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11 Enforcement Division of the Fair Political Practices Commission

12 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

13 **STATE OF CALIFORNIA**

14 In the Matter of:

15 STEPHANIE NGUYEN FOR
16 ASSEMBLY 2022 AND STEPHANIE
17 NGUYEN

18 Respondents.

19 FPPC Case No. 2022-00443

20 STIPULATION, DECISION, AND ORDER

21 **INTRODUCTION**

22 Respondent Stephanie Nguyen (“Nguyen”) was a successful candidate for State Assembly,
23 District 10, in the June 7, 2022 Primary Election and is currently in office. Stephanie Nguyen for
24 Assembly 2022 (“the Committee”) is Nguyen’s candidate-controlled committee. Nguyen served as
25 treasurer to the Committee.

26 Respondents violated the Political Reform Act¹ (“Act”) by failing to include the proper
27 advertisement disclosures on certain advertisements produced by the Committee.

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¹ The Political Reform Act – sometimes simply referred to as 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.

1 **SUMMARY OF THE LAW**

2 The violations in this case occurred in 2022 and all legal references and discussions of law
3 pertain to the Act’s provisions as they existed at that time.

4 **Need for Liberal Construction and Vigorous Enforcement of the Act**

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

13 **Mass Mailings**

14 The Act requires that a candidate or candidate-controlled committee established for an elective
15 office for the controlling candidate only send a mass mailing if the name, street address, and city of the
16 candidate or committee are shown on the outside of each piece of mail and on at least one of the inserts
17 included; if the address is a matter of public record with the Secretary of State, a P.O. Box may be
18 displayed instead of a street address.⁶ This text must be at least 6-point font in a color that contrasts with
19 the background so that it can be read easily.⁷ Alternatively, if the sender of the mass mailing is a single
20 candidate or committee, this identifying information only needs to be shown on the outside of each piece
21 of mail.⁸ Further, if the sender of a mass mailing is a controlled committee, the name of the person
22 controlling the committee must be included with the identifying information noted above.⁹ A mass
23 mailing is when more than 200 substantially similar pieces of mail are sent in a calendar month.¹⁰

24
25 ² Section 81001, subd. (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subd. (a).

28 ⁵ Section 81002, subd. (f).

⁶ Section 84305, subd. (a)(1).

⁷ Section 84305, subd. (a)(1).

⁸ Section 84305, subd. (b).

⁹ Section 84305, subd. (d).

¹⁰ Section 842041.5.

1 **Joint and Several Liability of Candidate and Committee**

2 It is the duty of a candidate to ensure that the committee complies with the Act.¹¹ The candidate
3 may be held jointly and severally liable, along with the committee, for violations committed by the
4 committee.¹²

5 **SUMMARY OF THE FACTS**

6 Based on the Committee’s campaign statements and reports retained by the Committee’s filing
7 officer, the Committee reported raising approximately \$515,643 and spending approximately \$460, 989
8 prior to the June 7, 2022 Primary Election. Nguyen was successful in the Primary Election and
9 successfully ran again in the November 8, 2022 General Election. The Committee terminated on
10 August 12, 2024. The Committee and Nguyen were required to include proper disclosures on mass
11 mailings.

12 Prior to the June 7, 2022 Primary Election, the Committee designed and distributed 42,670
13 copies of a printed mailer (“Exhibit A”), which cost approximately \$36,115.23 to design and distribute.
14 The front side of the mass mailing advertisement displays various statements in support of Nguyen,
15 including “Stephanie Nguyen Democrat for State Assembly,” “On June 7 – Vote Stephanie Nguyen.
16 The Right Choice for Assembly,” “Get the Facts on Democrat Stephanie Nguyen – our voice in the
17 Assembly.” The back side of the mass mailing advertisement displays various statements opposing
18 Nguyen’s opponent, Eric Guerra, including “On June 7 – Vote NO on Eric Guerra. The Wrong Choice
19 for Assembly” and “Get the Facts on Eric Guerra – the wrong Democrat for Assembly.” The return
20 address portion of the mass mailing displays a P.O. Box address that is not listed as a matter of public
21 record with the Secretary of State. The mass mailing advertisement does not include the Committee’s or
22 candidate’s street address or the name of the controlling candidate. The mailer contained no language
23 indicating who was responsible for the advertisement. In mitigation, the advertisement did contain a
24 QR code that was linked to the Committee’s website and displayed the campaign logo that was used
25 throughout the campaign, including on the Committee’s website.

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28 ¹¹ Sections 81004, 84100, 84104; Regulation 18427.

¹² Sections 83116.5 and 91006.

1 **VIOLATIONS**

2 **Count 1: Failure to Include Proper Disclosures on Mass Mailings**

3 The Committee and Nguyen failed to include proper advertisement disclosures on one mass
4 mailing, in violation of Government Code Section 84305.

