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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of SONOMA COUNTY DEPUTY SHERIFFS' ASSOCIATION, SONOMA COUNTY DEPUTY SHERIFFS' ASSOCIATION PAC, COMMITTEE FOR TRANSPARENT JUSTICE – NO ON MEASURE P, MICHAEL VAIL, and CODY EBERT, Respondents.	FPPC Case No. 2020-01111 **STIPULATION, DECISION AND ORDER** Date Submitted to Commission: August 2026

INTRODUCTION

In an election held November 3, 2020, Sonoma County voters approved Measure P, which passed with approximately 64.74% of the vote. (Source: www.ballotpedia.org/Sonoma_County,_California,_Measure_P,_Changes_to_Law_Enforcement_Review_Board_(November_2020).) A "yes" vote supported replacing an ordinance governing the Independent Office of Law Enforcement Review and Outreach (IOLERO) to make the following changes:

a. requiring the IOLERO director to be qualified as a Certified Practitioner of Oversight by the National Association for Civilian Oversight of Law Enforcement;

b. prohibiting the director's removal unless approved by a four-fifths vote of the board of supervisors;

c. authorizing access to all investigative evidence, contact witnesses, and subpoena records;

d. recommending disciplinary actions for officers subject to IOLERO investigations;

e. authorizing the publication of body camera footage on the IOLERO website;

f. imposing duties on the sheriff-coroner and requiring cooperation with IOLERO;

g. requiring triennial performance audits of the IOLERO;

h. setting the office's budget at 1% of the total budget for the sheriff-coroner; and

i. making the board of supervisors the appointing power for the Community Advisory Council.

Respondent Committee for Transparent Justice – No on Measure P ("No on P committee") was a Sonoma County recipient committee, primarily formed to oppose Measure P.

Respondent Sonoma County Deputy Sheriffs' Association (DSA) qualified as a major donor committee in 2020 by virtue of its financial support for the No on P committee.

Respondent Sonoma County Deputy Sheriffs' Association PAC is a Sonoma County general purpose committee, which was sponsored by the DSA.

Respondent Michael Vail was president of the DSA, principal officer of its PAC, and principal officer of the No on P committee. Vail held all of these roles simultaneously, and in his capacity as president of the DSA, Vail co-wrote the argument against Measure P for the ballot.

Respondent Cody Ebert was the DSA PAC's treasurer, and at the same time, Ebert was the No on P committee's treasurer, as well.

This case involves multiple violations of the Political Reform Act (the Act) with respect to proper disclosure of sponsorship, campaign filing/reporting, committee naming issues, and advertising disclosure issues.[1]

SUMMARY OF THE LAW

The Act and its regulations are amended from time to time. Unless otherwise noted, all legal references and discussions of law pertain to the Act's provisions as they existed at the time of the violations in this case.

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[1] 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 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to this source.

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

When enacting the Political Reform Act, the people of California found and declared that: "[p]revious laws regulating political practices have suffered from inadequate enforcement by state and local authorities."[2] Thus, it was decreed that the Act "should be liberally construed to accomplish its purposes."[3]

One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are "fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited."[4] Along these lines, the Act includes a comprehensive campaign reporting system.[5]

Also, along these lines, the full, legal name of a committee must include reference to its sponsors, which must be disclosed in the committee's Form 410 statement of organization, as well.[6] Additionally, if a committee is primarily formed to oppose a ballot measure—then the full, legal name of the committee must include a reference that the committee is against the measure.[7]

Another purpose of the Act is to promote transparency by requiring advertising "paid for by" disclosures in political ads.[8] These disclosures must identify a committee by its full, legal name—in order to provide maximum transparency for the public. When the required reference to sponsorship is omitted from the committee name in advertising "paid for by" disclosures, the public is deprived of important information about who is responsible for the ad, which may affect how votes are cast.

Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced."[9]

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[2] Section 81001, subdivision (h).

[3] Section 81003.

[4] Section 81002, subdivision (a).

