup>

15 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will  
16 be “vigorously enforced.”<sup>6</sup>

#### 17 **Mandatory Filing of Campaign Statements and Reports**

18 At the core of the Act’s campaign reporting system is the requirement that committees must file  
19 campaign statements and reports for certain reporting periods and by certain deadlines.<sup>7</sup>

20 For example, each year, a recipient committee must file a semi-annual campaign statement for the  
21 reporting period of January 1 through June 30 by the deadline of July 31—as well as another semi-annual  
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23 <sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections  
24 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission  
25 are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references  
26 are to this source.

27 <sup>2</sup> Section 81001, subdivision (h).

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

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

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

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

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

1 campaign statement for the reporting period of July 1 through December 31, by the deadline of January  
2 31.<sup>8</sup>

3 Also, in the case of a city general purpose recipient committee, such a committee must file pre-  
4 election campaign statements if it makes contributions or independent expenditures of \$500 or more in  
5 connection with a city election in the committee’s jurisdiction during any pre-election reporting period.  
6 For elections held in November of even-numbered years from 2012 through 2018, the pre-election  
7 reporting periods and filing deadlines were as follows:<sup>9</sup>

<b>Election Year</b>	<b>1<sup>st</sup> Pre-election Period</b>	<b>Deadline</b>	<b>2<sup>nd</sup> Pre-election Period</b>	<b>Deadline</b>
2012	7/1/12 – 9/30/12	10/5/12	10/1/12 – 10/20/12	10/25/12
2014	7/1/14 – 9/30/14	10/6/14	10/1/14 – 10/18/14	10/23/14
2016	7/1/16 – 9/24/16	9/29/16	9/25/16 – 10/22/16	10/27/16
2018	7/1/18 – 9/22/18	9/27/18	9/23/18 – 10/20/18	10/25/18

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12 Generally, when a campaign statement is required to be filed, the reporting period begins the day  
13 after the closing date of the most recent campaign statement that was required to be filed.<sup>10</sup>

14 When the filing deadline for a campaign statement falls on a Saturday, Sunday, or official state  
15 holiday, the deadline is extended to the next regular business day.<sup>11</sup>

16 In addition to the filings required above, the Act requires the filing of certain 24-hour reports with  
17 respect to the making of “late contributions.” After 2012, the Act defined these types of contributions as  
18 any contribution aggregating \$1,000 or more that was made to or received by a candidate (or his  
19 controlled committee) during the last 90 days before the election. (For ease of reference, this period of  
20 time is referred to as the late reporting period.) When a committee makes a “late contribution” (during  
21 the late reporting period), the committee is required to report the contribution by filing a late contribution  
22 report (Form 497) within 24 hours. However, if this deadline falls on a Saturday, Sunday, or official state

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25 <sup>8</sup> Section 84200, subdivision (a).

26 <sup>9</sup> See Sections 84200.5, subdivision (i) (as in effect 1/1/11-12/31/15); 84200.5, subdivision (e) (as in effect after  
27 12/31/15); 84200.7, subdivision (b) (as in effect before 1/1/16); and Section 84200.8, subdivisions (a) and (b) (as in effect  
before 1/1/19).

28 <sup>10</sup> Section 82046, subdivision (b).

<sup>11</sup> Regulation 18116, subdivision (a).

1 holiday, the deadline is extended to the next regular business day (unless the Saturday, Sunday, or  
2 holiday immediately precedes the election).<sup>12</sup>

3 **Joint and Several Liability**

4 It is the duty of a committee treasurer to ensure that the committee complies with the Act.<sup>13</sup> Also,  
5 the principal officer of a committee generally bears responsibility for approval of the political activity of  
6 the committee.<sup>14</sup> The treasurer and the principal officer may be held jointly and severally liable, along  
7 with the committee, for violations of the Act.<sup>15</sup>

8 **SUMMARY OF THE FACTS**

9 In January 2018, the PAC designated Eric Oliveri as its treasurer and Scott Byers as its principal  
10 officer (on an amended statement of organization).

