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

10 **STATE OF CALIFORNIA**

11 In the Matter of

FPPC Case No. 17/75

12 **STIPULATION, DECISION AND ORDER**

13 ANDREW M. STEIN, ANDREW
14 STEIN FOR SUPERIOR COURT
JUDGE 2014, and YOLANDA
15 MIRANDA,

16 Respondents.

17 **INTRODUCTION**

18 Respondent, Andrew M. Stein (“Stein”), was a successful candidate for Los Angeles County
19 Superior Court Judge in the June 3, 2014 Primary Election, but was defeated in the November 4, 2014
20 General Election. Respondent, Andrew Stein for Superior Court Judge 2014 (the “Committee”), was
21 Stein’s controlled committee. At all relevant times, Respondent, Yolanda Miranda (“Miranda”), served
22 as the Committee’s treasurer.

23 The Committee was the subject of a Franchise Tax Board (“FTB”) audit which covered the audit
24 period of January 1, 2014 through December 31, 2014. During the audit period, the Committee reported
25 \$313,340 in contributions and \$313,181 in expenditures.

26 The FTB audit revealed the Committee, Stein, and Miranda violated the Political Reform Act
27 (the “Act”).¹ The Act prohibits the making of a contribution in the name of another. A contribution may
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¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references

1 be made by an intermediary on behalf of another person, but the intermediary and original contributor
2 information must be disclosed. Additionally, candidates, committees, and treasurers have a duty to file
3 campaign statements and disclose accurate contributor information for contributions received of \$100 or
4 more.

5 The Committee, Stein, and Miranda violated the Act by arranging a \$100,000 contribution to the
6 Committee under the name of a person who was not the true source of the contribution and by failing to
7 timely disclose on campaign statements the true source of the \$100,000 contribution.

8 **SUMMARY OF THE LAW**

9 The Act and its regulations are amended from time to time. The violations in this case occurred
10 in 2014. For this reason, all legal references and discussions of law pertain to the Act’s provisions as
11 they existed at that time.

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

13 When enacting the Act, the people of California found and declared that previous laws regulating
14 political practices suffered from inadequate enforcement by state and local authorities.² Thus, it was
15 decreed the Act “should be liberally construed to accomplish its purposes.”³

16 A central purpose of the Act is to promote transparency by ensuring that receipts and
17 expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed
18 and improper practices are inhibited.⁴ Timely and truthful disclosure of the source of campaign
19 contributions is an essential part of the Act’s mandate. Another purpose of the Act is to provide adequate
20 enforcement mechanisms so that the Act will be “vigorously enforced.”⁵

21 **Prohibition on Making Contributions in the Name of Another**

22 No contribution shall be made, directly or indirectly, by any person in the name of another.⁶

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26 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.

27 ² Section 81001, subd. (h).

³ Section 81003.

⁴ Section 81002, subd. (a).

28 ⁵ Section 81002, subd. (f).

⁶ Section 84301.

1 **Duty to Disclose Intermediary**

2 The Act prohibits any person from making a contribution while acting as the intermediary of
3 another, without disclosing to the recipient of the contribution both the intermediary’s own full name,
4 street address, occupation, and employer, and the true contributor’s full name, street address,
5 occupation, and employer, if any, or principal place of business if self-employed.⁷ The Act also states
6 that a person is an intermediary for a contribution if the recipient of the contribution would consider the
7 person to be the contributor without the disclosure of the identity of the true source of the contribution.⁸

8 **Duty to Disclose Accurate Contributor Information**

9 The Act requires candidates, committees, and treasurers to timely file campaign statements for
10 specific reporting periods to disclose information regarding contributions received and expenditures
11 made by the committee.⁹ If the cumulative amount of contributions (including loans) received from a
12 person is \$100 or more and a contribution or loan has been received from that person during the period
13 covered by the campaign statement, all of the following contributor information is required to be
14 disclosed: full name, street address, occupation, employer, or if self-employed, the name of the business,
15 and the date and amount received.¹⁰

16 **Joint and Several Liability of Committee, Candidate, and Treasurer**

17 It is the duty of a committee treasurer and the candidate to ensure that the committee complies
18 with the Act.¹¹ A treasurer and candidate may be held jointly and severally liable with the committee for
19 violations committed by the committee.¹²

20 **Liability for Violations**

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

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26 ⁷ Section 84302.