[5] Sections 84100 – 84107, and 84200, *et seq.*

[6] Sections 84102, 84106; and Regulation 18419.

[7] Section 84107.

[8] Sections 84501, *et seq.*

[9] Section 81002, subdivision (f).

Definition of Person

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.[10]

Definition of Major Donor Committee

A "committee" includes any person—or combination of persons—who directly or indirectly make contributions totaling $10,000 or more in a calendar year to or at the behest of candidates or committees.[11] This type of committee commonly is referred to as a "major donor committee."

Definition of Recipient Committee

A "committee" includes any person—or combination of persons—who directly or indirectly receive contributions totaling $2,000 or more in a calendar year.[12] This type of committee commonly is referred to as a "recipient committee."

Definition of "IE" / Independent Expenditure Committee

Additionally, a "committee" includes any person—or combination of persons—who directly or indirectly make independent expenditures totaling $1,000 or more in a calendar year.[13] This type of committee commonly is referred to as an "IE" or "independent expenditure committee."

Definition of Independent Expenditure

"Independent expenditure" includes an expenditure made by any person in connection with a communication that expressly advocates the qualification, passage, or defeat of a clearly identified ballot measure—or taken as a whole and in context, unambiguously urges a particular result in an election, but which is not made to or at the behest of the affected committee.[14]

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[10] Section 82047.

[11] Section 82013, subdivision (c).

[12] Section 82013, subdivision (a).

[13] Section 82013, subdivision (b).

[14] Section 82031.

Definitions of Late Independent Expenditure and Late Contribution

"Late independent expenditure" includes any independent expenditure(s) aggregating $1,000 or more during the 90 days leading up to the affected election (or on the date of the election).[15]

"Late contribution" includes any contribution that totals in the aggregate $1,000 or more that is made during the 90 days leading up to an election (or on the date of the election) to a committee formed or existing primarily to support or oppose a measure on the ballot for the election.[16]

For the election of November 3, 2020, the 90-day, 24-hour reporting period started on August 5, 2020.

Definition of Primarily Formed Committee

A "primarily formed committee" includes any recipient committee that is formed or exists primarily to support or oppose, among other things, a single measure.[17]

Definitions of Sponsor and Sponsored Committee

Any person, except a candidate or other individual, may become a "sponsor" of a committee. A "sponsored committee" is any type of committee, other than a candidate-controlled committee, that has one or more sponsors.[18]

There are multiple ways that a sponsorship of a committee may arise under the Act. For example, a person becomes a sponsor of a committee if the person—alone or in combination with other organizations—sets the policies for soliciting contributions or making expenditures of committee funds.[19]

Also, a person becomes a sponsor of a committee if the person—alone or in combination with other organizations—provides all or nearly all of the administrative services for the committee.[20]

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[15] Section 82036.5.

[16] Section 82036, subdivision (a).

[17] Section 82047.5, subdivision (b).

[18] See Section 82048.7, subdivision (a).

[19] Section 82048.7, subdivision (b)(4).

[20] Section 82048.7, subdivision (b)(3).

Committee Name: Must Include Name of Sponsor—or in the Case of Multiple Sponsors, a Term Identifying the Industry of the Sponsors

Generally, whenever identification of a sponsored committee is required by the Act, the committee must use its full name, which must include the name of its sponsor. If the sponsored committee has more than one sponsor and the sponsors are members of an industry or other identifiable group, the name of the committee must include a term identifying that industry or group. These rules apply even if the committee is not required to file a statement of organization (as would be the case for a sponsored independent expenditure committee).[21]

Name Requirements for Ballot Measure Committees

In the case of a committee primarily formed to support or oppose one or more ballot measures, this support/opposition must be part of the committee name.[22] For example, the full, legal name of a committee primarily formed to oppose Measure P would need to include the phrase: "a committee against Measure P" (or similar language).

