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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. 17/1334

12 STIPULATION, DECISION AND ORDER

13 COMMITTEE TO BAN COMMERCIAL
CULTIVATION AND WILLIAM J.
14 MCMANUS, JR.,

15 Respondents.
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17 INTRODUCTION

18 Committee to Ban Commercial Cultivation (the “Committee”) initially registered as a committee
19 primarily formed to support a ballot measure to ban the commercial cultivation of marijuana in
20 Calaveras County, and qualified as a committee on June 21, 2016. The ban the Committee was
21 petitioning for would ultimately become Measure B, a ballot measure in the May 2, 2017 Special
22 Election that would result in a ban of the commercial cannabis industry in Calaveras County. The
23 principal officer and treasurer of the Committee is William J. McManus, Jr. (“McManus”).

24 Respondents failed to timely file several campaign statements, as required by the Political
25 Reform Act (the “Act”),¹ including one preelection campaign statement and three semiannual campaign
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28 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 statements.

2 SUMMARY OF THE LAW

3 The Act and its regulations are amended from time to time. The violations in this case occurred
4 between 2016 and 2019. For this reason, all legal references and discussions of law pertain to the Act's
5 provisions as they existed at those times.

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

7 When enacting the Act, the people of California found and declared that previous laws regulating
8 political practices suffered from inadequate enforcement by state and local authorities.² For this reason,
9 the Act is to be construed liberally to accomplish its purposes.³

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

15 Mandatory Filing of Campaign Statements

16 At the core of the Act's campaign reporting system is the requirement that committees file
17 campaign statements and reports for certain reporting periods and by certain deadlines.⁷

18 The Act requires that primarily formed committees file preelection campaign statements.⁸ In
19 particular, in connection with the election held on May 2, 2017, committees were required to file
20 preelection campaign statements (Form 460s) with the appropriate filing officer by the deadline of March
21 23, 2017 for the reporting period of January 1, 2017 to March 18, 2017, and by the deadline of April 20,
22 2017 for the reporting period of March 19, 2017 to April 15, 2017.⁹

24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (a).

27 ⁵ Sections 84200, *et seq.*

28 ⁶ Section 81002, subd. (f).

⁷ Sections 84200, *et seq.*

⁸ Section 84200.5, subd. (a).

⁹ Sections 84200.8, subds. (a) and (b); and 84215.

1 Further, the Act requires committees to file semiannual campaign statements twice per year
2 disclosing their campaign contributions and expenditures. A recipient committee must file a semiannual
3 statement by January 31 for the period ending December 31 and by July 31 for the period ending June
4 30, or the next business day if the deadline falls on a weekend or holiday.¹⁰

5 Joint and Several Liability of Committee, Principal Officer, and Treasurer

6 It is the duty of a committee treasurer to ensure that the committee complies with the campaign
7 reporting provisions of the Act.¹¹ It is the duty of the committee's principal officer to authorize the
8 content of communications made by the committee, authorize expenditures made by the committee, and
9 determine the committee's campaign strategy.¹² A treasurer and principal officer may be held jointly and
10 severally liable, along with the committee, for violations committed by the committee.¹³

11 **SUMMARY OF THE FACTS**

12 The Committee filed its initial statement of organization on July 26, 2016, although it qualified as
13 a committee on June 21, 2016. Starting in 2016, the Committee paid for advertisements that asked voters
14 to sign a petition to support a ballot measure that would ban the commercial cultivation of marijuana in
15 Calaveras County. That proposed measure acquired sufficient petition signatures to be designated
16 Measure B, which would appear on the ballot for the May 2, 2017 Special Election in Calaveras County.
17 However, Measure B was removed from the ballot on March 28, 2017 due to a failure to comply with
18 Election Code language requirements. According to McManus, the Committee remains active to fight
19 against any expansion of commercial marijuana cultivation in Calaveras County, regardless of the
20 existence of a respective ballot measure.

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¹⁰ Section 84200, subd. (a); Regulation 18116, subd. (a).

27 ¹¹ Sections 81004, 84100, 84104, and 84213; Regulation 18427.

