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8
9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 18/1265

12 **SALINAS VALLEY LEADERSHIP**
13 **GROUP AND WARREN WAYLAND,**

STIPULATION, DECISION AND ORDER

14 Respondents.
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17 **INTRODUCTION**

18 Respondent, Salinas Valley Leadership Group (the “Committee”) (ID# 1323184), is a county
19 general purpose committee. Respondent, Warren Wayland (“Wayland”), serves as the Committee’s
20 treasurer.

21 The Political Reform Act (the “Act”)¹ requires committees and treasurers to file certain
22 campaign statements and reports to disclose contributions received and expenditures made. The
23 Committee and Wayland violated the Act by failing to timely file certain campaign statements and
24 reports.

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27 ¹ The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections
28 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
3 in 2018 and 2019. For this reason, all legal references and discussions of law pertain to the Act’s
4 provisions as they existed at that time.

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

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

13 **Pre-Election Campaign Statements**

14 A county general purpose committee shall file the applicable pre-election campaign statements if
15 it makes contributions or independent expenditures totaling \$500 or more in connection with the
16 statewide primary or general election during the period covered by the pre-election campaign
17 statements.⁶

18 The first pre-election campaign statement, for the period ending 45 days before the election, shall
19 be filed no later than 40 days before the election.⁷ The second pre-election campaign statement, for the
20 period ending 17 days before the election, shall be filed no later than 12 days before the election.⁸

21 **24-Hour Contribution Reports**

22 A “late contribution” is a contribution that totals in the aggregate \$1,000 or more and is made to
23 a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a
24 candidate or measure during the 90-day period preceding the date of the election, at which the candidate

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26 ² Section 81001, subdivision (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subdivision (a).

⁵ Section 81002, subdivision (f).

⁶ Section 84200.5, subdivision (c).

⁷ Section 84200.8, subdivision (a).

⁸ Section 84200.8, subdivision (b).

1 or measure is to be voted on.⁹ Each committee that makes a late contribution shall report the late
2 contribution within 24 hours of the time it is made.¹⁰

3 **Joint and Several Liability of Committee and Treasurer**

4 It is the duty of a committee treasurer to ensure the committee complies with the Act.¹¹ A
5 treasurer may be held jointly and severally liable, along with the committee and candidate, for violations
6 committed by the committee.¹²

7 **Liability for Violations**

8 Any person who violates any provision of the Act, who purposely or negligently causes any
9 other person to violate any provision of the Act, or who aids and abets any other person in the violation
10 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.¹³

11 **SUMMARY OF THE FACTS**

12 This case was opened in response to an anonymous complaint alleging the Committee failed to
13 file a pre-election campaign statement and 24-hour contribution reports.

14 The Committee reported that it qualified as a committee on January 7, 2010. According to the
15 Committee's filed campaign statements, the Committee received \$81,300 in contributions and spent
16 \$172,190.50 on expenditures throughout 2018. To date, the Committee remains open and active.

17 **Failure to Timely File Pre-Election Campaign Statement**

18 The Committee reported making contributions and/or independent expenditures totaling \$500 or
19 more in connection with the June 5, 2018 primary election during both periods covered by the pre-
20 election campaign statements. Thus, the Committee was required to file pre-election campaign
21 statements as follows:

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STATEMENT	REPORTING PERIOD	DUE DATE
First Pre-Election	January 1, 2018 – April 21, 2018	April 26, 2018
Second Pre-Election	April 22, 2018 – May 19, 2018	May 24, 2018

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27 ⁹ Section 82036, subdivision (a).

¹⁰ Section 84203, subdivisions (a)-(b).

¹¹ Sections 81004, 84100, and Regulation 18427.

¹² Sections 83116. 5 and 91006.

¹³ Sections 83116 and 83116. 5.

1 On May 24, 2018, 28 days late, the Committee filed the first pre-election campaign statement for
2 the correct reporting period. This statement reported \$34,900 received in contributions and \$47,911
3 spent on expenditures. The Committee filed the first pre-election campaign statement after receiving
4 notice from the Enforcement Division of the anonymous complaint filed against the Committee.

5 On May 24, 2018, the Committee timely filed the second pre-election campaign statement for the
6 correct reporting period. This statement reported \$4,400 received in contributions and \$23,528.53 spent
7 on expenditures.