Required Filing of Campaign Statements and Reports by Specific Deadlines

At the core of the Act's campaign reporting system is the requirement that committees must file campaign statements and reports for certain reporting periods and by certain deadlines.[23]

Statement of Organization

For example, when a would-be committee first qualifies as a recipient committee under the Act, it must file a statement of organization within 10 days. However, if the qualification occurs during the last 16 days before the election—and if the committee is primarily formed to oppose a measure on the ballot for the upcoming election—then this 10-day deadline is shortened to 24 hours. (If the committee previously filed a statement of organization, stating that the committee was not yet qualified, then the qualification of the committee must be disclosed by filing an amended statement of organization.)[24]

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[21] See Regulation 18419, subdivision (b)(1), which applies regardless of whether the sponsored committee is required to file a statement of organization. Also, see Sections 84102, subdivision (a); and 84106 for additional rules that apply to any sponsored committee that is required to file a statement of organization.

[22] Section 84107.

[23] Sections 84100 – 84107 and 84200, *et seq*.

[24] See Sections 84101 through 84103; and Regulation 18410.

24-hour Independent Expenditure Reports

Also, each committee that makes a "late independent expenditure" must file a 24-hour independent expenditure report—within 24 hours of when the expenditure is made.[25] In the case of a committee that has accrued the expense for a communication—but not yet paid the bill—the expenditure is considered made on the date that the communication is disseminated to the public.[26]

24-hour Contribution Report

Additionally, each committee that makes or receives a "late contribution" must file a 24-hour contribution report—within 24 hours of making or receiving the contribution.[27]

Place of Filing

The Sonoma County Registrar of Voters is the filing officer for an independent expenditure committee that qualifies as such by virtue of making one or more independent expenditures against a Sonoma County ballot measure. The same is true for a major donor committee that qualifies as such by virtue of making one or more contributions to another committee that is primarily formed to oppose the same measure.[28]

Likewise, the Sonoma County Registrar of Voters is the filing officer for a recipient committee that is primarily formed to oppose a measure on the ballot in Sonoma County. The same is true for a Sonoma County general purpose recipient committee.[29] Statements of organization must be filed with the Secretary of State, as well.[30]

Deadline Extensions for Weekends and Holidays

When a filing deadline falls on a Saturday, Sunday, or official state holiday, the deadline is extended to the next regular business day. However, this extension does not apply for 24-hour independent expenditure reports. Also, for 24-hour contribution reports—this extension does not apply if the weekend/holiday is immediately prior to the election.[31]

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[25] Section 84204.

[26] Section 82025, subdivisions (a) and (c)(3)(C).

[27] Section 84203, subdivisions (a) and (b).

[28] See 84203, subdivision (a); 84204, subdivision (c); and 84215, subdivision (c).

[29] See Sections 84215, subdivision (c); 84101, subdivision (a); 84203, subdivision (a); 84204, subdivision (c).

[30] Section 84101, subdivision (a).

[31] See Section 81005.

Contents of Campaign Filings: Required

Disclosure of Sponsorships, Proper Filer/Committee Names

Among other things, campaign filings are required to use the proper name of the filer/committee, which must include the name of any sponsor—or in the case of multiple sponsors, the name of the industry or group to which the sponsors belong.[32] Also, in the case of a committee primarily formed to support or oppose one or more ballot measures, this support/opposition must be part of the committee name.[33]

Additionally, the statement of organization for a recipient committee must include the name, street address, and telephone number of each sponsor.[34]

Required Disclosures for Advertisements

The Act requires advertisements to include certain "paid for by" disclosures. Generally, the committee paying for the ad must be identified by its full, legal name—and the name must be preceded by the words: "Ad paid for by" or similar language.[35] The full, legal name that is used for these disclosures must comply with the naming rules (described above) for sponsorships and for primarily formed committees.

Multiple Respondents with Joint and Several Liability

If two or more persons are responsible for any violation of the Act, they are jointly and severally liable.[36] In this regard, any person who purposely or negligently causes another person to violate the Act, or who aids and abets any other person in a violation of the Act may be held liable as noted above—but this only applies to persons who have filing or reporting obligations under the Act, or who are compensated for services involving the planning, organizing, or directing of any activity regulated or required by the Act.[37]

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[32] Sections 84102, subdivision (a); 84106; 84203; 84204; 84211, subdivision (o); Regulations 18402; 18410; and 18419.