11 In January 2019, the PAC designated Carlos Hampton as its treasurer and Justin Lagasa as its  
12 principal officer (on an amended statement of organization).

13 Prior to January 2018, the PAC did not have a current designation as to its treasurer and principal  
14 officer. During this time, the statement of organization for the PAC—which was filed in 2000—was not  
15 kept up to date with amendments, and the PAC did not file any campaign statements.

16 In connection with this settlement, the PAC entered into a tolling agreement with respect to the  
17 Act’s five-year statute of limitations for administrative prosecution. Under this agreement, the PAC’s  
18 failure to timely file a pre-election campaign statement for the reporting period ending September 30,  
19 2012 is the oldest violation that may be charged. Since that time, and including that campaign statement,  
20 the PAC failed to timely file 13 semi-annual campaign statements and six pre-election campaign  
21 statements, as summarized in the chart below:

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27 <sup>12</sup> See Sections 82036, 84203, and Regulation 18116, subdivision (b)(1).

<sup>13</sup> Sections 81004, 84100, and Regulation 18427.

<sup>14</sup> Regulation 18402.1.

<sup>15</sup> Sections 83116.5, 91006, and Regulation 18316.6.

Reporting Period	Filing Type	Due Date	Date Filed	Receipts	Expenditures
7/1/12 - 9/30/12	Pre-election	10/5/12	8/1/18	-	\$1,890
10/1/12 - 10/20/12	Pre-election	10/25/12	8/1/18	-	\$10,045
10/21/12 - 12/31/12	Semi-annual	1/31/13	8/1/18	-	\$75
1/1/13 - 6/30/13	Semi-annual	7/31/13	8/1/18	\$2,814	\$152
7/1/13 - 12/31/13	Semi-annual	1/31/14	8/1/18	-	\$119
1/1/14 - 6/30/14	Semi-annual	7/31/14	8/1/18	-	\$1,305
7/1/14 - 9/30/14	Pre-election	10/6/14	8/1/18	-	\$5,743
10/1/14 - 12/31/14	Semi-annual	2/2/15	8/1/18	-	\$343
1/1/15 - 6/30/15	Semi-annual	7/31/15	8/1/18	-	\$2,559
7/1/15 - 12/31/15	Semi-annual	2/1/16	8/1/18	-	-
1/1/16 - 6/30/16	Semi-annual	8/1/16	8/1/18	-	-
7/1/16 - 10/22/16	Pre-election	9/29/16	8/1/18	-	\$5,314
10/23/16 - 12/31/16	Semi-annual	1/31/17	8/1/18	-	\$147
1/1/17 - 6/30/17	Semi-annual	7/31/17	8/1/18	\$2,444	\$2,031
7/1/17 - 12/31/17	Semi-annual	1/31/18	8/1/18	\$2,532	\$6,003
1/1/18 - 6/30/18	Semi-annual	7/31/18	8/1/18	\$3,547	\$4,610
7/1/18 - 9/22/18	Pre-election	9/27/18	10/17/18	\$2,178	\$2,093
9/23/18 - 10/20/18	Pre-election	10/25/18	10/30/18	-	\$1,000
10/21/18 - 12/31/18	Semi-annual	1/31/19	7/30/19	\$4,246	\$550
<b>Total:</b>				<b>\$17,761</b>	<b>\$43,979</b>

Also, the PAC made several late contributions (of \$1,000 or more during the late reporting periods that led up to the November elections of 2014, 2016, and 2018). Each late contribution was required to be reported by filing a Form 497 within 24 hours. However, the required reports were not filed. The late contributions that relate to this non-filing are summarized in the chart below:

Date	Description	Amount
9/24/14	Contribution to Charles Manne for Tracy City Council	\$2,500
9/24/14	Contribution to Robert Rickman for Tracy City Council	\$2,500
10/12/16	Non-monetary Contribution to Mary Mitracos for Tracy City Council	\$2,457
10/12/16	Non-monetary Contribution to Robert Rickman for Tracy Mayor	\$2,457
9/29/18	Contribution to Juana Dement for Tracy City Council	\$1,000
10/19/18	Contribution to Robert Rickman for Mayor (City of Tracy)	\$1,000
<b>Total:</b>		<b>\$11,914</b>

The two late contributions of September 24, 2014 could have been reported on a single 24-hour report. The same is true for the two contributions of October 12, 2016. Thus, the PAC only was required to file four 24-hour reports for the six late contributions noted above.

