1 2 3 4 5 6	GALENA WEST Chief of Enforcement THERESA GILBERTSON Commission Counsel Fair Political Practices Commission 1102 Q Street, Suite 3000 Sacramento, CA 95811 Telephone: (916) 323-6421 Facsimile: (916) 322-1932 Attorneys for Complainant		
7 8 9	BEFORE THE FAIR POLITICAL PRACTICES COMMISSION STATE OF CALIFORNIA		
10	In the Matter of:	FPPC No. 18/713	
11 12	COMMITTEE TO RE-ELECT DAVID L. BOYD ORANGE COUNTY BOARD OF EDUCATION TRUSTEE AREA TWO - 2018; DAVID L. BOYD	STIPULATION, DECISION AND ORDER	
13	Respondents.		
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	INTRODUCTION Respondent David L. Boyd ("Boyd") was a candidate for Orange County Board of Education Trustee, Area Two in the June 5, 2018 Primary Election. Respondent "Committee to Re-Elect David L.		
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21	Political Reform Act ¹ ("Act") by failing to timely file a pre-election campaign statement.		
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24		OF THE LAW	
25	SUMMARY OF THE LAW		
26	The Delicient Deferment of the Company of the Compa		
27 28	81000 through 91014. All statutory references are to this code. are contained in Sections 18110 through 18997 of Title 2 of the are to this source.		

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

When enacting the Political Reform Act, the people of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities.² Thus, it was decreed that the Act "should be liberally construed to accomplish its purposes."

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

Duty to File Campaign Statements

At the core of the Act's campaign reporting system is the requirement that committees must file campaign statements and reports for certain periods and by certain deadlines. The Act requires candidates and their controlled committees to file campaign statements at specific times disclosing information regarding contributions received and expenditures made by the campaign committees.⁷

Duty to File Pre-Election Campaign Statements

A candidate-controlled committee must file pre-election campaign statements prior to elections in which the candidate appears on the ballot.⁸ Whenever the deadline falls on a Saturday, Sunday or official state holiday, the filing deadline for a statement shall be extended to the next regular business day.⁹ For the June 5, 2018 Primary Election, a candidate-controlled committee was required to file pre-election campaign statements for the period ending April 21, 2018, no later than April 26, 2018, and for the period ending May 19, 2018, no later than May 24, 2018.¹⁰

² Section 81001, subdivision (h).

³ Section 81003.

⁴ Section 81002, subdivision (a).

⁵ Sections 84200, et seq.

⁶ Section 81002, subdivision (f).

⁷ Section 84200, *et sea*.

⁸ Section 84200.5, subdivision (b).

⁹ Regulation 18116, subdivision (a).

¹⁰ Section 84200.8.

Joint and Several Liability of Committee, Candidate, and Treasurer

It is the duty of a committee treasurer and the candidate to ensure that the committee complies with the Act's campaign reporting.¹¹ A treasurer and candidate may be held jointly and severally liable with the committee for violations committed by the committee.¹²

SUMMARY OF THE FACTS

Boyd was an unsuccessful candidate for the position of Orange County Board of Education Trustee for Area Two in the June 5, 2018 election. Boyd was first elected in 2010 to the position and subsequently re-elected in 2014. According to campaign statements, the Committee reporting receiving a total of about \$75,937 in contributions and made a total of about \$76,144 in expenditures in the first half of 2018 for the June election. The committee terminated on July 27, 2018.

The Enforcement Division of the Fair Political Practices Commission received a referral from the local filing officer alleging the Committee and Boyd had failed to timely file the second pre-election statement for the period of April 22, 2018 through May 19, 2018, due on May 24, 2018. The Enforcement Division made contact with the Committee and Boyd and Boyd filed the late statement 8 days late on June 1, 2018. The Committee and Boyd reported about \$16,561 in contributions and about \$54,115 in expenditures.

Additionally, the Committee and Boyd failed to report street addresses for both payees and contributors in the second pre-election statement and the semi-annual statement.¹³ In consideration for a timely settlement and the fact that Boyd lost the election, these violations are not being charged as separate counts but are considered aggravating factors.

