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

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 17/1003

12 **FRIENDS OF LONG BEACH CITY**
13 **COLLEGE - YES ON MEASURE LB**
14 **and LEXI DONOVAN,**

STIPULATION, DECISION AND ORDER

15 Respondents.

16
17 **INTRODUCTION**

18 Respondent, Friends of Long Beach City College - Yes On Measure LB (ID# 1383899) (the
19 “Committee”), was a primarily formed ballot measure committee. The Committee was formed to
20 support local ballot measure LB, a bond issue measure on the June 7, 2016 Primary Election ballot for
21 Long Beach Community College District voters. Measure LB was approved receiving 64.48% of the
22 votes. Respondent, Lexi Donovan (“Donovan”), served as the Committee’s treasurer.

23 The Political Reform Act (the “Act”)¹ requires committees and treasurers to timely file certain
24 campaign statements and reports. The Committee and Donovan violated the Act by failing to timely file
25 pre-election and semi-annual campaign statements and 24-hour contribution reports.

26
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 2016. For this reason, all legal references and discussions of law pertain to the Act’s provisions as
4 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

9 A central purpose of the Act is to promote transparency by ensuring that receipts and
10 expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed
11 and improper practices are inhibited.⁴ Another purpose of the Act is to provide adequate enforcement
12 mechanisms so that the Act will be “vigorously enforced.”⁵

13 **Duty to File Campaign Statements**

14 The Act requires committees and treasurers to file campaign statements and reports at specific
15 times disclosing information regarding contributions received and expenditures made by the campaign
16 committees.⁶

17 If the filing due date for a statement or report falls on a Saturday, Sunday, or official state
18 holiday, then the filing due date shall be extended to the next regular business day.⁷ This extension does
19 not apply to 24-hour contribution reports when the due date for these reports falls on a Saturday,
20 Sunday, or official state holiday immediately prior to an election.⁸

21 **Pre-Election Campaign Statements**

22 All committees primarily formed to support or oppose a measure appearing on the ballot to be
23 voted on at the next election shall file the applicable pre-election campaign statements.⁹ The first pre-

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25 ² Section 81001, subdivision (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subdivision (a).

28 ⁵ Section 81002, subdivision (f).

⁶ See Section 84200, *et seq.*

⁷ Regulation 18116, subdivision (a).

⁸ Regulation 18116, subdivision (b).

⁹ Section 84200.5, subdivision (a).

1 election campaign statement, for the period ending 45 days before the election, shall be filed no later
2 than 40 days before the election.¹⁰ The second pre-election campaign statement, for the period ending 17
3 days before the election, shall be filed no later than 12 days before the election.¹¹

4 **Semi-Annual Campaign Statements**

5 A recipient committee shall file semi-annual campaign statements each year no later than July 31
6 for the period ending June 30, and no later than January 31 for the period ending December 31.¹²

7 **24-Hour Contribution Reports**

8 A “late contribution” includes a contribution that totals in the aggregate \$1,000 or more and is
9 made to or received by a committee formed or existing primarily to support or oppose a measure during
10 the 90-day period preceding the date of the election, or on the date of the election, at which the measure
11 is to be voted on.¹³ Each committee that makes or receives a late contribution shall report the late
12 contribution within 24 hours of the time it is made or received.¹⁴

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

14 It is the duty of the treasurer of a committee to ensure that the committee complies with all the
15 requirements of the Act concerning the receipt, expenditure, and reporting of funds.¹⁵ A treasurer may
16 be held jointly and severally liable for violations committed by the committee.¹⁶

17 **SUMMARY OF THE FACTS**

18 According to the Committee’s campaign statements, it qualified as a committee on March 11,
19 2016 and terminated as of September 30, 2016. Between January 1, 2016 and September 30, 2016, the
20 Committee reported approximately \$373,147 in contributions and \$374,185 in expenditures.