27 ⁸ Regulation 18432.5, subd. (a).

28 ⁹ See Section 84200, *et seq.*

¹⁰ Section 84211, subd. (f).

¹¹ Sections 81004 and 84100; Regulation 18427.

¹² Sections 83116.5 and 91006.

¹³ Sections 83116 and 83116.5.

1 **PROCEDURAL HISTORY**

2 An administrative action for a violation of the Act has a five-year statute of limitations.¹⁴ The
3 statute of limitations is tolled upon the service of a probable cause report, as required by Section
4 83115.5.¹⁵ In this matter, a probable cause report was served on Respondents via certified mail on or
5 around February 11, 2019, effectively tolling the statute of limitations.

6 **SUMMARY OF THE FACTS**

7 During the pre-election reporting period of January 1 through March 17, 2014, the Committee
8 reported receiving \$120,050 in contributions and making \$34,426.75 in expenditures. Bank records
9 show on or about February 21, 2014, two checks were deposited into Stein’s private bank account as
10 follows:

Check Date	Remitter	Amount	Memo Line
02/21/2014	Betty Boops Car Care, Inc.	\$95,000	Loan
02/21/2014	Betty Boop S Car Care, I	\$5,000	Loan

13 On or about February 24, 2014, Stein wrote a \$100,000 check to the Committee from his private
14 bank account, indicating “Loan” in the memo line. This check was deposited into the Committee’s bank
15 account on or about February 26, 2014.

16 Betty Boop’s Car Care, Inc. (“Betty Boop’s”) is a used car dealer located in Lakewood, CA. At
17 all relevant times, Eugene “Chip” Baldoni (“Baldoni”) owned and operated Betty Boop’s and was the
18 company’s sole director/officer. Betty Boop’s was not disclosed as the lender of the \$100,000 loan on
19 the Committee’s pre-election campaign statement, filed for the reporting period ending March 17, 2014.
20 Instead, Stein was disclosed as the lender of the \$100,000 loan. Miranda claims the loan was reported
21 based on information received from Stein.

22 During an interview with the Enforcement Division, Stein contends that he was negligent in his
23 reporting and did not intend to conceal information or deceive voters concerning the true source of the
24 loan. Also, Stein admitted the true source of the \$100,000 loan was Baldoni/Betty Boop’s. Further, Stein
25 stated that he believes Baldoni wrote the checks directly to Stein and not the Committee because
26 Baldoni did not know otherwise, and there was no conversation about who to write the checks to. The
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28 ¹⁴ Section 91000.5.

¹⁵ Section 91000.5, subd. (a).

1 Enforcement Division found no evidence that Baldoni knew, or should have known, that the \$100,000
2 loan to Stein was going to be used for political purposes.

3 VIOLATIONS

4 **Count 1: Contributions Made in the Name of Another**

5 In or around February 2014, Stein, the Committee and Miranda caused Baldoni and/or Betty
6 Boop's to make a \$100,000 contribution to the Committee in the name of Stein, in violation of
7 Government Code Section 84301.

8 **Count 2: Failure to Disclose Intermediary and Original Contributor Information**

9 In or around February 2014, Stein, while acting as the intermediary of Baldoni and/or Betty
10 Boop's, failed to disclose both the intermediary and the original contributor information for a \$100,000
11 contribution from Baldoni and/or Betty Boop's to the Committee, in violation of Government Code
12 Section 84302.