VIOLATIONS

Count 1

Failure to Timely File a Pre-Election Campaign Statement

The Committee and Boyd failed to timely file a pre-election statement for the period ending May 19, 2018 and due on June 5, 2018 in violation of Government Code Section 84200.5 and 84200.8

¹¹ Sections 81004, 84100, 84104, and Regulation 18427.

¹² Sections 83116.5 and 91006.

¹³ In violation of Section 84211 (f) and (k).

PROPOSED PENALTY

This matter consists of one count. The maximum penalty that may be imposed is \$5,000.¹⁴

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of violations. The actions of the Committee and Boyd appear to be the result of negligence. There is no evidence of deliberate omission or attempts to conceal. The Committee has no prior enforcement history.

Additionally, the Commission considers penalties in prior cases with comparable violations. *In the Matter of Robert G. Jones, Robert G. Jones for Los Rios Trustee 2010, And Julianne C. Jones, FPPC No. 16/339* (The Commission approved a stipulated decision on March 22, 2018.) In *Robert G. Jones,* the candidate-controlled committee failed to timely file two pre-election campaign statements and one semi-annual statement. The pre-election statements were both filed almost 3 years late and the semiannual was filed over a year late. The first pre-election reported \$20,000 in contributions and about \$24,000 in expenditures, the other two statements total reported activity was under \$3,000. The Commission imposed a penalty of \$2,000 for all three statements.

This case is in contrast to *Jones* with respect to some key facts. The Committee and Boyd had considerably more unreported activity and Boyd had prior experience filing campaign statements in connection with his run in 2014. The second pre-election statement reported approximately \$16,561 in contributions and \$54,115 in expenditures, however, disclosure was made prior to the election. In further aggravation, the Committee and Boyd failed to report addresses for contributors and payees. For these reasons, a penalty of \$2,500 is recommended.

¹⁴ See Section 83116, subdivision (c).

¹⁵ Regulation 18361.5, subdivision (d).

CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, the Committee to Re-Elect David L. Boyd, Orange County Board of Education Trustee Area Two – 2018, and David L. Boyd hereby agree as follows:

- 1. Respondents violated the Act as described in the foregoing pages, which are a true and accurate summary of the facts in this matter.
- 2. This stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose of reaching a final disposition without the necessity of holding an administrative hearing to determine the liability of Respondents pursuant to Section 83116.
- 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to the right to appear personally at any administrative hearing held in this matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially reviewed.
- 5. Respondents agree to the issuance of the decision and order set forth below. Also, Respondents agree to the Commission imposing against them an administrative penalty in the amount of \$2,500. One or more payments totaling said amount—to be paid to the General Fund of the State of California—is/are submitted with this stipulation as full payment of the administrative penalty described above, and same shall be held by the State of California until the Commission issues its decision and order regarding this matter.
- 6. If the Commission declines to approve this stipulation—then this stipulation shall become null and void, and within fifteen business days after the Commission meeting at which the stipulation is rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing

1	before the Commission becomes necessary, neither any member of the Commission, nor the Executive		
2	Director, shall be disqualified because of prior consideration of this Stipulation.		
3	7. The parties to this agreement may execute their respective signature pages separately. A		
4	copy of any party's executed signature page, including a hardcopy of a signature page transmitted via fax		
5	or as a PDF email attachment, is as effective and binding as the original.		
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7	Dated:		
8	Galena West, Chief of Enforcement Fair Political Practices Commission		
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10	Dated: David L. Boyd, individually and on behalf of the Committee		
11	to Re-Elect David L. Boyd Orange County Board of		
12	Education Trustee Area Two – 2018		
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1	The foregoing stipulation of the parties "In the Matter of the Committee to Re-Elect David L.		
2	Boyd Orange County Board of Education Trustee Area Two – 2018, and David L. Boyd," FPPC Case		
3	No. 18/713 is hereby accepted as the final decision and order of the Fair Political Practices Commission,		
4	effective upon execution below by the Chair.		
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6	6 IT IS SO ORDERED.		
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9	9 Alice T. Germond, Chair Fair Political Practices Commission		
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