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7  
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
STATE OF CALIFORNIA

9 In the Matter of:

10 TIM NONN FOR CRPUSD BOARD OF  
11 TRUSTEES 2016, TIM NONN,  
12 GABRIELE SCHMITZ, AND  
ELIZABETH RUDICK,

13 Respondents.

FPPC Case No. 16/19918

STIPULATION, DECISION AND ORDER

14  
15 **INTRODUCTION**

16 Respondent Tim Nonn (“Nonn”) was a successful candidate for school board member of the Cotati-  
17 Rohnert Park Unified School District during the November 8, 2016 General Election. His controlled  
18 committee was Tim Nonn for CRPUSD Board of Trustees 2016 (“Committee”). Gabriele Schmitz  
19 (“Schmitz”) served as the principal officer. Elizabeth Rudick (“Rudick”) served as the treasurer.

20 The Respondents committed numerous violations of the Political Reform Act<sup>1</sup> (“Act”), including  
21 failure to timely file campaign statements and 24-hour contribution reports and incorrect advertisement  
22 disclosure.

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28 <sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 81000 through 91014. 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. All regulatory references are to this source.

1 **SUMMARY OF THE LAW**

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

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

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

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

14 **Duty to File Campaign Statements**

15 The Act requires recipient committees to file campaign statements at specific times disclosing  
16 information regarding contributions received and expenditures made.<sup>7</sup> A controlled committee must file  
17 two pre-election campaign statements before the election in which the candidate is listed on the ballot.<sup>8</sup> A  
18 committee must file the first pre-election campaign statement for the period 45 days before the election,  
19 no later than 40 days before the election.<sup>9</sup> A committee must also file a second pre-election campaign  
20 statement for the period ending 17 days before the election no later than 12 days before the election.<sup>10</sup>  
21 Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a  
22 statement shall be extended to the next regular business day.<sup>11</sup>

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

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

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

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

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

<sup>7</sup> Sections 84200 through 84225.

<sup>8</sup> Section 84200.5.

<sup>9</sup> Section 84200.8, subdivision. (a).

<sup>10</sup> Section 84200.8, subdivision. (b).

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

1 In addition, a committee must file two semi-annual campaign statements each year no later than  
2 July 31 for the period ending June 30 and no later than January 31 for the period ending December 31.<sup>12</sup>  
3 Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a  
4 statement shall be extended to the next regular business day.<sup>13</sup>

### 5 **24-hour Contribution Reports**

6 Each candidate or committee that makes or receives a late contribution must file a report within 24  
7 hours of making or receiving the contribution.<sup>14</sup> In the case of a nonmonetary contribution, a report filed  
8 within 48 hours will be deemed timely.<sup>15</sup> A “late contribution” includes a contribution in total or in the  
9 aggregate \$1,000 or more that is made or received by a candidate or his or her controlled committee during  
10 the 90-day period preceding the date of the election or on the date of the election at which the candidate is  
11 to be voted on.<sup>16</sup> The late contribution period for the November 8, 2016 General Election began on August  
12 10, 2016.

### 13 **Advertisement Disclosure**

14 An advertisement means any general or public advertisement which is authorized and paid for by  
15 a person or committee for the purpose of support or opposing a candidate for elective office or a ballot  
16 measure or ballot measures.<sup>17</sup> An advertisement supporting or opposing a candidate or ballot measure, that  
17 is paid for by an independent expenditure, shall include a disclosure statement that identifies the name of  
18 the committee making the independent expenditure.<sup>18</sup>

### 19 **Joint and Several Liability of Committee, Candidate, Principal Officer, and Treasurer**

20 Every committee must have a treasurer.<sup>19</sup> Committees must also identify a principal officer.<sup>20</sup> This  
21 individual is primarily responsible for approving the political activities of the committee, including, but  
22 not limited to, authorizing the content of communications, authorizing expenditures, including  
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25 <sup>12</sup> Section 84200, subdivision. (a).

26 <sup>13</sup> Regulation 18116, subdivision. (a).

27 <sup>14</sup> Section 84203.

28 <sup>15</sup> Section 84203.3.

<sup>16</sup> Section 82036.

<sup>17</sup> Section 84501.

<sup>18</sup> Section 84506.

<sup>19</sup> Section 84100.

<sup>20</sup> Section 84102, subdivision (c).

