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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
10 STATE OF CALIFORNIA

11
12 In the Matter of:

FPPC No. 19/1507

13 SANTA CLARA COUNTY
14 REPUBLICAN PARTY, SHANE
CONNOLLY, and KELLY LAWLER,

STIPULATION, DECISION, AND ORDER

15 Respondents.
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17 **INTRODUCTION**

18 Respondent Santa Clara Republican Party (the “Committee”) is a political party committee.
19 Respondent Shane Connolly (“Connolly”) was the Committee’s treasurer at the time of the violations.
20 Respondent Kelly Lawler (“Lawler”) of The KAL Group was paid by the Committee to prepare the
21 Committee’s campaign statements and reports at the time of the violations.

22 The Committee was the subject of a Franchise Tax Board (“FTB”) audit, which revealed that
23 Respondents committed several violations of the Political Reform Act (the “Act”),¹ including a failure to
24 timely disclose payments for member communications on 24-hour contribution reports and making
25 prohibited contributions from a restricted use bank account. The audit period was January 1, 2015 through
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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 December 31, 2016. The total contributions received during that period was \$371,999 and the total
2 expenditures made was \$404,082.

3 **SUMMARY OF THE LAW**

4 The violations in this case occurred in 2015 and 2016, and all legal references and discussions of
5 law pertain to the Act’s provisions as they existed at that time.

6 Need for Liberal Construction and Vigorous Enforcement of the 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 Thus, it was
9 decreed that the Act “should be liberally construed to accomplish its purposes.”³ One purpose of the Act
10 is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and
11 truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ The Act,
12 therefore, establishes a campaign reporting system designed to accomplish this purpose of disclosure.
13 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
14 “vigorously enforced.”⁵

15 Political Party Committee

16 A political party committee is a state general purpose committee.⁶ Such a committee is considered
17 a “general purpose committee” when it is formed or exists primarily to support or oppose more than one
18 candidate or ballot measure.⁷

19 24-Hour Reports

20 Each candidate or committee that makes or receives a late contribution must file a report within
21 24 hours of making or receiving the contribution.⁸ A “late contribution” includes a contribution
22 aggregating \$1,000 or more that is made to or received by a candidate, controlled committee, or primarily

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26 ² Section 81001, subd. (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subd. (a).

⁵ Section 81002, subd. (f).

⁶ Section 82027.5, subd. (b).

⁷ Section 82027.5, subd. (a).

⁸ Section 84203.

1 formed committee within 90 days before the date of the election at which the pertinent candidate or
2 measure is to be voted on.⁹

3 Payments made by a political party committee for communication to a member who is registered
4 as expressing a preference for that party (“member communications”) that would otherwise qualify as
5 contributions or expenditures shall be reported on 24-hour reports as if they were contributions or
6 expenditures.¹⁰

7 Restricted Use Bank Account

8 The Act requires contributions made to committees for the purpose of making contributions to
9 state candidates, which are subject to contribution limits, to be kept in a separate account designated as
10 “all purpose.”¹¹ These funds may be used for any legitimate purpose, including making contributions to
11 state candidates.¹² Contributions that a committee receives in excess of the contribution limits must be
12 deposited into a “restricted use” bank account.¹³ Funds from the restricted use bank account may be used
13 for any legitimate purpose except to make contributions to candidates for elective state office or to make
14 contributions to other committees for the purpose of making contributions to candidates for elective state
15 office.¹⁴

16 Joint and Several Liability

17 It is the duty of a committee treasurer to ensure that the committee complies with the Act.¹⁵ A
18 treasurer and any person who violates, causes any other person to violate, or aids and abets any other
19 person in the violation of the Act may be held jointly and severally liable, along with the committee, for
20 violations committed by the committee.¹⁶ This liability applies only to persons who have filing or reporting
21 obligations under the Act or who are compensated for services involving the planning, organizing, or
22 directing any activity regulated or required by the Act.¹⁷

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25 ⁹ Section 82036.

26 ¹⁰ Section 85312.

27 ¹¹ Regulation 18534, subd. (b).

28 ¹² Regulation 18534, subd. (c).

¹³ *Ibid.*

¹⁴ Regulation 18534, subd. (d).

¹⁵ Sections 81004, 84100, and 84104; Regulation 18427.

¹⁶ Sections 83116.5 and 91006.

¹⁷ Section 83116.5.

SUMMARY OF THE FACTS

The FTB audit revealed that the Committee, Connolly, and Lawler committed several violations of the Act.

