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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
10 STATE OF CALIFORNIA

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12 In the Matter of:

13 JENNIFER MADDEN FOR JUDGE
2016, JENNIFER MADDEN, and
14 LINDA PERRY,

15 Respondents.
16

FPPC No. 16/19744

STIPULATION, DECISION, AND ORDER

17 **INTRODUCTION**

18 Respondent Jennifer Madden (“Madden”) was a successful candidate for the Alameda County
19 Superior Court in the June 7, 2016 Primary Election. Respondent Jennifer Madden for Judge 2016 (the
20 “Committee”) is her candidate-controlled committee, and Linda Perry (“Perry”) was the Committee’s
21 treasurer. Respondents violated the Political Reform Act (the “Act”),¹ by failing to timely file two pre-
22 election campaign statements in electronic format, failing to timely file one semi-annual campaign
23 statement in paper and electronic format, and failing to timely file two 24-hour contribution reports in
24 paper and electronic format.

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28 ¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and 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, and all regulatory references are to this source.

1 **SUMMARY OF THE LAW**

2 The violations in this case occurred in 2016, and all legal references and discussions of law pertain
3 to the Act’s provisions as they existed at that time.

4 Need for Liberal Construction and Vigorous Enforcement of the Act

5 When enacting the Act, the people of California found and declared that previous laws regulating
6 political practices suffered from inadequate enforcement by state and local authorities.² Thus, it was
7 decreed that the Act “should be liberally construed to accomplish its purposes.”³ One purpose of the Act
8 is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and
9 truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ Another
10 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously
11 enforced.”⁵

12 Committees

13 A committee will qualify as a “recipient committee” when it receives \$2,000 or more in
14 contributions during a single calendar year.⁶ A committee is a “controlled committee” when it is
15 controlled directly by or indirectly by a candidate.⁷

16 Pre-Election Campaign Statements

17 A controlled committee must file two pre-election campaign statements before the election in
18 which the candidate is listed on the ballot.⁸ A committee must file a first pre-election campaign statement
19 for the period ending 45 days before the election no later than 40 days before the election.⁹ A committee
20 must also file a second pre-election campaign statement for the period ending 17 days before the election
21 no later than 12 days before the election.¹⁰

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25 ² Section 81001, subd. (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subd. (a).

28 ⁵ Section 81002, subd. (f).

⁶ Section 82013, subd. (a).

⁷ Section 82016, subd. (a).

⁸ Section 84200.5, subd. (a).

⁹ Section 84200.8, subd. (a).

¹⁰ Section 84200.8, subd. (b).

1 Semi-Annual Campaign Statements

2 A controlled committee must file two semi-annual campaign statements each year no later than
3 July 31 for the period ending June 30 and no later than January 31 for the period ending December 31.¹¹
4 However, judges, judicial candidates, and their controlled committees are not required to file semi-annual
5 campaign statements for any six-month period in which they have not made or received any contributions
6 or made any expenditures.¹²

7 Where to File Campaign Statements

8 All candidates and their controlled committees must file one copy of campaign statements with
9 the elections official of the county in which the candidate is domiciled.¹³ In addition, superior court
10 judges, candidates for that office, and their controlled committees must file the original and one copy of
11 campaign statements in paper format with the Secretary of State.¹⁴ Superior court judges, candidates for
12 that office, and their controlled committees also must file electronically with the Secretary of State when
13 the total cumulative reportable amount of contributions received, expenditures made, loans made, or
14 loans received is \$25,000 or more.¹⁵

15 Joint and Several Liability

16 It is the duty of a committee treasurer and the candidate to ensure that the committee complies
17 with the Act.¹⁶ A treasurer and candidate may be held jointly and severally liable, along with the
18 committee, for violations committed by the committee.¹⁷

19 **SUMMARY OF THE FACTS**

20 Madden was a successful candidate for the Alameda County Superior Court in the June 7, 2016
21 Primary Election. The Committee, Madden, and Perry received contributions totaling approximately
22 \$83,891 and made expenditures totaling approximately \$67,304 for this Primary Election.

23 The Committee, Madden, and Perry filed an initial statement of organization on
24 February 22, 2016 and filed an amended statement of organization on March 4, 2016, indicating that it

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26 ¹¹ Section 84200, subd. (a).

27 ¹² Section 84200, subd. (a)(2).

28 ¹³ Section 84215, subd. (a).

¹⁴ Id.

¹⁵ Sections 84215, subd. (a), and 84605, subd. (a)(1).

¹⁶ Sections 81004, 84100, and 84104; Regulation 18427.

¹⁷ Sections 83116.5 and 91006.

1 qualified as a committee on February 29, 2016. The Committee, Madden, and Perry filed another
2 amended statement of organization on February 8, 2017 to redesignate the Committee for Madden’s 2022
3 campaign.