21 **Failure to Timely File Pre-Election and Semi-Annual Campaign Statements**

22 As a primarily formed ballot measure committee in support of a local measure on the June 7,
23 2016 Primary Election ballot, the Committee was required to file pre-election campaign statements.
24 Following the June 7, 2016 Primary Election, the Committee was required to file semi-annual campaign
25

26 ¹⁰ Section 84200.8, subdivision (a).

¹¹ Section 84200.8, subdivision (b).

¹² Section 84200.

¹³ Section 82036, subdivision (a).

¹⁴ Section 84203, subdivision (a)-(b).

¹⁵ Sections 81004, 84100, 84213, and Regulation 18427.

¹⁶ Sections 83116.5 and 91006.

1 statements until the Committee was terminated. According to the Committee's filing officer, Los
 2 Angeles Registrar-Recorder/County Clerk, the Committee filed pre-election and semi-annual campaign
 3 statements as follows:

STATEMENT	REPORTING PERIOD	DUE DATE	DATE FILED	ACTIVITY REPORTED
First Pre-Election	01/01/2016 - 04/23/2016	04/28/2016	05/04/2016 (6 days late)	CTB = \$216,750 EXP = \$92,593
Second Pre-Election	04/24/2016 - 05/21/2016	05/26/2016	06/01/2016 (6 days late)	CTB = \$81,320 EXP = \$72,198
Semi-Annual	05/22/2016 - 06/30/2016	08/01/2016	09/14/2016 (44 days late)	CTB = \$63,250 EXP = \$209,349
Semi-Annual/ Termination	07/01/2016 - 09/30/2016	01/31/2017	02/07/2018 (372 days late)	CTB = \$11,827 EXP = \$42.74

11 **Failure to Timely File 24-Hour Contribution Reports**

12 The 90-day period preceding the June 7, 2016 Primary Election began on March 9, 2016. The
 13 Committee's pre-election and semi-annual campaign statements reported late contributions received that
 14 required 24-hour contribution reports. According to the Los Angeles Registrar-Recorder/County Clerk,
 15 the Committee late-filed or failed to file 24-hour contribution reports as follows:

DATE RECEIVED	CONTRIBUTOR	AMOUNT	DUE DATE	DATE FILED
03/11/2016	Long Beach City College Auxiliary	\$25,000	03/14/2016	05/10/2016 (57 days late)
03/18/2016	Cordoba Corporation	\$25,000	03/21/2016	05/10/2016 (50 days late)
03/25/2016	GRD Consulting	\$4,000	03/28/2016	05/10/2016 (43 days late)
04/11/2016	Integrated Commissioning Solutions	\$1,000	04/12/2016	05/10/2016 (28 days late)
	Public Agency Law Group	\$5,000		
	Long Beach College Foundation	\$25,000		
	TSG Enterprises, Inc.	\$5,000		
	TYR Inc.	\$10,000		
04/12/2016	Westberg+White Inc.	\$15,000	04/13/2016	05/10/2016 (27 days late)
	The Hill Partnership Inc.	\$25,000		
04/13/2016	SVA Architects	\$25,000	04/14/2016	05/10/2016 (26 days late)
	Cordoba Corporation	\$24,900		
	P2S	\$10,000		