8 **Failure to Timely File Three 24-Hour Contribution Reports**

9 The 90-day period preceding the June 5, 2018, primary election, began on March 7, 2018 and
10 ended on June 5, 2018. The Committee was required to file 24-hour reports within 24 hours of making a
11 late contribution that totals in the aggregate \$1,000 or more. The Committee's campaign statements
12 revealed late contributions that required 24-hour reports.

13 On March 27, 2018, the Committee reported, on its first pre-election campaign statement,
14 making a \$10,000 contribution to Steve Bernal for Monterey County Sheriff 2018 (ID# 1385119). On
15 May 22, 2018, 55 days late, the Committee filed a 24-hour contribution report for this late contribution.

16 On May 3, 2018, the Committee reported, on its second pre-election campaign statement,
17 making a \$10,000 contribution to John Phillips for Monterey County District 2 Supervisor (ID#
18 1362558). On May 22, 2018, 18 days late, the Committee filed a 24-hour contribution report for this late
19 contribution.

20 On May 7, 2018, the Committee reported, on its second pre-election campaign statement,
21 making a \$10,000 non-monetary contribution to John Phillips. On May 22, 2018, 14 days late, the
22 Committee filed a 24-hour contribution report for this late non-monetary contribution.

23 The Committee and Wayland late filed the three 24-hour contribution reports discussed above,
24 after receiving notice from the Enforcement Division of the anonymous complaint filed against the
25 Committee.

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1 In summary, the Committee and Wayland failed to timely file three 24-hour contribution reports
2 for the following late contributions made prior to the June 5, 2018 primary election:

DATE	COMMITTEE	AMOUNT
03/27/2018	Steve Bernal for Monterey County Sheriff 2018	\$10,000
05/03/2018	John Phillips for Monterey County District 2 Supervisor	\$10,000
05/07/2018	John Phillips for Monterey County District 2 Supervisor	\$10,000
		\$30,000

7 VIOLATIONS

8 **Count 1: Failure to Timely File Pre-Election Campaign Statement**

9 The Committee and Wayland failed to timely file a pre-election campaign statement for the
10 reporting period ending on April 21, 2018, in violation of Government Code Sections 84200.5,
11 subdivision (c) and 84200.8.

12 **Count 2: Failure to Timely File Three 24-Hour Contribution Reports**

13 Prior to the June 5, 2018, primary election, the Committee and Wayland failed to timely file
14 three 24-hour contribution reports totaling \$30,000, in violation of Government Code Section 84203.

15 **PROPOSED PENALTY**

16 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
17 count. Thus, the maximum penalty that may be imposed here is \$10,000.¹⁴

18 In determining the appropriate penalty for a particular violation of the Act, the Commission
19 considers the facts of the case, the public harm involved, and the purposes of the Act. Further, the
20 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
21 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
22 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
23 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
24 record of violations.¹⁵

25 The public harm inherent in campaign reporting violations is that the public is deprived of
26 important, time-sensitive information regarding campaign activity. Generally, these types of violations
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28 ¹⁴ Section 83116, subdivision (c).

¹⁵ Regulation 18361. 5, subdivision (d).

1 are considered more serious when the public is deprived of information that was required to be disclosed
2 prior to an election because this has the potential to affect how votes are cast. Another factor that
3 influences the seriousness of the violation is whether the public harm was mitigated because some of the
4 reportable activity was disclosed, prior to the election. Here, the public harm was mitigated as to the
5 Committee and Wayland's failure to file campaign statements and reports because the late filed
6 campaign statement and reports were filed prior to the June 5, 2018 primary election.

7 In this case, there was no evidence to support an intent to conceal, deceive or mislead the public
8 as to the Committee's receipts and expenditures. However, the violations appear to be negligent as
9 Wayland is sophisticated with the Act and has been the treasurer for the Committee since its
10 establishment in 2010. Thus, Wayland knew or should have known of the required filing schedule for
11 campaign statements and reports. The violations committed here were isolated as the Committee and
12 Wayland have not had prior enforcement history.