[33] Section 84107.

[34] Section 84102, subdivision (b).

[35] See Sections 84502 and 84504.1 through 84504.3.

[36] Section 91006.

[37] Section 83116.5.

Persons with filing or reporting obligations under the Act include committees, treasurers, principal officers of committees, responsible officers of sponsors, and responsible officers of other entities that qualify as committees. In particular, it is the duty of a committee treasurer to ensure that the committee complies with the Act. Also, the principal officers of a committee generally bear responsibility for approval of the political activity of the committee.[38] Additionally, reports/statements filed by any entity must be signed and verified by a responsible officer of the entity or by an attorney or a certified public accountant acting as agent for the entity.[39]

SUMMARY OF THE FACTS

As noted above, Vail was president of the DSA, principal officer of its PAC, and principal officer of the No on P committee. Vail held all of these roles simultaneously—and in his capacity as president of the DSA, Vail co-wrote the argument against Measure P for the ballot. Likewise, Ebert was the DSA PAC's treasurer—and the No on P committee's treasurer—both at the same time.

Acting through Vail and Ebert, the DSA and its PAC created the No on P committee and sponsored it by setting the committee's policies for soliciting contributions/making expenditures.[40] Also, on behalf of the DSA and its PAC, Vail and Ebert served as principal officer and treasurer (respectively) of the No on P committee, providing all or nearly all of the administrative services for the No on P committee within the meaning of Section 82048.7, subdivision (b)(3).

On or about August 4, 2020, the Sonoma County Board of Supervisors heard a first reading of the initiative which would become Measure P. Two days later, on August 6, 2020, the Board of Supervisors placed Measure P on the November 2020 ballot. Respondents contend that they had no advance notice of this action by the Board of Supervisors, and decided at that time to oppose Measure P. Because the November 2020 ballot was conducted as an all-mail ballot election, Respondents understood that they had 56 days to run a campaign before ballots were mailed to voters in early October. (In-person voting was not eliminated that year, but due to the pandemic, voting by mail was opt-out instead of opt-in.)

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[38] See Sections 82047.6; 81004; 84100; Regulation 18316.6, 18427, and 18402.1.

[39] Section 81004.

[40] Section 82048.7, subdivision (b)(4).

Respondents contend that they had no experience with this type of campaign; although their campaign consultant attempted to file a Form 410 for the No on P committee, due to the Secretary of State's backlog in 2020, it took several weeks before Respondents received notification that the filing was rejected.

Sonoma County records reflect that the first Form 410 for the committee was filed on October 16, 2020, but it was missing required sponsorship information. In early November 2020, Respondents filed a corrected Statement of Organization, which included the addition of previously omitted sponsorship information.

At their consultant's recommendation, Respondents also retained Vona Copp (on or about 10/16/20) about 18 days before the election. When interviewed by Enforcement, Copp stated that the No on P committee had been campaigning on their own and was doing things wrong. Immediately after starting, Copp was required to "play catch up." For example, Copp filed a 24-hour independent expenditure report on October 21, 2020 that should have been filed on or about October 11. (See Count 1 below.)

Although Copp is a professional treasurer, the campaign filings for the No on P committee never identified her as the treasurer, assistant treasurer, or principal officer. Instead, the campaign filings identified respondents Ebert and Vail as the treasurer and principal officer, respectively—and no assistant treasurer was identified. Thus, it appears that Respondents hired Copp to help the treasurer of record, but since Copp was hired late (18 days before the election) to help with pre-existing issues, she did not assume liability associated with becoming the committee's official treasurer of record. For these reasons, she has not been named as a respondent.

After hiring Copp on October 16, 2020, Ebert and Vail relied on her to handle day-to-day administration of the No on P committee accounts and all of Respondents' reporting obligations. Respondents contend that they had no understanding of the law related to 24-hour reporting, primarily formed committee status, or sponsorship, and they relied on Copp for campaign compliance, even though she was not the No on P committee's official treasurer of record.