DATE RECEIVED	CONTRIBUTOR	AMOUNT	DUE DATE	DATE FILED
04/14/2016	Facilities, Planning & Programming Services	\$10,000	04/15/2016	05/10/2016 (25 days late)
	Cambridge West Partnership	\$1,000		
	Parker & Covert LLP	\$2,000		
04/25/2016	Keenan & Associates	\$5,000	04/26/2016	05/10/2016 (14 days late)
05/02/2016	Sheet Metal, Air, Rail, Transportation Workers	\$2,500	05/03/2016	05/10/2016 (7 days late)
05/07/2016	Sillman Wright Architects	\$1,000	05/09/2016	05/10/2016 (1 day late)
	LPA, Inc.	\$5,000		
05/09/2016	David Evans and Associates	\$1,000	05/10/2016	05/17/2016 (7 days late)
05/09/2016	KPPF	\$1,000	05/16/2016	Not Filed
05/13/2016				
05/13/2016	Long Beach City College Foundation	\$25,000	05/16/2016	05/17/2016 (1 day late)
	TSK Architects	\$5,000		
	IDS Group	\$2,000		
	Siranian	\$1,000		
	RBKK	\$1,000		
04/13/2016	Psomas	\$1,000	05/19/2016	Not Filed
05/18/2016				
05/19/2016	Casey Sheahan/Garland	\$1,500	05/20/2016	06/01/2016 (12 days late)
05/27/2016	District Council of Ironworkers Political Issues	\$5,000	05/31/2016	06/01/2016 (1 day late)
	Heat & Frost Insulators & Allied Workers Local #5 PAC	\$2,000		
	DLR Group	\$2,500		
	Mike Walter	\$1,000		
05/28/2016	Howard Davis	\$1,000	05/31/2016	06/01/2016 (1 day late)
	Roesling Nakamura Terada Architects, Inc.	\$1,000		
05/31/2016	McCarthy Building Companies, Inc.	\$2,500	06/01/2016	Not Filed
06/01/2016	MHP Structural Engineers	\$1,000	06/02/2016	Not Filed
	Gkkworks	\$1,000		

DATE RECEIVED	CONTRIBUTOR	AMOUNT	DUE DATE	DATE FILED
06/02/2016	WLC Architects	\$1,000	06/03/2016	Not Filed
	Koury Engineering & Testing	\$5,000		
	Freight Tech Security Specialists	\$3,000		
06/03/2016	Balfour Beatty Construction	\$5,000	06/04/2016	Not Filed
	Leighton Consulting, Inc.	\$1,000		
06/07/2016	International Brotherhood of Electrical Workers	\$10,000	06/08/2016	Not Filed
TOTAL:		\$306,900		

In summary, the Committee failed to timely file 24-hour contribution reports for 44 late contributions received totaling \$306,900. Of the 44 late contributions received by the Committee, nine of the late contributions, totaling \$29,500, were not disclosed on any of the Committee's campaign statements or reports filed prior to the election. This amounts to approximately 7% of the Committee's total contributions. The remaining 35 late contributions received, totaling \$277,400, were disclosed on a campaign statement or report filed by the Committee prior to the election.

PROCEDURAL HISTORY

The Enforcement Division initiated an administrative action against the Committee and Donovan in this matter by serving Donovan, individually and on behalf of the Committee, with a Report in Support of a Finding of Probable Cause. By means of an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served, the Enforcement Division submitted the matter to the Hearing Officer for a determination of probable cause. The Hearing Officer issued an order finding there was probable cause to believe the Committee and Donovan violated the Act and directed the Enforcement Division to issue an Accusation against them in accordance with the finding.

On September 29, 2020, the Accusation was served upon Donovan, individually and on behalf of the Committee. On December 17, 2020, the Enforcement Division published a notice of intent to present a default decision and order against the Committee and Donovan to the Commission. Prior to the meeting, Donovan contacted the Enforcement Division requesting to resolve the matter through settlement.

1 **VIOLATIONS**

2 **Count 1: Failure to Timely File Pre-Election and Semi-Annual Campaign Statements**

3 The Committee and Donovan failed to timely file pre-election campaign statements for the
4 reporting periods ending April 23, 2016 and May 21, 2016, by the April 28, 2016 and May 26, 2016
5 respective due dates, in violation of Government Code Sections 84200.5 and 84200.8. Additionally, the
6 Committee and Donovan failed to timely file semi-annual campaign statements for the reporting periods
7 ending June 30, 2016 and December 31, 2016, by the August 1, 2016 and January 31, 2017 respective
8 due dates, in violation of Government Code Section 84200.

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

10 Between March 11, 2016 and April 26, 2016, the Committee and Donovan failed to timely file
11 24-hour contribution reports for 17 late contributions received totaling \$217,900, in violation of
12 Government Code Section 84203.