13 **Count 3: Disclosure of False Contributor Information in Campaign Statements**

14 On or around March 24, 2014, Stein, the Committee, and Miranda filed a campaign statement
15 with inaccurate contributor information for the reporting period of January 1 through March 17, 2014,
16 concealing the violations described in Counts 1 and 2 by reporting that Stein made a \$100,000
17 contribution to the Committee, when in fact Stein was merely the intermediary for the \$100,000
18 contribution made by Baldoni and/or Betty Boop's to the Committee, in violation of Government Code
19 Section 84211, subdivision (f).

20 PROPOSED PENALTY

21 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
22 count. Thus, the maximum penalty that may be imposed here is \$15,000.¹⁶

23 As to Counts 1 and 2, these types of violations are not eligible for the Streamline Programs.¹⁷
24 Since the types of violations discussed in Counts 1 and 2 are not eligible for the Streamline Programs,
25 Respondents' other violation is excluded from the Streamline Programs.¹⁸

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28 ¹⁶ Section 83116, subd. (c).

¹⁷ Regulations 18360.1, subd. (a), and 18360.3, subd. (a).

¹⁸ Regulation 18360.1, subd. (c)(2)(B)(vi).

1 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
2 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
3 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division
4 considers the facts and circumstances of the violation in the context of the following factors set forth in
5 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused
6 by the specific violation; (2) The level of experience of the violator with the requirements of the
7 Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The
8 presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was
9 deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the
10 Commission staff or any other governmental agency in a manner not constituting complete defense
11 under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern
12 and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
13 (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide
14 full disclosure.¹⁹

15 Making campaign contributions in the name of another causes serious public harm, as it deceives
16 the public as to the true source of the contributions. The disclosure of intermediaries rule exists to ensure
17 the true sources of campaign contributions are properly disclosed. Here, Stein contends that he was
18 negligent in his reporting and did not intend to conceal information or deceive voters concerning the true
19 source of the loan. The Enforcement Division found no evidence that Stein intended to conceal the true
20 source of the loan, although due to Stein's failure to report accurate information to the Committee's
21 treasurer and on the Committee's campaign statements, concealment of the true source of the loan
22 occurred prior to the relevant election. In conjunction with settlement, an amendment to the pre-election
23 campaign statement has been filed to disclose the true source of the \$100,000 loan.

24 The Committee, Stein, and Miranda did not consult with Commission staff or any other
25 governmental agency regarding campaign contributions or how to report them. The violations at issue
26 here were isolated and not part of a pattern. The Committee and Stein do not have prior Enforcement
27 history. Stein had no prior experience with the Act as this was the first time Stein was a candidate for an
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¹⁹ Regulation 18361.5, subd. (e).

1 elected office. Miranda is a professional campaign treasurer and has one prior Enforcement action: in
2 FPPC Case No. 14/20, a warning letter was issued for a candidate-controlled committee's failure to
3 timely file certain reports in connection with the November 6, 2012 General Election. Miranda served as
4 the committee's treasurer.

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

7 As to Counts 1 and 2, a comparable case includes *In the Matter of Citizens in Charge and*
8 *Howard Rich*; FPPC Case No. 13/336. Respondent Howard Rich was an individual who made a
9 \$200,000 contribution in the name of another (1 count). Respondent Citizens in Charge was a 501(c)(4)
10 non-profit organization who acted as the intermediary for Rich's \$200,000 contribution without
11 notifying the recipient committee of its intermediary status or the true source of the contribution (1
12 count). On February 19, 2015, the Commission approved a penalty of \$5,000 for each of these counts.

13 Penalties similar to those approved in *Citizens in Charge* are recommended for Counts 1 and 2.
14 Similar to *Citizens in Charge*, Stein, the Committee, and Miranda caused Baldoni and/or Betty Boop's
15 to make two prohibited contributions, in the form of a loan, amounting to \$100,000 in the name of
16 another (1 count). Stein, the Committee, and Miranda reported Stein as the source of the contributions.
17 Also, similar to *Citizens in Charge*, Stein acted as an intermediary of the contributions made to the
18 Committee and failed to disclose his intermediary status and the true source of the contribution to the
19 Committee's treasurer (1 count). Therefore, a penalty of \$5,000 is recommended for each count.