1 contributions, on behalf of the committee, and determining the committee's campaign strategy.<sup>21</sup> It is the  
2 duty of the treasurer, the principal officer, and the candidate to ensure that the committee complies with  
3 all the requirements of the Act concerning the receipt, expenditure, and reporting of funds.<sup>22</sup> The treasurer,  
4 the principal officer, and the candidate may be held jointly and severally liable, along with the committee,  
5 for violations committed by the committee.<sup>23</sup>

## 6 SUMMARY OF THE FACTS

7 Nonn ran successfully as a candidate for Board Member of the Cotati-Rohnert Park Unified School  
8 District during the November 8, 2016 General Election. The Committee qualified on or around September  
9 13, 2016, after receiving over \$2,000 in contributions, according to bank records provided by the  
10 Respondents. For the 2016 General Election, the Committee raised approximately \$13,215 and spent  
11 approximately \$12,147, according to campaign statements. The Committee has since terminated.

### 12 Failure to Timely File Campaign Statements

13 The Committee was required to file a pre-election campaign statement to report activity for the  
14 period of July 1, 2016 through September 24, 2016. This report was due on September 29, 2016. Instead,  
15 according to the filing officer, Sonoma County Registrar of Voters, the Committee filed a campaign  
16 statement for the reporting period of August 5, 2016 through October 22, 2016 on October 27, 2016. The  
17 Committee later amended the statements on or around November 1, 2016 to split the reporting into the  
18 correct reporting periods for the pre-election statements.

19 The Committee timely filed the second pre-election statement and the semiannual campaign  
20 statement to report campaign activity in the remainder of 2016. The Committee remained open and was  
21 required to file a semiannual campaign statement to report the activity from January 1, 2017 through June  
22 30, 2017. This report was due on July 31, 2017. The Committee was also required to file a statement for  
23 the period of July 1, 2017 through December 31, 2017. According to the filing officer, both of the  
24 statements for 2017 were not filed until April 3, 2018. The Committee terminated on or around April 3,  
25 2018.

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28 <sup>21</sup> Section 82047.6.

<sup>22</sup> Sections 81004, 84100, 84104, and 84213, and Regulation 18427.

<sup>23</sup> Sections 83116.5 and 91006.

1 Failure to Timely File 24-Hour Contribution Reports

2           The Committee was required to file 24-hour contribution reports after receiving \$1,000 or more in  
3 contributions. The Committee received a \$1,520 nonmonetary contribution in the form of advertisements  
4 in a local newspaper from Ron Nelson on or around September 19, 2016. The Committee received a \$2,130  
5 nonmonetary contribution in the form of a mailer advertisement from Rohnert Park Educators Association  
6 PAC on or around October 7, 2016 and a \$1,319 nonmonetary contribution in the form of advertisements  
7 in a local newspaper from the same PAC on or around October 10, 2016. The 24-hour contribution reports  
8 for these contributions were not filed until after the election or were not reported at all, despite being due  
9 within 48 hours of receipt, as required for a nonmonetary contribution. The Committee also received a  
10 \$2,000 contribution from Sonoma Charter Advocates for Great Public Schools on or around October 11,  
11 2016. Though the report was due on October 12, 2016, the Committee did not file until October 28, 2016.  
12 In mitigation, all but one of the contributions were reported on other campaign statements.

13 Advertising Disclosure

14           Advertisements that oppose a ballot measure must include the required disclosure statement, “Paid  
15 for by [the responsible committee].” The Committee paid for door hangers, flyers, and arranged for an  
16 advertisement in the Community Voice that included express advocacy opposing the passage of Measure  
17 C, a local ballot measure. The door hangers did not include any disclosure statement. The flyers included  
18 the statement, “Paid for by Tim Nonn and Chrissa Gillies.” This statement was inaccurate as the  
19 advertisement was only paid for by the Committee and not by the candidate, Chrissa Gillies. Furthermore,  
20 this statement did not conform to the statute requiring the full name of the responsible committee. The  
21 Community Voice advertisement was designed by and arranged by the Committee. This advertisement had  
22 the erroneous and misleading statement, “Paid for by Stephen Bossio.” Bossio was a community member  
23 who also opposed Measure C and assisted the Committee, but he did not pay for the advertisement. Instead,  
24 the Committee solicited a contribution from Ron Nelson to pay for the advertisement and the Committee  
25 reported this activity as a nonmonetary contribution when the Committee was unable to reimburse Nelson.  
26 These advertisements should have included the language “Paid for by” and the name of the Committee, to  
27 fully disclose to the public that the Committee was responsible for the advertisements.

1 **VIOLATIONS**

2 Count 1: Failure to Timely File Campaign Statements and 24-hour Contribution Reports

3 The Nonn Committee, Nonn, and Rudick failed to timely file a pre-election campaign statement  
4 for the reporting period July 1, 2016 through September 24, 2016 by the deadline of September 29, 2016  
5 and semiannual campaign statements for the reporting periods of January 1, 2017 through June 30, 2017  
6 by the deadline of July 31, 2017 and July 1, 2017 through December 31, 2017, by the deadline of December  
7 31, 2017, in violation of Section 84200.5 and 84200. The Nonn Committee, Nonn, and Rudick failed to  
8 file four 24-hour contribution reports for a total of \$6,969 of late contributions by the deadline, in violation  
9 of Section 84203.