13 **Count 3: Failure to Timely File 24-Hour Contribution Reports**

14 Between May 2, 2016 and May 31, 2016, the Committee and Donovan failed to timely file 24-
15 hour contribution reports for 18 late contributions received totaling \$59,500, in violation of Government
16 Code Section 84203.

17 **Count 4: Failure to Timely File 24-Hour Contribution Reports**

18 Between June 1, 2016 and June 8, 2016, the Committee and Donovan failed to timely file 24-
19 hour contribution reports for nine late contributions received totaling \$29,500, in violation of
20 Government Code Section 84203.

21 **PROPOSED PENALTY**

22 This matter consists of four counts. The maximum penalty that may be imposed is \$5,000 per
23 count. Thus, the maximum penalty that may be imposed here is \$20,000.¹⁷

24 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
25 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
26 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division
27 considers the facts and circumstances of the violation in the context of the following factors set forth in

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¹⁷ Section 83116, subdivision (c).

1 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused
2 by the specific violation; (2) The level of experience of the violator with the requirements of the
3 Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The
4 presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was
5 deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the
6 Commission staff or any other governmental agency in a manner not constituting complete defense
7 under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern
8 and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
9 (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide
10 full disclosure.¹⁸

11 The public harm inherent in campaign reporting violations is that the public is deprived of
12 important, time-sensitive information regarding campaign activity. Here, the Committee and Donovan's
13 failure to timely file pre-election campaign statements is mitigated because the statements were late-
14 filed prior to the election. Additionally, the Committee and Donovan's failure to timely file 24-hour
15 contribution reports is somewhat mitigated because 35 of the late contributions, totaling \$277,400, were
16 disclosed on a campaign statement or report filed by the Committee prior to the election. Although, nine
17 of the late contributions, totaling \$29,500, were not disclosed on any campaign statement or report filed
18 by the Committee prior to the election thereby depriving the public of knowledge of the Committee's
19 campaign activities in the days leading up to the election.

20 In this case, there was no evidence to support an intent to conceal, deceive or mislead the public
21 as to the Committee's receipts and expenditures. The violations here appear to be negligent as the
22 Committee was aware of its filing obligations and filed most of the required campaign statements and
23 reports. Donovan does not have prior campaign experience, and the Committee and Donovan do not
24 have prior enforcement history.

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

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¹⁸ Regulation 18361. 5, subdivision (e).

1 **Count 1: Failure to Timely File Pre-Election and Semi-Annual Campaign Statements**

2 *In the Matter of Committee for Safe Vallejo Schools – Yes on Measure S, Deborah Dickson, and*
3 *Michael Nichelini*; FPPC Case No. 19/448. Respondents, a primarily formed ballot measure committee,
4 its treasurer and principal officer, failed to timely file two pre-election campaign statements and one
5 semi-annual campaign statement. These statements reported campaign activity totaling \$46,565 in
6 contributions and \$69,308 in expenditures. In mitigation, both pre-election campaign statements were
7 late-filed prior to the election. On October 15, 2020, the Commission approved a penalty of \$2,500.

8 A higher penalty than that approved in *Committee for Safe Vallejo Schools* is recommended.
9 Respondents here failed to timely file two pre-election campaign statements and two semi-annual
10 campaign statements. These statements reported campaign activity totaling \$373,147 in contributions
11 and \$374,185 in expenditures, a higher amount of campaign activity than that at issue in *Committee for*
12 *Safe Vallejo Schools*. Similar to *Committee for Safe Vallejo Schools*, both pre-election campaign
13 statements were late-filed prior to the election. Therefore, a penalty of \$3,500 is recommended.