13 The Commission considers penalties in prior cases with the same or similar violations and
14 comparable facts.

15 **Count 1: Failure to Timely File Pre-Election Campaign Statement**

16 *In the Matter of Apple Valley Professional Firefighters Association Local 4742, James Peratt,*
17 *and Larry Soper*; FPPC Case No. 16/19935. Respondents, a city general purpose committee, its
18 principal officer, and treasurer, committed numerous violations of the Act in connection with its
19 campaign activity in 2016, including failing to timely file two pre-election campaign statements. The
20 first pre-election statement, filed 103 days late, after the election, reported the Committee received
21 \$3,750 in contributions and spent \$23,148 in expenditures during the reporting period. The second pre-
22 election statement, filed 75 days late, after the election, reported the Committee received \$1,428 in
23 contributions and spent \$9,618 in expenditures during the reporting period. Throughout 2016, the
24 Committee reported receiving \$20,334.21 in contributions and spending \$32,816.86 in expenditures. On
25 August 15, 2019, the Commission approved a penalty of \$3,500 for this count.

26 A lesser penalty than that approved in the *Apple Valley* case is recommended. Unlike *Apple*
27 *Valley*, the Committee and Wayland filed the outstanding pre-election campaign statement prior to the
28 pertinent election, only 28 days late. However, the Committee and Wayland's pre-election campaign

1 statement had a considerably higher amount of contributions and expenditures to report than the
2 statements in *Apple Valley*. In aggravation, the Committee and Wayland failed to report required
3 information for contributors and vendors for 100% of the contributions received and expenditures made
4 between January 1, 2018 and June 30, 2018. Therefore, a penalty of \$2,000 is recommended.

5 **Count 2: Failure to Timely File Three 24-Hour Contribution Reports**

6 *In the Matter of Apple Valley Professional Firefighters Association Local 4742, James Peratt,*
7 *and Larry Soper*; FPPC Case No. 16/19935. Respondents, a city general purpose committee, its
8 principal officer, and treasurer, committed numerous violations of the Act in connection with its
9 campaign activity in 2016, including failing to file six 24-hour reports. Respondents failed to file two
10 24-hour contribution reports for late contributions totaling \$4,000 and two 24-hour independent
11 expenditure reports for late independent expenditures totaling \$21,843.74. Since the Committee's pre-
12 election campaign statements were filed after the election, none of the late contributions or independent
13 expenditures were otherwise reported on a campaign statement of the Committee's prior to the election.
14 The two late contributions were reported by the recipient on its campaign statement late filed on the day
15 of the election. On August 15, 2019, the Commission approved a penalty of \$2,500.

16 A lesser penalty than that approved in the *Apple Valley* case is recommended. The late
17 contributions at issue here were reported by the Committee on pre-election campaign statements filed
18 prior to the election. Also, the late contributions were reported by the Committee on 24-hour
19 contribution reports filed prior to the election. In addition, the late contributions were reported by the
20 recipients on timely filed 24-hour contribution reports and pre-election campaign statements. Therefore,
21 a penalty of \$2,000 is recommended.

22 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
23 in the amount of \$4,000 is justified, as reflected in the chart below:

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Count	Violation	Penalty
1	Failure to Timely File Pre-Election Campaign Statement	\$2,000
2	Failure to Timely File Three 24-Hour Contribution Reports	\$2,000
	TOTAL:	\$4,000

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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondents, Salinas Valley Leadership Group and Warren Wayland, hereby agree as follows:

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

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

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

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

18 5. Respondents agree to the issuance of the decision and orders set forth below. Also,
19 Respondents agree to the Commission imposing against them an administrative penalty in the
20 amount of \$4,000. One or more cashier’s checks or money orders totaling said amount – to be
21 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
22 payment of the administrative penalty described above, and same shall be held by the State of
23 California until the Commission issues its decision and order regarding this matter.

24 6. If the Commission refuses to approve this stipulation – then this stipulation shall become
25 null and void, and within fifteen business days after the Commission meeting at which the
26 stipulation is rejected, all payments tendered by Respondents in connection with this stipulation
27 shall be reimbursed to Respondents. If this stipulation is not approved by the Commission, and if
28 a full evidentiary hearing before the Commission becomes necessary, neither any member of the

1 Commission, nor the Executive Director, shall be disqualified because of prior consideration of
2 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
5 transmitted via fax 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 Warren Wayland, individually and on behalf of
12 Salinas Valley Leadership Group, Respondents
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14 The foregoing stipulation of the parties "In the Matter of Salinas Valley Leadership Group and
15 Warren Wayland," FPPC Case No. 18/1265, is hereby accepted as the final decision and order of the
16 Fair Political Practices Commission, effective upon execution by the Chair.
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18 IT IS SO ORDERED.
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20 Dated: _____
21 Richard C. Miadich, Chair
22 Fair Political Practices Commission
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