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On or about October 20, 2020, the No on P committee officially qualified as a recipient committee when it received two contributions totaling approximately $22,500. From the outset, the committee was primarily formed in the County of Sonoma to oppose Measure P.

Respondents, maintain that they relied on the advice of their political consultant—and after October 16, 2020, they also relied on the advice of Copp. For example, the political consultant arranged the design and production of all campaign media, and Respondents believed that the political consultant would produce media with the appropriate disclaimer. After Copp was hired, Respondents relied on her to properly report expenditures related to ads. In addition, the political consultant directed Respondents to create a local PO box to receive checks, and Copp demanded each check be mailed to her in Southern California. Though Respondents believed this process was compliant with the law, because it was suggested to them by professionals, it resulted in reporting delays.

VIOLATIONS

Respondents cooperated with Enforcement by entering into a tolling agreement regarding the statute of limitations. The below counts are reachable under the tolling agreement based on the dates of service of the probable cause report.

Count 1: Failure to Timely File 24-hour Reports

Respondents DSA, its PAC, the No on P committee, Vail, and Ebert

On or about October 3, 2020, a company known as Signworx invoiced Vail for delivery of approximately 1,420 No on P campaign signs, costing approximately $22,138. Respondents' political consultant arranged the design and production of these signs. Vail was invoiced on behalf of the No on P committee, but the committee did not exist yet (and would not qualify as a recipient committee until much later, on 10/20/20). The signs were produced on credit—with Vail, the DSA, and its PAC intending to create the No on P committee to pay for the signs at a later date. Ultimately, this is what happened, and the signs were paid for in early November. (Producing this many signs on credit for a non-existent committee would have been a risk for the sign company, but Vail also represented the DSA and its PAC.)

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By October 10, the signs were in use, and 24-hour independent expenditure reporting was required to take place within 24 hours.[41] The report should have been filed with Sonoma County in one of three ways: the DSA could have filed the report as an independent expenditure committee (or multipurpose organization); the No on P committee could have filed (as an independent expenditure committee, using a committee name that included the required reference to its sponsors); or the DSA PAC could have filed as a pre-existing recipient committee. However, the required report was not filed within 24 hours. (It was filed late: on or about 10/21/20, after Copp was retained to assist with campaign compliance.) In this way, respondents DSA, its PAC, the No on P committee, Vail, and Ebert violated Section 84204.

As noted above, on or about October 20, 2020, the No on P committee officially qualified as a recipient committee when it received two contributions totaling approximately $22,500. From the outset, the committee was primarily formed in the County of Sonoma to oppose Measure P. A week later, on or about October 27, 2020, the DSA PAC contributed $73,000 to the No on P committee, but the DSA PAC failed to file the required 24-hour contribution report within 24 hours. (Sonoma County Netfile reflects that reports for other, smaller contributions were filed around this time, but not for this particular contribution.) In this way, the DSA PAC—and its treasurer, Cody Ebert—violated Section 84203.

The next day, on or about October 28, 2020, the DSA contributed $6,900 to the No on P committee, but the DSA failed to file the required 24-hour contribution report within 24 hours—in violation of Section 84203. (At the time of making this contribution, the DSA was a major donor by virtue of contributing another $5,000 to the same recipient approximately two days earlier. However, Sonoma County Netfile does not reflect any filings for this entity.)

Respondents were not made aware of these reporting errors until contacted by the Enforcement Division.

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[41] Within the meaning of Section 82036.5, the No on P campaign signs were a "late independent expenditure," and committee filings eventually disclosed—albeit late—that this expenditure was made on October 10, 2020. For reporting purposes, the expenditure was considered to be "made" on this date, even though the signs were not paid for until later. In this regard, Section 82025, subdivision (a), provides: "An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier."

For settlement purposes, one count is recommended for failure to timely file these required 24-hour reports.