14 **Counts 2-4: Failure to Timely File 24-Hour Contribution Reports**

15 *In the Matter of Committee for Yes on Measure B, Sunder Ramani, and Mary Alvord*; FPPC Case
16 No. 16/20101. Respondents, a primarily formed ballot measure committee, its treasurer and principal
17 officer, failed to file 24-hour contribution reports for 20 late contributions received totaling \$150,500. In
18 mitigation, 15 of the late contributions received, totaling \$126,500, were reported prior to the election on
19 timely filed pre-election campaign statements. In particular, eight late contributions received totaling
20 \$94,000 were reported on the Committee’s timely filed pre-election campaign statement for the period
21 ending September 24, 2016 (1 count) and seven late contributions received totaling \$32,500 were
22 reported on the Committee’s timely filed pre-election campaign statement for the period ending October
23 22, 2016 (1 count). The remaining five late contributions, totaling \$24,000, were reported after the
24 election on a timely filed semi-annual campaign statement (1 count). Measure B was approved by voters
25 in the November 8, 2016 General Election. Throughout 2016, the Committee reported \$152,715 in
26 contributions and \$152,715 in expenditures. On February 21, 2019, the Commission approved a total
27 penalty of \$6,500; \$2,000 for two counts for those late contributions that were disclosed prior to the

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1 election and \$2,500 for one count for those late contributions that were not disclosed prior to the
2 election.

3 A higher penalty than that approved in *Committee for Yes on Measure B* is recommended.
4 Respondents here failed to timely file 24-hour contribution reports for 44 late contributions received
5 totaling \$306,900, a higher amount than that at issue in *Committee for Yes on Measure B*. Similar to
6 *Committee for Yes on Measure B*, many of the late contributions were reported by the Committee prior
7 to the election. Specifically, 35 of the late contributions received, totaling \$277,400, were disclosed on a
8 campaign statement or report late-filed prior to the election. The remaining nine late contributions
9 received, totaling \$29,500, were not disclosed on any of the Committee’s campaign statements or
10 reports filed prior to the election. Therefore, a penalty of \$2,500 for two counts for those late
11 contributions that were disclosed prior to the election and \$3,000 for one count for those late
12 contributions that were not disclosed prior to the election is recommended.

13 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
14 in the amount of \$11,500 is justified, as reflected in the chart below:

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Count	Violation	Penalty
1	Failure to Timely File Pre-Election and Semi-Annual Campaign Statements	\$3,500
2	Failure to Timely File 24-Hour Contribution Reports	\$2,500
3	Failure to Timely File 24-Hour Contribution Reports	\$2,500
4	Failure to Timely File 24-Hour Contribution Reports	\$3,000
	TOTAL:	\$11,500

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21 **CONCLUSION**

22 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
23 Respondents, Friends of Long Beach City College - Yes On Measure LB and Lexi Donovan, hereby
24 agree as follows:

- 25 1. Respondents violated the Act as described in the foregoing pages, which are a true and accurate
26 summary of the facts in this matter.
- 27 2. This stipulation will be submitted for consideration by the Fair Political Practices Commission at
28 its next regularly scheduled meeting – or as soon thereafter as the matter may be heard.

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

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

11 5. Respondents agree to the issuance of the decision and orders set forth below. Also,
12 Respondents agree to the Commission imposing against them an administrative penalty in the
13 amount of \$11,500. One or more cashier’s checks or money orders totaling said amount – to be
14 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
15 payment of the administrative penalty described above, and same shall be held by the State of
16 California until the Commission issues its decision and order regarding this matter.

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

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1 7. The parties to this agreement may execute their respective signature pages separately. A
2 copy of any party's executed signature page, including a hardcopy of a signature page
3 transmitted via fax or as a PDF email attachment, is as effective and binding as the original.
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6 Dated: _____
7 Angela J. Brereton, Chief of Enforcement
8 Fair Political Practices Commission
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10 Dated: _____
11 Lexi Donovan, individually and on behalf of
12 Friends of Long Beach City College - Yes On Measure LB,
13 Respondents
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16 The foregoing stipulation of the parties "In the Matter of Friends of Long Beach City College -
17 Yes On Measure LB and Lexi Donovan," FPPC Case No. 17/1003, is hereby accepted as the final
18 decision and order of the Fair Political Practices Commission, effective upon execution by the Chair.
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20 IT IS SO ORDERED.
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22 Dated: _____
23 Richard C. Miadich, Chair
24 Fair Political Practices Commission
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