10 Count 2: Advertisement Disclosure

11 The Nonn Committee, Nonn, and Schmitz failed to include correct disclosure statement on door  
12 hangers, flyers, and a newspaper advertisement opposing Measure C, in violation of Section 84506.

13 **PROPOSED PENALTY**

14 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per count.  
15 Thus, the maximum penalty that may be imposed is \$10,000.<sup>24</sup>

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

22 Here, the actions of the Committee appear to be the result of negligence, but there is no evidence  
23 of deliberate omission or attempts to conceal. Overall, there appears to be a good faith effort to disclose  
24 and report the campaign’s activities, however, there is a pattern showing a failure to diligently adhere to  
25 the campaign reporting rules. The Committee, Nonn, Schmitz, and Rudick have no prior enforcement  
26 history.

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<sup>24</sup> See Section 83116, subdivision (c).  
<sup>25</sup> Regulation 18361.5, subdivision (d).

1 The Commission considers penalties in prior cases with the same or similar violations and  
2 comparable facts. For Count 1, *In the Matter of Andrew Valencia for Sweetwater School Board 2016 and*  
3 *Andrew Valencia*, FPPC No. 16/20043. (The Commission approved a stipulation on September 20, 2018.)  
4 The respondents failed to timely file a pre-election statement and a semiannual campaign statement. The  
5 pre-election disclosure did not occur until after the election. The Commission imposed a penalty of \$2,000.  
6 Here, the first pre-election statement was filed at the same time the second pre-election statement was filed,  
7 resulting in disclosure prior to the election, however, the committee also failed to timely file 24-hour  
8 contribution reports. The Committee reported all but one of the late contributions on other campaign  
9 statements. Therefore, a penalty of \$2,000 is recommended.

10 For Count 2, *In the Matter of Southwest Teachers Association PAC, Ben Swearingen, and Michelle*  
11 *Gates*, FPPC No. 17/403. (The Commission approved the stipulation on December 20, 2018.) The  
12 respondents paid for two advertisements that did not conform to the advertisement requirements under the  
13 Act. One advertisement was a billboard that had no disclosure statement to indicate that the committee had  
14 paid for it. The other advertisement was a large banner that had a disclosure statement but it was too small  
15 to be legible. The Commission imposed a penalty of \$3,000.

16 Here, there is an aggravating factor that one disclaimer on an advertisement misled the public about  
17 who was actually responsible for this advertisement. According to the principal officer, the mistake was  
18 inadvertent and an oversight on the part of the Committee resulting from a change in plans about who  
19 would pay for the advertisement between concept and printing. The individual who worked with the vendor  
20 was visually impaired. In further aggravation, the Committee failed to disclose that certain expenditures  
21 were in support of another candidate and in opposition to the measure, though this disclosure is required  
22 by the Act, therefore, there was no place on the campaign statements to verify that the Committee had  
23 indeed supported another candidate or opposed the measure. This could have contributed to further  
24 confusion as to who paid for the advertisements at issue. Therefore, a penalty of \$3,500 is recommended.

25 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases, a  
26 penalty of \$5,500 is recommended.

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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
3 Respondents, Tim Nonn for CRPUSD Board of Trustees 2016, Tim Nonn, Gabriele Schmitz, Elizabeth  
4 Rudick, hereby agree as follows:

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

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

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

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

19 5. Respondents agree to the issuance of the decision and order set forth below. Also,  
20 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
21 \$5,500. One or more payments totaling said amount—to be paid to the General Fund of the State of  
22 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
23 above, and same shall be held by the State of California until the Commission issues its decision and order  
24 regarding this matter.

25 6. If the Commission declines to approve this stipulation—then this stipulation shall become  
26 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
27 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to  
28 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before



1 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,  
2 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  
9 Fair Political Practices Commission

10 Dated: \_\_\_\_\_  
11 Tim Nonn, individually and on behalf of Tim Nonn for  
12 CRPUSD Board of Trustees 2016

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14 Dated: \_\_\_\_\_  
15 Gabriele Schmitz, Principal Officer

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17 Dated: \_\_\_\_\_  
18 Elizabeth Rudick, Treasurer

1 The foregoing stipulation of the parties “In the Matter of Tim Nonn for CRPUSD Board of Trustees  
2 2016, Tim Nonn, Gabriele Schmitz, Elizabeth Rudick,” FPPC Case No. 16/19918 is hereby accepted as  
3 the final decision and order of the Fair Political Practices Commission, effective upon execution below by  
4 the Chair.

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6 IT IS SO ORDERED.

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8 Dated: \_\_\_\_\_

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