The following chart shows 28 member communications that were not disclosed on a 24-hour contribution report but were timely disclosed on campaign statements as of the date of this Stipulation:

Date Made	Candidate Supported	Amount	Due Date
5/13/2015*	Manh Nguyen	\$1,227	5/14/2015
6/11/2015*	Manh Nguyen	\$1,239	6/12/2015
6/15/2015	Manh Nguyen	\$1,029	6/16/2015
6/15/2015	Manh Nguyen	\$1,029	6/16/2015
6/15/2015	Manh Nguyen	\$1,029	6/16/2015
5/23/2016	Georgia Acosta	\$4,511	5/24/2016
5/23/2016	Tom Arnett	\$3,227	5/24/2016
5/23/2016	Tom Arnett	\$1,238	5/24/2016
5/23/2016	Dev Davis	\$3,448	5/24/2016
5/23/2016	Johnny Khamis	\$3,928	5/24/2016
5/23/2016	Chuck Page	\$20,092	5/24/2016
5/23/2016	Patrick Waite	\$3,225	5/24/2016
5/27/2016	Georgia Acosta	\$1,799	5/31/2016
5/27/2016	Tom Arnett	\$3,700	5/31/2016
5/27/2016	Steve Brown	\$2,624	5/31/2016
5/27/2016	Dev Davis	\$5,205	5/31/2016
5/27/2016	Johnny Khamis	\$1,640	5/31/2016
5/27/2016	Chuck Page	\$7,840	5/31/2016
5/27/2016	Patrick Waite	\$5,835	5/31/2016
6/1/2016	Steve Brown	\$2,114	6/2/2016
6/1/2016	Dev Davis	\$4,698	6/2/2016
10/5/2016	Jim Davis	\$1,100	10/6/2016
10/27/2016	Mario Bouza	\$1,185	10/28/2016
10/27/2016	Steve Brown	\$3,075	10/28/2016
10/27/2016*	Dev Davis	\$2,679	10/28/2016
10/27/2016*	Lynette Eng	\$1,428	10/28/2016
10/27/2016*	Paul Kloecker	\$1,150	10/28/2016
10/27/2016*	Rolando Velasco	\$1,150	10/28/2016
Total:		\$92,444	

* Date when the aggregated amount exceeded the \$1,000 reporting threshold

Additionally, the Committee, Connolly, and Lawler late-filed 24-hour contribution reports for four member communications that were made in support of Lan Diep. These member communications were

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1 timely disclosed on campaign statements. The following chart shows the four member communications
 2 that were reported after the April 7, 2015 Primary Election held in the City of San Jose:

Date Made	Candidate Supported	Amount	Due Date	Date Filed
3/16/2015*	Lan Diep	\$1,215	3/17/2015	4/9/2015 (23 days late)
4/2/2015		\$4,320	4/3/2015	4/9/2015 (6 days late)
4/2/2015		\$3,491	4/3/2015	4/9/2015 (6 days late)
4/2/2015		\$1,732	4/3/2015	4/9/2015 (6 days late)
	Total:	\$10,758		

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10 * Date when the aggregated amount exceeded the \$1,000 reporting threshold

11 Although a designated “all purpose” bank account was maintained by the Committee, the
 12 Committee, Connolly, and Lawler made nonmonetary contributions to the following three state candidates
 13 from the Committee’s restricted use bank account:

Date Made	Recipient	Amount
3/11/2016-3/25/2016	Ryan Brown for Assembly 2016	\$6,899
3/11/2016-3/25/2016	Tim Gorsulowsky for Assembly 2016	\$6,899
3/11/2016-3/25/2016	Kain for Senate 2016	\$6,899
	Total:	\$20,697

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18 Lawler reasoned that it was originally thought that the expenses were administrative in nature
 19 because they were for legal and reporting services, but the nonmonetary contributions were for the benefit
 20 of the three candidates and not for the Committee’s benefit. Brown, Gorsulowsky, and Kain were denied
 21 placement on the June 7, 2016 ballot due to issues with their paperwork, and the Committee had hired
 22 legal counsel to litigate the matter on their behalf. Therefore, these nonmonetary contributions were
 23 contributions to the three candidates for elective state office, which is a prohibited use of funds from a
 24 restricted use bank account.

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1 **VIOLATION**

2 Count 1: Failure to Timely Disclose Payments for Member Communications on 24-Hour Reports

3 The Committee, Connolly, and Lawler failed to timely disclose \$103,202 in payments made for
4 member communications between March 16, 2015 and October 27, 2016 on 24-hour contribution reports,
5 in violation of Government Code Section 85312.