1 About one-half of the candidates who were supported by the PAC met with successful election  
2 results.

3 **VIOLATIONS**

4 **Counts 1 – 4**

5 *Failure to Timely File Semi-annual Campaign Statements*

6 As described above, the PAC failed to timely file semi-annual campaign statements for the  
7 following reporting periods:

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Count	Periods Ending
1	12/31/12, 6/30/13, and 12/31/13
2	6/30/14, 12/31/14, and 6/30/15
3	12/31/15, 6/30/16, and 12/31/16
4	6/30/17, 12/31/17, 6/30/18, and 12/31/18

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12 In this way, the PAC violated Section 84200, subdivision (a). For settlement purposes, four  
13 counts are charged.

14 With respect to Count 4, Oliveri, Byers, Hampton, and Lagasa bear joint and several liability,  
15 along with the PAC. (Oliveri and Byers were the PAC’s designated treasurer and principal officer,  
16 respectively, at the time of the deadlines to file the semi-annual campaign statements for the periods  
17 ending 12/31/17 and 6/30/18. Hampton and Lagasa were the PAC’s designated treasurer and principal  
18 officer, respectively, at the time of the deadline to file the semi-annual campaign statement for the period  
19 ending 12/31/18.)

20 **Counts 5 – 7**

21 *Failure to Timely File Pre-election Campaign Statements*

22 As described above, the PAC failed to timely file pre-election campaign statements for the  
23 following reporting periods:

24

Count	Periods Ending
5	9/30/12 and 10/20/12
6	9/30/14 and 10/22/16
7	9/22/18 and 10/20/18

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27 In this way, the PAC violated Sections 84200.5, subdivision (i) (as in effect 1/1/11-12/31/15);  
28 84200.5, subdivision (e) (as in effect after 12/31/15); 84200.7, subdivision (b) (as in effect before

1 1/1/16); and Section 84200.8, subdivisions (a) and (b) (as in effect before 1/1/19). For settlement  
2 purposes, three counts are charged.

3 With respect to Count 7, Oliveri and Byers bear joint and several liability, along with the PAC.  
4 (They were the PAC’s designated treasurer and principal officer at the time of the deadlines to file the  
5 pre-election campaign statements for the periods ending 9/22/18 and 10/20/18.)

6 **Count 8**

7 *Failure to File 24-hour Reports*

8 As described above, in and between September 2014 and October 2018, the PAC failed to file  
9 four 24-hour reports for six late contributions, totaling \$11,914. In this way, the PAC violated Section  
10 84203. For settlement purposes, one count is charged.

11 Oliveri and Byers bear joint and several liability, along with the PAC, for this violation because  
12 they were the PAC’s designated treasurer and principal officer in 2018—when two of the 24-hour reports  
13 were due (with respect to two late contributions in the amounts of \$1,000 each that the PAC made that  
14 year).

15 **PROPOSED PENALTY**

16 This matter consists of eight counts. The maximum penalty that may be imposed is \$5,000 per  
17 count.<sup>16</sup>

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

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27 <sup>16</sup> See Section 83116, subdivision (c).

28 <sup>17</sup> Regulation 18361.5, subdivision (d).

1 In this case, the PAC’s non-filing violations are part of a long pattern of non-compliance, dating  
2 back almost 20 years. However, the Enforcement Division found no evidence of intentional concealment.  
3 Rather, the violations in this case appear to be the result of inexperience, negligence, and recklessness by  
4 a PAC that had sufficient resources to hire a professional treasurer, but failed to do so.