4 The Committee, Madden, and Perry timely filed a paper copy with SOS and an electronic copy
5 with the Alameda County Registrar of Voters (the “Alameda ROV”) of the pre-election campaign
6 statement for the reporting period ending on April 23, 2016. This pre-election campaign statement
7 reported \$63,832.00 in total contributions received and \$41,362.50 in total expenditures made. Because
8 the Committee received contributions and made expenditures totaling \$25,000 or more to support
9 Madden’s candidacy, the Committee was required to file this and future campaign statements online or
10 electronically with SOS. The Committee, Madden, and Perry failed to timely file an electronic copy of
11 this campaign statement with SOS.

12 The Committee, Madden, and Perry timely filed a paper copy with SOS and an electronic copy
13 with the Alameda ROV of the pre-election campaign statement for the reporting period ending on
14 May 21, 2016. This pre-election campaign statement reported \$20,058.99 in total contributions received
15 and \$25,941.65 in total expenditures made. The Committee, Madden, and Perry failed to timely file an
16 electronic copy of this campaign statement with SOS.

17 The Committee, Madden, and Perry failed to timely file a semi-annual campaign statement for
18 the reporting period ending on June 30, 2016 with both Alameda ROV and SOS. After receiving
19 communications from the Enforcement Division, the Committee and Madden filed the delinquent
20 campaign statements with SOS and Alameda ROV as part of this settlement, reporting \$25,941.66 in
21 total contributions received and \$13,176.95 in total expenditures made.

22 Additionally, in the 90 days prior to the Primary Election, the Committee, Madden, and Perry
23 received 13 late contributions totaling \$19,200 but reported only 11 of them on 24-hour contribution
24 reports, which were filed electronically only with Alameda ROV. A 24-hour contribution report was not
25 timely filed for a \$1,000 contribution received from Yolanda Smith on May 19, 2016, but it was timely
26 reported on a pre-election campaign statement. A 24-hour contribution report was not timely filed for a
27 \$1,200 contribution received from Rick Dumas on May 23, 2016, and this contribution was not timely

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1 reported on a campaign statement. Although required by the Act, all 13 of the 24-hour contribution
2 reports were not filed with the Secretary of State.

3 **VIOLATIONS**

4 Count 1: Failure to Timely File Pre-Election Campaign Statements Electronically with SOS

5 The Committee, Madden, and Perry failed to timely file two pre-election campaign statements
6 electronically with SOS for the reporting periods covering January 1, 2016 through April 23, 2016 by
7 April 28, 2016 and April 24, 2016 through May 21, 2016 by May 26, 2016, in violation of Government
8 Code sections 84200.5, 84200.8, 84215, subdivision (a), and 84605, subdivision (a)(1).

9 Count 2: Failure to Timely File a Semi-Annual Campaign Statement

10 The Committee, Madden, and Perry failed to timely file one semi-annual campaign statement, in
11 paper and electronic format, for the reporting period covering May 22, 2016 through June 30, 2016 by
12 August 1, 2016, in violation of Government Code section 84200, 84215, subdivision (a), and 84605,
13 subdivision (a)(1).

14 Count 3: Failure to Timely File 24-Hour Reports

15 The Committee, Madden, and Perry failed to timely file two 24-hour contribution reports for a
16 \$1,000 contribution received on May 19, 2016 and a \$1,200 contribution on May 23, 2016, in violation
17 of Government Code section 84203.

18 **PROPOSED PENALTY**

19 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
20 count. Thus, the maximum penalty that may be imposed is \$15,000.

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

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¹⁸ Regulation 18361.5, subd. (d).

1 These violations resulted in a lack of transparency for the public into Madden’s campaign, but
2 there is no evidence of an intention to conceal, deceive, or mislead the public. The violations do not seem
3 to have been deliberate. Perry states that she was not aware that the campaign statements and reports
4 needed to be filed electronically with SOS. In mitigation, the Committee and Madden voluntarily filed
5 the delinquent campaign statement with SOS and Alameda ROV to bring the Committee in compliance
6 with the Act. The Committee and Madden do not have a prior enforcement history, but Perry, a
7 professional treasurer, was a named respondent in five prior cases, all involving the failure to timely file
8 campaign statements.

9 The Commission also considers penalties in prior cases with comparable violations. Recent cases
10 with a similar violation include the following:

11 Count 1

12 *In the Matter of Democrats United for Public Education and Diane Peete*; FPPC No. 16/378.
13 (The Commission approved a stipulated agreement on May 25, 2017.) Respondents timely filed a
14 quarterly campaign statement in paper format but failed to file one in electronic format. The statement
15 disclosed a \$50,000 contribution received by the committee and a \$10,000 contribution made by the
16 committee. After receiving contact from the Enforcement Division, Respondents filed the campaign
17 statement in electronic format. The Commission approved a penalty of \$1,000 for this violation.