Count 2: Non-disclosure of Sponsorship on Campaign Filings

Respondents No on P committee and Ebert

On and between approximately October 21, 2020 and November 2, 2020, the No on P committee filed several campaign statements and reports (including statements of organization, 24-hour reports, and a pre-election campaign statement), but the name of the committee on these filings did not include the required reference to the committee's sponsors: the DSA and DSA PAC. (Instead, the committee called itself "Committee for Transparent Justice – No on Measure P.") Also, on October 16 and 28, 2020, the No on P committee filed statements of organization with the County of Sonoma, which did not include required identifying information regarding the committee's sponsors. As noted above, Respondents relied on Copp's assistance to understand their obligations. In this way, the No on P committee, Vail, and Ebert violated Sections 84102 and 84106. For settlement purposes, one count is recommended for these violations.

Counts 3 and 4: Advertising Violations

Respondents DSA, its PAC, the No on P committee, and Vail

As noted above, on or about October 10, 2020, an independent expenditure was made in the form of No on P campaign signs costing more than $22,138. These signs stated that they were: "PAID FOR BY COMMITTEE FOR TRANSPARENT JUSTICE." This was incorrect disclosure because the name of the committee did not include the required reference identifying the DSA and its PAC as the sponsors of the committee.

On or about October 27, 2020, the No on P committee sent a No on P mass mailing costing more than $27,928 to approximately 58,856 households. These mass mailings identified the No on P committee name, but failed to include the required reference identifying the DSA and its PAC as the sponsors of the committee—and did not say "Paid for by."

On or about October 30, 2020, the No on P committee paid approximately $75,500 for a No on P digital media campaign (including social media, a digital billboard, and a "device takeover" campaign that sent digital ads directly to voters' digital devices). The evidence indicates that some of these advertisements failed to include the required reference identifying the DSA and its PAC as the sponsors of the committee.

In this way, the DSA, its PAC, the No on P committee, and Vail violated Section 84504.2 and Regulation 18419, subdivision (b)(1), with respect to the yard signs noted above. Also, they violated Sections 84102, 84106, and 84504.2 with respect to the mass mailings—and they violated Sections 84102, 84106, 84504.1, and 84504.3 with respect to the digital media campaign. For settlement purposes, two counts are charged for these advertising violations, as discussed in more detail below.

STREAMLINE EXCLUSION

Though there is no evidence that Respondents intentionally violated the law, this case is excluded from the streamline settlement program because the extent and gravity of the public harm is more than minimal.

PROPOSED PENALTY

As discussed in more detail below, four counts are recommended in this case—for which the maximum penalty is $20,000 (up to $5,000 per count).[42]

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in the context of the following factors:[43]

1. the extent and gravity of the public harm caused by the specific violation;
2. the level of experience of the violator with the requirements of the Act;
3. penalties previously imposed by the Commission in comparable cases;
4. the presence or absence of any intention to conceal, deceive or mislead;
5. whether the violation was deliberate, negligent or inadvertent;
6. whether the violator demonstrated good faith by consulting Commission staff or any other governmental agency in a manner not constituting a complete defense under Section 83114, subdivision (b);
7. whether the violation was isolated or part of a pattern—and whether the violator has a prior record of violations of the Act or similar laws; and

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[42] Section 83116.

[43] These factors are set forth in Regulation 18361.5, subdivision (e)(1) through (8).

8. whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

Count 1 (failure to timely file 24-hour reports)

The public harm inherent in campaign filing and reporting violations is that the public is deprived of important, time-sensitive information regarding political activity. Generally, these types of violations are considered to be more serious where the public is deprived of information that was required to be disclosed before an election because this has the potential to affect how votes are cast—so greater public harm is involved, and a higher penalty is warranted. Another factor that influences the amount of the penalty is whether the public harm was mitigated because some of the reportable activity was disclosed to the public on another campaign filing.