20 As to Count 3, a comparable case includes *In the Matter of Stanislaus Republican Central*
21 *Committee (State Acct.) and Gary McKinsey*; FPPC Case No. 16/178. Respondents, a political party
22 committee and its treasurer, made a \$20,000 contribution to a state candidate controlled committee and
23 failed to notify the recipient committee of its intermediary status (1 count). Respondents also completed
24 and filed campaign statements that failed to disclose the true source of the \$20,000 contribution (1
25 count). On March 17, 2016, the Commission approved a penalty of \$5,000 for each count.

26 A similar penalty than that approved in *Stanislaus Republican Central Committee* is
27 recommended for Count 3. Similar to *Stanislaus Republican Central Committee*, Stein, the Committee,
28 and Miranda completed and filed campaign statements that failed to disclose the true source of the

1 \$100,000 loan. Instead, the campaign statements disclosed Stein as the source of the loan. Therefore, a
2 penalty of \$5,000 is recommended.

3 In aggravation to all counts, Stein, the Committee, and Miranda failed to deposit the checks
4 totaling \$100,000 from Baldoni/Betty Boop's directly into the designated campaign bank account.
5 Instead, Stein deposited the checks into his personal bank account and then wrote a check to the
6 Committee for \$100,000. Further, Stein, the Committee, and Miranda failed to maintain records for the
7 \$100,000 loan received from Baldoni/Betty Boop's. For purposes of settlement, these violations are not
8 being charged separately.

9 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
10 in the amount of \$15,000 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Contributions Made in the Name of Another	\$5,000
2	Failure to Disclose Intermediary and Original Contributor Information	\$5,000
3	Disclosure of False Contributor Information in Campaign Statements	\$5,000
TOTAL:		\$15,000

15 CONCLUSION

16 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
17 Respondents, Andrew M. Stein, Andrew Stein for Superior Court Judge 2014, and Yolanda Miranda,
18 hereby agree as follows:

- 19 1. Respondents violated the Act as described in the foregoing pages, which are a true and accurate
20 summary of the facts in this matter.
- 21 2. This stipulation will be submitted for consideration by the Fair Political Practices Commission at
22 its next regularly scheduled meeting – or as soon thereafter as the matter may be heard.
- 23 3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose
24 of reaching a final disposition without the necessity of holding an administrative hearing to
25 determine the liability of Respondent pursuant to Section 83116.
- 26 4. Respondents understand and hereby knowingly and voluntarily waive any and all
27 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through
28 18361.9. This includes, but is not limited to the right to appear personally at any administrative

1 hearing held in this matter, to be represented by an attorney at Respondents' own expense, to
2 confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to
3 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a
4 hearing officer, and to have the matter judicially reviewed.

5 5. Respondents agree to the issuance of the decision and orders set forth below. Also,
6 Respondents agree to the Commission imposing against them an administrative penalty in the
7 amount of \$15,000. One or more cashier's checks or money orders totaling said amount – to be
8 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
9 payment of the administrative penalty described above, and same shall be held by the State of
10 California until the Commission issues its decision and order regarding this matter.

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

18 7. The parties to this agreement may execute their respective signature pages separately. A
19 copy of any party's executed signature page, including a hardcopy of a signature page
20 transmitted via fax or as a PDF email attachment, is as effective and binding as the original.
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23 Dated: _____

Angela J. Brereton, Chief of Enforcement
Fair Political Practices Commission

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27 Dated: _____

Andrew M. Stein, individually and on behalf of
Andrew Stein for Superior Court Judge 2014, Respondents

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Yolanda Miranda, individually and on behalf of
Andrew Stein for Superior Court Judge 2014, Respondents

The foregoing stipulation of the parties “In the Matter of Andrew M. Stein, Andrew Stein for Superior Court Judge 2014, and Yolanda Miranda,” FPPC Case No. 17/75, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution by the Chair.

IT IS SO ORDERED.

Dated: _____

Richard C. Miadich, Chair
Fair Political Practices Commission