18 The Committee, Madden and Perry timely filed two pre-election campaign statements in paper
19 format with SOS and in electronic format with the Alameda ROV but failed to timely file an electronic
20 copy of both with SOS. The pre-election campaign statement for the period ending on April 23, 2016
21 disclosed \$63,832 in total contributions received and \$41,362.50 in total expenditures made. The pre-
22 election campaign statement for the period ending on May 21, 2016 disclosed \$20,058.99 in total
23 contributions received and \$25,941.65 in total expenditures made.

24 While *Democrats United* concerns quarterly reports, it is comparable to this case because it
25 uniquely involves a situation in which respondents timely filed a paper statement with SOS and electronic
26 statement with a local jurisdiction but failed to also file an electronic statement with SOS. The
27 Committee, Madden, and Perry timely filed electronic reports with the Alameda ROV, which meant that
28 reports were available electronically in the jurisdiction in which the election was conducted, thereby

1 minimizing the public harm. Like *Democrats United*, the Committee, Madden, and Perry filed the
2 campaign statements electronically after receiving contact from the Enforcement Division. As a result,
3 penalty of \$1,000 is recommended.

4 Count 2

5 *In the Matter of Contra Costa Supervisor John Gioia 2010 Officeholder Account, Contra Costa*
6 *Supervisor John Gioia 2014 Officeholder Account, John Gioia, and Jennifer Peck*; FPPC Nos. 17/84 and
7 17/86. (The Commission approved a stipulated agreement on August 17, 2017.) Respondents failed to
8 timely file numerous campaign statements over the course of several years for two distinct campaign
9 committees. The Commission approved a penalty of \$1,500 each for six counts of failing to timely file
10 semi-annual campaign statements.

11 Unlike *Gioia*, this case concerns only one campaign committee and only one late-filed semi-
12 annual campaign statement. At all times, Madden contends that she believed Perry was timely and
13 properly filing campaign reports. In mitigation, upon being informed by the Enforcement Division of
14 recordkeeping deficiencies, Madden provided records and filed the delinquent campaign statement,
15 reporting \$9,713 in contributions received and \$18,374 in expenditures made. Therefore, a penalty of
16 \$1,000 is recommended.

17 Count 3

18 *In the Matter of Donna Munoz for County Supervisor 2016, Donna Munoz, and Max Hazard*;
19 FPPC No. 17/140. (The Commission approved a stipulated agreement on April 19, 2018.) Respondents
20 failed to timely file two 24-hour contribution reports to disclose two late contributions, among other
21 violations of the Act. Respondents had received non-monetary contributions from a single source of
22 \$1,775 and a monetary contribution of \$1,500. Although Respondents failed to timely file the required
23 24-hour contribution reports, the contributions were timely disclosed on campaign statements prior to the
24 election. The Commission approved a penalty of \$1,500 for one count of failing to timely file 24-hour
25 contribution reports.

26 The Committee, Madden and Perry failed to report two late contributions in timely filed 24-hour
27 contribution reports. The \$1,000 contribution received on May 19, 2016 was timely reported on a pre-
28 election campaign statement in electronic format with the Alameda ROV and in paper format with SOS.

1 On the other hand, the \$1,200 contribution received on May 23, 2016 was not disclosed prior to the
2 Primary Election because the contribution was received after the second pre-election campaign statement
3 reporting period. Additionally, the Committee, Madden, and Perry failed to timely file any late
4 contributions with the Secretary of State. For this reason, a penalty of \$2,000 is recommended.

5 In summary, the following penalties are recommended:

6 Count #	Violation	Penalty Amount
7 1	Failure to Timely File Pre-Election Campaign Statements Electronically with SOS	\$1,000
8 2	Failure to Timely File a Semi-Annual Campaign Statement	\$1,000
9 3	Failure to Timely File 24-Hour Reports	\$2,000
	Total:	\$4,000

10 **CONCLUSION**

11 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
12 Respondents Jennifer Madden for Judge 2016, Jennifer Madden, and Linda Perry hereby agree as
13 follows:

14 1. The Respondents violated the Act as described in the foregoing pages, which are a true
15 and accurate summary of the facts in this matter.

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

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

21 4. The Respondents understand, and hereby knowingly and voluntarily waive, any and all
22 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
23 This includes, but is not limited to the right to appear personally at any administrative hearing held in
24 this matter, to be represented by an attorney at the Respondents' own expense, to confront and cross-
25 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an
26 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter
27 judicially reviewed.

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1 The foregoing stipulation of the parties “In the Matter of Jennifer Madden for Judge 2016, Jennifer
2 Madden, and Linda Perry,” FPPC No. 16/19744, is hereby accepted as the final decision and order of the
3 Fair 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: _____

_____ Richard C. Miadich, Chair
8 Fair Political Practices Commission
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