28 ¹² Section 82047.6; Regulation 18402.1, subd. (b).

¹³ Sections 83116.5 and 91006.

The Committee failed to timely file certain campaign statements, including the following:

Statement/ Report Type	Reporting Period	Due Date	Date Filed	Days Late	Amount of Contributions/ Expenditures
Semiannual	1/1/16 – 6/30/16	07/31/16	10/24/16	85	\$2,847.90/\$15.13
Preelection	1/1/17 – 3/18/17	03/23/17	04/03/17	11	\$10,805/\$10,257
Semiannual	4/16/17 – 6/30/17	07/31/17	08/22/17	22	\$0/\$2,965.50
Semiannual	7/1/18 – 12/31/18	01/31/19	N/A	N/A	N/A

VIOLATIONS

Count 1: Failure to Timely File Campaign Statements

The Committee and McManus failed to timely file a semiannual campaign statement for the reporting period of January 1, 2016 to June 30, 2016; preelection campaign statement for the reporting period of January 1, 2017 to March 18, 2017; semiannual campaign statement for the reporting period of April 16, 2017 to June 30, 2017; and semiannual campaign statement for the reporting period of July 1, 2018 to December 31, 2018, in violation of Sections 84200, subdivision (a); 84200.5, subdivision (a); and 84200.8, subdivision (a).

PROPOSED PENALTY

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

¹⁴ Section 83116, subd. (c).

1 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
2 record of violations.¹⁵

3 In this case, the Enforcement Division found no evidence that Respondents intended to conceal,
4 deceive, or mislead the public. Further, Respondents do not have a prior history of violations.

5 The Commission also considers penalties in prior cases involving similar violations. Recent
6 similar cases involving a failure to timely file campaign statements include the following:

7 • *In the Matter of Privacy for All Students, Karen England, and John Fugatt*; FPPC No. 14/1111.
8 Respondents, a primarily formed ballot measure committee and its principal officer and treasurer, failed
9 to timely file four semiannual campaign statements, in violation of Section 84200, subdivision (a). In
10 August 2018, the Commission approved a fine of \$3,500 on one count.

11 As to Count 1, a penalty similar to that approved in the comparable case is warranted. Although
12 the financial activity associated with the campaign statements in the comparable case was higher, the
13 violations here included a failure to timely file a preelection campaign statement, in addition to
14 semiannual statements.

15 In aggravation, Respondents committed additional violations of the Act that are not being charged
16 herein. In particular, Respondents failed to timely file two 24-hour contribution reports for late
17 contributions totaling \$6,000 received on February 1, 2017 and February 14, 2017, in violation of Section
18 84203. However, in the interest of settlement, these violations are not being charged herein. In
19 mitigation, Respondents were cooperative at all times during the investigation of this matter.

20 Based on the foregoing, a penalty of \$3,500 as to Count 1 is recommended.

21 CONCLUSION

22 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
23 Respondents, Committee to Ban Commercial Cultivation and William J. McManus, Jr., hereby agree as
24 follows:

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

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¹⁵ Regulation 18361.5, subd. (d).

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

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

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

13 5. Respondents agree to the issuance of the decision and order set forth below. Also,
14 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
15 \$3,500. One or more payments totaling this amount, to be paid to the General Fund of the State of
16 California, is/are submitted with this stipulation as full payment of the administrative penalty described
17 above, and they will be held by the State of California until the Commission issues its decision and order
18 regarding this matter.

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

25 7. The parties to this agreement may execute their respective signature pages separately. A
26 copy of any party’s executed signature page including a hardcopy of a signature page transmitted via fax
27 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: _____
William J. McManus, Jr., individually and on behalf of
Committee to Ban Commercial Cultivation

1 The foregoing stipulation of the parties “In the Matter Committee to Ban Commercial Cultivation and
2 William J. McManus, Jr.,” FPPC Case No. 17/1334 is hereby accepted as the final decision and order of
3 the 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: _____
8 Richard C. Miadich, Chair
9 Fair Political Practices Commission