Comparable Case

Recently, the Commission considered another case regarding failure to timely file multiple 24-hour reports. In the Matter of Ryan Ogulnick; AC 2525 Main, LLC; RHW Holdings, LLC; Beverly Grossman Palmer; and the PAC known as "Californians for Ethical Patient Care, Yes on Tinajero for Mayor and Sarmiento and Reyna for City Council; No on Bacerra for City Council, Santa Ana 2018, Sponsored by 19th Green OC, LLC,"; FPPC Case No. 18/1194, a PAC failed to timely file sixteen 24-hour reports regarding independent expenditures costing approximately $388,342. Three counts were charged, and the Commission imposed a penalty in the amount of $4,000 per count.

Both cases involve respondents with no history of prior, identical violations—who cooperated with Enforcement.

In the current case, the violations appear to have been the result of negligence. Similar facts were present in Ogulnick.

Some reportable activity in the current case related to ads that were disseminated to the public before payments were made for the ads. This complicated the reporting process and obscured the sources of funding for the ads (which were campaign signs). Ultimately, the required 24-hour report for this activity was filed about 10 days late, but before the relevant election. The other 24-hour reports in this case were not filed before the election. Similar facts were present in Ogulnick.

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In Ogulnick, some violations were noted as aggravating, but not charged. The current case also involves violations that are noted as aggravating, but not charged (including the No on P committee's failure to timely file a statement of organization and the DSA's failure to timely file a semi-annual campaign statement).

Despite these similarities, there are some mitigating differences, warranting fewer counts and a lesser penalty in the current case.

Mitigating Differences

Ogulnick involved a very experienced treasurer (who was both a campaign attorney and a professional treasurer). A similar level of experience is not present in the current case.

In Ogulnick, the true financial backers of the PAC never were disclosed (due to campaign money laundering), but in the current case, they were disclosed by the No on P committee's 24-hour filings before the election.

In Ogulnick, one of the 24-hour reports was filed late. It pertained to early independent expenditure activity. Similar facts are present in the current case. However, in Ogulnick, the late report improperly reported that the spending in question occurred later than it actually did (October 25 vs. 12). In the current case, the late report included accurate information about the timing of the spending.

In Ogulnick, the activity encompassed by the 24-hour filings also was required to be reported on Schedule D of the committee's semi-annual campaign statement, but almost none of the activity was reported on Schedule D. Similar facts are not present in the current case.

Recommended Number of Counts and Penalty: $2,500 (1 count)

In Ogulnick, three counts were charged for 16 24-hour reports—for ads costing approximately $388,342. A penalty in the amount of $4,000 per count was imposed.

The current case involves three 24-hour reports for ads and contributions totaling approximately $102,038. Under these circumstances, Enforcement recommends a single count for $2,500.

Count 2 (non-disclosure of sponsorship on campaign filings)

When a committee omits required sponsorship information from its campaign filings (and from the committee's name), the public is deprived of important information about who is financing and/or administering the committee, which may affect how votes are cast.

Recently, the Commission considered another case regarding non-disclosure of sponsorship on campaign filings. In the Matter of Californians in Support of Mike Antonovich State Senate 2016 and Shelley Levine; FPPC Case Nos. 17/1397 and 18/821 (approved Mar. 24, 2022), a committee failed to timely amend its statement of organization to include the name of its sponsor (and the committee's date of initial qualification as a recipient committee). One count was charged, for which the Commission imposed a penalty in the amount of $4,000.

Both cases appear to involve negligent conduct by respondents with no history of prior, identical violations. Neither case appears to have involved respondents who were professional campaign treasurers with substantial experience.

Despite these similarities, a reduced penalty is recommended in the current case due to some mitigating differences between the cases. In the current case, some sponsorship information was disclosed on an amended statement of organization that was filed the day before the election. In the comparable case, it does not appear sponsorship information ever was disclosed to the public. Also, the comparable case involved a default proceeding, which was required to go through a collections process. In contrast, the current case involves respondents who are cooperating and making full payment in connection with this proposed settlement. Under these circumstances, a penalty in the amount of $2,500 is recommended for Count 2.