5 The public harm inherent in campaign reporting violations is that the public is deprived of  
6 important, time-sensitive information regarding political contributions. Generally, these types of  
7 violations are considered to be more serious where the public is deprived of information that was  
8 required to be disclosed before an election because this has the potential to affect how votes are cast—so  
9 greater public harm is involved, and a higher penalty is warranted. Another factor that influences the  
10 amount of the penalty is whether the public harm was mitigated because some of the reportable activity  
11 was disclosed to the public on another campaign filing.

12 Recently, the Commission approved settlement of a case that is very similar to the current one. *In*  
13 *the Matter of Humboldt Deputy Sheriff’s Organization PAC, Leslie S. Borges, and Scott N. Hicks*; FPPC  
14 Case No. 15/1966 (approved Dec. 21, 2017), the Commission imposed a penalty in the amount of  
15 \$17,500 against a PAC for failure to timely file nine semi-annual campaign statements, three pre-election  
16 campaign statements, and four 24-hour reports.

17 Both cases involve:

- 18 1. a pattern of non-filing—spanning multiple calendar years—by union-sponsored PAC’s;
- 19 2. failure to file the same type of campaign statements and reports;
- 20 3. violations that were the result of inexperience, negligence, and recklessness—not deliberate  
21 concealment;
- 22 4. respondents who cooperated by filing outstanding statements/reports after contact from the  
23 Enforcement Division;
- 24 5. additional violations, which for settlement purposes, were noted as aggravating information  
25 and not charged separately (advertising disclosure issues were noted, but not charged, in the  
26 *Humboldt* case—and the current case involves a PAC that failed to keep its designation of  
27 officers current through timely amendments of the statement of organization);
- 28 6. respondents who do not have a history of prior, similar violations of the Act; and
7. respondents who cooperated with the Enforcement Division by agreeing to an early  
settlement—well in advance of the probable cause conference that otherwise would have been  
held.

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1 In the *Humboldt* case, the PAC's activity during the period of non-filing consisted of receipts and  
2 expenditures totaling approximately \$82,467 and \$59,510, respectively. This is more than the reportable  
3 activity in the current case, which involves receipts and expenditures totaling approximately \$17,761 and  
4 \$43,979, respectively. However, the current case involves failure to file a greater number of campaign  
5 statements.

6 In *Humboldt*, four counts were charged for failure to timely file nine semi-annual campaign  
7 statements. Two statements were charged per count, except for one count that included three statements.  
8 The current case involves failure to timely file 13 semi-annual campaign statements; a comparable  
9 number of counts would be six.

10 In *Humboldt*, two counts were charged for failure to timely file three pre-election campaign  
11 statements. (Two statements were charged for one count, and the second count encompassed a single  
12 statement.) The current case involves failure to timely file six pre-election campaign statements; a  
13 comparable number of counts would be three.

14 In *Humboldt*, one count was charged for failure to file four 24-hour reports. The same number of  
15 24-hour reports are involved in the current case, making one count comparable.

16 For settlement purposes, the Enforcement Division recommends charging the comparable number  
17 of counts discussed above. This would result in six counts for failure to timely file semi-annual campaign  
18 statements, three counts for failure to timely file pre-election campaign statements, and one count for  
19 failure to file required 24-hour reports. However, in light of the fact that the PAC cooperated with the  
20 Enforcement Division by entering into a tolling agreement with respect to the statute of limitations, only  
21 four counts are recommended for failure to timely file the semi-annual campaign statements.

22 In terms of the penalty amount, the *Humboldt* case resulted in a penalty of \$2,500 per count for  
23 failure to timely file the semi-annual campaign statements.

24 For failure to timely file pre-election campaign statements, the *Humboldt* case resulted in a  
25 penalty of \$3,000 for one count and \$2,500 for the second count. This penalty difference reflects that the  
26 first count encompassed two missed filings, but the second count encompassed only one. In the current  
27 case, each count encompasses two missed filings.

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1 For non-filing of the required 24-hour reports, the *Humboldt* case resulted in a penalty of \$2,000.

2 However, it is important to note that there are some differences between the current case and the  
3 *Humboldt* case, which justify a higher penalty in the current case. For example, the *Humboldt* case  
4 involved about five years of missed filings. On the other hand, the current case involves about 18 years  
5 of non-filing. Much of this falls outside the statute of limitations. Nevertheless, the length of this period  
6 of time shows a much longer pattern of disregard for the law than was present in the *Humboldt* case.

