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."³

Payments made at the behest of elected officials—including charitable donations—are a means by which donors may seek to gain favor with elected officials. One purpose of the Act is to ensure transparent reporting of such activity. This serves to increase public awareness regarding potential attempts to influence in this manner.⁴ Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced."⁵

Required Filing of Behested Payment Reports

When an elected officer solicits a charitable donation or donations from one individual or organization to another, the officer is required to disclose the payment(s) on a Form 803 behested payment report within 30 days following the date on which the payment(s) equal or exceed \$5,000 in the aggregate from the same source in the same calendar year. The report is a public record, which must include the name and address of the payor, the amount of the payment, the date of payment, the name and address of the payee, a brief description of the goods or services provided or purchased (if any), and a description of the specific purpose or event for which the payment or payments were made. Once the \$5,000 aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source must be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later.⁶

SUMMARY OF THE FACTS

In 2014, students from several college campuses attended meetings of the Irvine City Council and the Great Park Board—asking for financial help for the 2015 Solar Decathlon competition held in Orange

² Section 81001, subdivision (h).

³ Section 81003.

⁴ See Section 82015, subdivision (b)(2)(B)(iii).

⁵ Section 81002, subdivision (f).

⁶ See Section 82015, subdivision (b)(2)(B)(iii).

County. In response to this request, Shea reached out to Mike LeBlanc, Senior Vice President of the Irvine Company, to see if the company would be interested in financially helping the students. (The Irvine Company is a privately held real estate investment/development company.) Shea indicated that she did not request/specify an amount to be contributed from the Irvine Company for the 2015 Solar Decathlon.

On or about November 24, 2014, LeBlanc sent a letter to Shea, which stated the following: "On behalf of the Irvine Company I am writing to confirm that our company is interested in providing financial support to the Irvine Team for the upcoming Solar Decathlon. We will coordinate with the leaders of the Irvine Team to ascertain how we can best support their efforts through cash and in-kind contributions in the amount of up to \$100,000. [¶] We appreciate your interest in this matter and bringing this opportunity to our attention." The Irvine Company proceeded to provide monetary support and in-kind/non-monetary support.

The monetary support was a payment that was made on or about April 16, 2015, when the Irvine Company issued a check in the amount of \$10,000—payable to: UCI Foundation, the Casa Del Sol Solar Decathlon, USA.

The in-kind support was for the local team of students called "Irvine Team." This support related to labor in connection with the building of a solar powered house. Records suggest that this support was provided from August through October 2015—and the value of this labor/support was approximately \$128,714.

On or about January 7, 2016, Shea filed a Form 803 behested payment report. On the filing, boxes were checked for "Monetary Donation" and for "In-Kind Goods or Services." "Amount of Payment: (In-Kind FMV)" is listed as \$10,000, but there is a partially legible description of the in-kind payment, which mentions something about exceeding \$100,000.

VIOLATIONS

Count 1

Failure to Timely File Behested Payment Reports

Regarding the Irvine Company's April 2015 payment in the amount of \$10,000, Shea was required to report this by filing a Form 803 within 30 days, but she failed to do so.

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Regarding the in-kind support that the Irvine Company provided from August through October 2015 (with a fair market value of approximately \$128,714), Shea was required to report this as well—by filing another Form 803 within 30 days, but she failed to do so.

In this way, Shea violated Section 82015, subdivision (b)(2)(B)(iii). For settlement purposes, failure to timely file these Form 803's is being charged as a single count—because the monetary support and the in-kind support both related to a single solicitation by Shea.

PROPOSED PENALTY

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

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.⁸ Additionally, the Commission considers penalties in prior cases with comparable violations.

Payments made at the behest of elected officials—including charitable donations—are a means by which donors may seek to gain favor with elected officials. Although the Enforcement Division found no evidence of improper influence, timely reporting of such activity serves to increase public awareness regarding potential attempts to influence in this manner. There is inherent public harm in non-disclosure because the public is deprived of important information that the Act mandates must be disclosed. The Commission has found timely disclosure to be essential. In this case, the Enforcement Division found no evidence of intentional concealment. Shea maintains that she was not aware of her duty to report the

⁷ See Section 83116, subdivision (c).

⁸ Regulation 18361.5, subdivision (d).

was unable to find any prior Form

activity in question on Form 803 behested payment reports. (In this regard, the Enforcement Division was unable to find any prior Form 803 filings by Shea.)

Recently, the Commission considered another stipulation involving this same type of violation. *In the Matter of Charles Ramsey;* FPPC Case No. 16/19823 (approved Feb. 21, 2019), the Commission imposed a penalty in the amount of \$18,000 against a former school board member who failed to timely file Form 803's with respect to solicitation of 39 charitable payments totaling approximately \$485,000. These funds, which were raised from 15 donors in 2012, 2013, and 2014, were for the benefit of a scholarship program that Ramsey and another school board member founded/administered. Some of the charitable donations were broken up into multiple payments that were spread out across multiple months. For charging purposes, each group of these was treated as a single count because each was made in response to a single solicitation. Nine counts were charged—with an agreed-upon penalty of \$2,000 per count. Additionally, it was noted that Ramsey's children benefitted from the scholarship program for which he was raising money—mostly from the school district's vendors.

The behested payments in the current case involve a check from the Irvine Company in the amount of \$10,000—plus in-kind support in the form of labor valued at approximately \$128,714. However, these both arose from a single solicitation, and for this reason, only one count is being recommended—consistent with *Ramsey*.

The current case is similar to *Ramsey* in many other ways. Neither case appears to involve intentional concealment. Ramsey and Shea both maintain that their violations occurred because they were not familiar with the Act's reporting requirements. Both cases involve officials who solicited charitable payments from donors who were doing business with—or who had business before—the agencies in question. (*Ramsey* involved a school district official who was soliciting donations—mostly from school district vendors. In the current case, the developer-donor was engaged in the land entitlement process within the City of Irvine—a process involving approvals/permits from government agencies to develop property.) Both cases involve sophisticated parties who have held office for many years. Both cases involve parties who cooperated with the Enforcement Division and who do not have a history of prior, similar violations of the Act.

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However, a lower penalty per count is recommended in the current case because the current case involves a reporting violation with respect to one payment from a single donor, plus some later, follow-up, in-kind support from the same donor. In contrast, *Ramsey* involved a pattern of reporting violations with respect to 39 charitable payments from 15 donors. (Reportable activity for both cases was approximately \$138,714 in the current case vs. \$485,000 in *Ramsey*.) Also, the Form 803's were filed *years* late in *Ramsey*—compared with *months* late in the current case. Additionally, *Ramsey* involved a school district official who was soliciting donations in support of a scholarship program pursuant to which his children received a benefit. No such facts are present in the current case.

Under these circumstances, a penalty in the amount of \$1,500 for Count 1 is recommended.

CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondent Christina Shea hereby agree as follows:

- 1. Respondent 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 Respondent pursuant to Section 83116.
- 4. Respondent has consulted with her attorney, James Ferguson—of the Ferguson Law Firm. Respondent understands and hereby knowingly and voluntarily waives, 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 Respondent's 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.

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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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6	Dated:
7	Galena West, Chief of Enforcement Fair Political Practices Commission
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10	Dated:
11	Christina Shea, Respondent
12	The foregoing stipulation of the parties "In the Matter of Christina Shea," FPPC Case No. 16/101,
13	is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective
14	upon execution below by the Chair.
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16	IT IS SO ORDERED.
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18	Dated: Richard C. Miadich, Chair
19	Fair Political Practices Commission
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