Counts 3 and 4 (advertising violations)

Advertising "paid for by" disclosures must include required information about a committee's sponsors as part of the committee name. The public harm that arises from omitting such information is similar to that described above for Count 2. A comparable case involving this type of violation is discussed below.

In the Matter of Glendale Voters for Good Government, Supporting Najarian for City Council 2017, Shawnda Deane, and Daniel Brumer; FPPC Case No. 17/1470 (approved Feb. 20, 2020), a committee omitted required sponsorship information from the "paid for by" disclosures of three mass mailings, which cost approximately $23,139. For these violations, a single count was charged, for which the Commission imposed a penalty in the amount of $3,500.

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Both cases involve ads that were purchased in connection with a single election by entities and principal officers with no history of prior, similar violations.

In Glendale, the principal officer contended that he relied upon advice from a professional campaign treasurer regarding the ad disclosures and that there was no intention to conceal, deceive, or mislead the public about sponsorship. In the current case, Respondents contend that they relied on the advice of their political consultant to create ads which complied with the law. The evidence does not support an intention to conceal, deceive, or mislead. (Additionally, on and after 10/16/20, respondents relied on Copp for campaign compliance.)

Both cases involve additional counts that could have been charged, but for settlement purposes, they were noted as aggravating information, only. (In Glendale, failure to change the committee's name was noted to be aggravating. In the current case, this committee naming violation was charged in connection with Count 2. However, in the current case, the digital ad campaign (which cost approximately $75,500) was reported late, and required subvendor information was not reported. For settlement purposes, these violations are noted as aggravating and not charged.)

In the Glendale case, the ads in question supported a candidate who won the election. In the current case, ad spending by the respondents was unsuccessful (since Measure P passed).

Although one count may be charged per advertisement, it is customary to reduce the number of counts, when appropriate, to ensure that the penalty fits the wrongdoing. In Glendale, one count was charged for three ads costing approximately $23,139—for which a penalty in the amount of $3,500 was imposed. The current case also involves three ads: campaign signs, a mass mailing, and a digital ad campaign, which cost at least $125,566 (more than five times the ads in Glendale). Also, in aggravation, the mass mailing in the current case did not say "Paid for by." Under these circumstances, Enforcement recommends two counts and a penalty in the amount of $3,000 per count.

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Summary Chart

The following agreed-upon penalty is recommended in this case:

Count(s)	Description	Respondents	Penalty
1	Failure to Timely File 24-hour Reports	Vail, Ebert, DSA, its PAC, and the No on P Committee	$2,500
2	Non-disclosure of Sponsorship on Campaign Filings	Vail, Ebert, and the No on P Committee	$2,500
3-4	Advertising Violations ($3,000 per count)	Vail, DSA, its PAC, and the No on P Committee	$6,000
			TOTAL: $11,000

CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and all of the above-named respondents hereby agree as follows:

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

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

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

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

5. Respondents agree to the issuance of the decision and order set forth below. Also, respondents agree to the Commission imposing against them an administrative penalty in the amount of

$11,000. One or more payments totaling this amount—to be paid to the General Fund of the State of California—is/are submitted with this stipulation as full payment of the administrative penalty described above, and they will be held by the State of California until the Commission issues its decision and order regarding this matter.

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

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

Dated: ________________________

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Kendall L.D. Bonebrake, Chief of Enforcement
Fair Political Practices Commission

Dated: ________________________

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Michael Vail, individually, and on behalf of Committee for Transparent Justice – No on Measure P, Respondents

Dated: ________________________

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Cody Ebert, individually, and on behalf of Sonoma County Deputy Sheriffs' Association, Sonoma County Deputy Sheriffs' Association PAC, and Committee for Transparent Justice – No on Measure P, Respondents

The foregoing stipulation of the parties "In the Matter of Sonoma County Deputy Sheriffs' Association, Sonoma County Deputy Sheriffs' Association PAC, Committee for Transparent Justice – No on Measure P, Michael Vail, and Cody Ebert," FPPC Case No. 2020-01111, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: ________________________

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Adam E. Silver, Chair
Fair Political Practices Commission