7 Also, in the *Humboldt* case, it was noted that all of the recipients of the PAC's contributions  
8 disclosed receipt of the contributions on their own filings—prior to the pertinent elections. The same is  
9 not true in the current case. Roughly one-third of the PAC's contributions were not reported by the  
10 recipients—and nearly all of what was reported by the recipients, was reported on campaign statements,  
11 but not on 24-hour reports.

12 Under these circumstances, the following agreed-upon penalty is recommended:

Count	Description	Respondents	Penalty
1	Failure to Timely File Semi-annual Campaign Statements	PAC	\$3,000
2	Failure to Timely File Semi-annual Campaign Statements	PAC	\$3,000
3	Failure to Timely File Semi-annual Campaign Statements	PAC	\$3,000
4	Failure to Timely File Semi-annual Campaign Statements	PAC, Oliveri, Byers, Hampton, and Lagasa	\$3,000
5	Failure to Timely File Pre-election Campaign Statements	PAC	\$3,500
6	Failure to Timely File Pre-election Campaign Statements	PAC	\$3,500
7	Failure to Timely File Pre-election Campaign Statements	PAC, Oliveri, and Byers	\$3,500
8	Failure to File 24-hour Reports	PAC, Oliveri, and Byers	\$2,500
<b>Total:</b>			<b>\$25,000</b>

## 24 CONCLUSION

25 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
26 Respondents Tracy Firefighters Association PAC, Eric Oliveri, Carlos Hampton, Scott Byers, and Justin  
27 Lagasa hereby agree as follows:

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1           1.       Respondents 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 Respondents pursuant to Section 83116.

8           4.       Respondents have consulted with their attorneys, Lance Olson and Emily Andrews—with  
9 the law firm of Olson, Hagel & Fishburn, LLP. Respondents understand and hereby knowingly and  
10 voluntarily waive, any and all procedural rights set forth in Sections 83115.5, 11503, 11523, and  
11 Regulations 18361.1 through 18361.9. This includes, but is not limited to the right to appear personally at  
12 any administrative hearing held in this matter, to be represented by an attorney at Respondents' own  
13 expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to  
14 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing  
15 officer, and to have the matter judicially reviewed.

16           5.       Respondents agree to the issuance of the decision and order set forth below. Also,  
17 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
18 \$25,000. One or more payments totaling this amount—to be paid to the General Fund of the State of  
19 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
20 above, and they will be held by the State of California until the Commission issues its decision and order  
21 regarding this matter.

22           6.       If the Commission refuses to approve this stipulation—then this stipulation shall become  
23 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
24 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to  
25 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing  
26 before the Commission becomes necessary, neither any member of the Commission, nor the Executive  
27 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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5       Dated: \_\_\_\_\_

\_\_\_\_\_  
Galena West, Chief of Enforcement  
Fair Political Practices Commission

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8       Dated: \_\_\_\_\_

\_\_\_\_\_  
Carlos Hampton, individually, and on behalf of Tracy  
Firefighters Association PAC, Respondents

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11       Dated: \_\_\_\_\_

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Eric Oliveri, Respondent

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14       Dated: \_\_\_\_\_

\_\_\_\_\_  
Scott Byers, Respondent

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16       Dated: \_\_\_\_\_

\_\_\_\_\_  
Justin Lagasa, Respondent

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18           The foregoing stipulation of the parties “In the Matter of Tracy Firefighters Association PAC,  
19 Eric Oliveri, Carlos Hampton, Scott Byers, and Justin Lagasa,” FPPC Case No. 16/757, is hereby  
20 accepted as the final decision and order of the Fair Political Practices Commission, effective upon  
21 execution below by the Chair.  
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23           IT IS SO ORDERED.  
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25       Dated: \_\_\_\_\_

\_\_\_\_\_  
Richard C. Miadich, Chair  
Fair Political Practices Commission