6 Count 2: Prohibited Contributions Made from Restricted Use Bank Account

7 The Committee, Connolly, and Lawler made prohibited contributions between March 11, 2016
8 and March 25, 2016, totaling \$20,697, to three state candidates from the Committee’s restricted use bank
9 account, in violation of Government Code Section 85303 and Regulation 18534, subdivision (d).

10 **PROPOSED PENALTY**

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

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

19 This violation resulted in a lack of transparency for the public into the Committee’s campaign
20 activities. The Committee, Connolly, and Lawler failed to timely disclose over \$103,000 of late
21 contributions and failed to properly report over \$20,000 in nonmonetary contributions. On a pre-election
22 campaign statement for the period ending on April 23, 2016, the Committee, Connolly, and Lawler
23 reported on Schedule F an accrued expense of \$20,697.21 owed to Bell, McAndrews & Hiltachk.
24 However, in aggravation, they failed to report on Schedule D that the accrued expense was nonmonetary
25 contributions to Ryan Brown, Tim Gorsulowsky, and Palmer Kain and their controlled committees for
26 legal fees. Furthermore, the three candidates did not report receiving the nonmonetary contributions prior
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¹⁸ Regulation 18361.5, subd. (d).

1 to the June 7, 2016 election. Therefore, the public was not timely informed about the Committee's
2 nonmonetary contributions to Brown, Gorsulowsky, and Kain.

3 However, there is no evidence of an intention to conceal, deceive, or mislead the public. In
4 mitigation, the Committee, Connolly, and Lawler timely filed 24-hour contribution reports for 17 late
5 contributions received totaling \$250,875 and 17 late contributions made totaling \$62,941. The Committee,
6 Connolly, and Lawler also timely filed pre-election and semi-annual campaign statements during the audit
7 period and disclosed the late contributions. These violations seem to have been negligent, but the
8 Committee, Connolly, and Lawler also exhibited a pattern of failing to timely file 24-hour contribution
9 reports. Additionally, Lawler has prior enforcement history for similar violations.

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

12 *In the Matter of San Diego County Democratic Party and Xavier R. Martinez*; FPPC No. 17/1356.
13 (The Commission approved a stipulated agreement on September 19, 2019.) Respondents failed to timely
14 disclose \$85,952.94 in payments made for member communications on 24-hour contribution reports and
15 improperly made a \$2,500 contribution to a state candidate out of the committee's restricted use bank
16 account. The Commission approved a penalty of \$3,000 for failure to timely disclose payments for
17 member communications and \$3,500 for improper payment made from a restricted use bank account.

18 The Committee, Connolly, and Lawler failed to disclose similar amounts on 24-hour contribution
19 reports for member communications. However, the Committee, Connolly, and Lawler made prohibited
20 contributions from a restricted use bank account that was more than eight times the amount in *San Diego*
21 *Democrats*. Additionally, these contributions were not timely reported on 24-hour reports.

22 Based on the foregoing, the following penalties are recommended:

Count #	Violation	Penalty Amount
1	Failure to Timely Disclose Payments for Member Communications on 24-Hour Reports	\$3,000
2	Prohibited Contributions Made from Restricted Use Bank Account	\$4,000
	Total:	\$7,000

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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondents Santa Clara County Republican Party, Shane Connolly, and Kelly Lawler hereby agree as
4 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 the Respondents pursuant to Section 83116.

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

19 5. The Respondents agree to the issuance of the decision and order set forth below. Also, the
20 Respondents agree to the Commission imposing against it an administrative penalty in the amount of
21 \$7,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General
22 Fund of the State of California—is/are submitted with this stipulation as full payment of the administrative
23 penalty described above, and same shall be held by the State of California until the Commission issues its
24 decision and order regarding the 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 the Respondents in connection with this stipulation shall be reimbursed
28 to the Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing

1 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
2 Director, 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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8 Dated: _____
9 Galena West, Chief of Enforcement
10 Fair Political Practices Commission

11 Dated: _____
12 Shane Connolly, individually and on behalf of Santa
13 Clara County Republican Party

14 Dated: _____
15 Kelly Lawler, professional treasurer
16 The KAL Group

1 The foregoing stipulation of the parties “In the Matter of Santa Clara County Republican Party, Shane
2 Connolly, and Kelly Lawler,” FPPC No. 19/1507, 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: _____

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9 Richard C. Miadich, Chair
10 Fair Political Practices Commission
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