5 **PENALTY**

6 This matter consists of one count of violating the Act, which carries a maximum administrative
7 penalty of \$5,000 per count, therefore, the total potential penalty for the violation charged here is
8 \$5,000.

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

23 With respect to the first factor, the public harm inherent in advertising disclosure violations is
24 that the public is deprived of important time-sensitive information regarding who created and/or
25 distributed an advertisement prior to an election. Here, over 40,000 copies of a mailing were sent out
26 prior to the subject election where Nguyen was ultimately successful. The advertisement at issue, which
27 advocated for Nguyen as a candidate at the ballot and opposed Nguyen's opponent, failed to include any

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¹³ Regulation 18361.5, subd. (e).

1 language indicating who was responsible for distributing the advertisement, other than the display of her
2 campaign logo. The language of the pro-Nguyen side was written in a style and manner that could have
3 led a reasonable person to believe that the mailer was issued by a supporter of Nguyen, rather than
4 Nguyen's committee. The mailer itself gives insufficient indication that Nguyen was responsible for the
5 negative advertisement concerning Nguyen's opponent. Lastly, Nguyen has no prior history involving
6 the same type of violation of the Act.

7 With respect to the second factor, the Committee was a sophisticated committee with many
8 resources and the assistance of professionals from the industry. The candidacy was for a statewide
9 position, Nguyen was successful in both that election and the subsequent General Election and is
10 currently in office. There were a large number of advertisements distributed, with over 42,000 sent.
11 Nguyen knew or should have known what the Act required for mass mailing advertisement disclosures.

12 With respect to the third factor, the following case was considered as a comparable case:

- 13 • *In the Matter of Lloyd A. Johnson for West Covina City Council 2015, Lloyd Johnson, and John*
14 *Shewmaker* ; FPPC Case No. 2015-2076. Lloyd Johnson ("Johnson") was a successful candidate
15 for West Covina City Council in the November 3, 2015 General Election and was in office at the
16 time of the FPPC case resolution. Johnson and Johnson's committee distributed two negative
17 mass mailings that failed to include proper sender identification required by the Act's
18 advertisement disclosure provisions. Johnson's committee spent approximately \$1,000 to
19 produce and distributed approximately 3,000 mass mailings that failed to include the required
20 advertisement disclosure and instead displayed an incorrect and misleading sender identification.
21 On November 18, 2021, the Commission adopted an Administrative Law Judge's proposed
22 decision and imposed a penalty of \$6,000 for two counts of failing to comply with mass mailing
23 disclosure requirements.

24 Both candidates were successful, were in office at the time of case resolution, and distributed
25 mass mailers that negatively portrayed an opponent in the election. However, a slightly higher penalty
26 than that in the *Johnson* case is warranted here. Nguyen and the Committee spent significantly more on
27 the mass mailings and distributed significantly more advertisements than in the *Johnson* case,
28 approximately fourteen times as many advertisements were distributed and approximately thirty-six

1 times as much money was spent. Nguyen’s committee also involved candidacy for state office rather
2 than a local government position.

3 With respect to the fourth and fifth factors, the Committee chose to place an address (a P.O. Box)
4 as the return address on the advertisement that was not listed on the Committee’s Statement of
5 Organization, which is misleading. Further, the language of the advertisement including the phrase, “Get
6 the Facts on Democrat Stephanie Nguyen – *our* voice in the Assembly” (emphasis added) could be
7 perceived to suggest that a committee supporting Nguyen (not Nguyen’s committee) was responsible for
8 distributing the advertisement.

9 Respondent contends that the error was the result of a printing error. Respondent also notes, as
10 stated above, that there was a QR code on the mailer that led viewers to the campaign website and that
11 the official campaign logo that was used throughout the campaign was included on the mailer.

12 Based on the factors outlined above, the Enforcement Division is seeking a total penalty of
13 \$4,000 for Count 1.

14 CONCLUSION

15 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
16 Respondents, Stephanie Nguyen for Assembly 2022 and Stephanie Nguyen hereby agree as follows:

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

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

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

24 4. Respondents understand and hereby knowingly and voluntarily waive, any and all
25 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through
26 18361.9. This includes, but is not limited to the right to appear personally at any administrative hearing
27 held in this matter, to be represented by an attorney at the Respondents’ own expense, to confront and
28 cross-examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to

1 have an impartial administrative law judge preside over the hearing as a hearing officer, and to have the
2 matter judicially reviewed.

3 5. The Respondents agree to the issuance of the decision and order set forth below. Also,
4 the Respondents agree to the Commission imposing against it an administrative penalty in the amount of
5 \$4,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General
6 Fund of the State of California—is/are submitted with this stipulation as full payment of the
7 administrative penalty described above, and same shall be held by the State of California until the
8 Commission issues its decision and order regarding the matter.

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

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

18
19 Dated: _____

20 Kendall L.D. Bonebrake, Chief of Enforcement
21 Fair Political Practices Commission
22

23
24 Dated: _____

25 Stephanie Nguyen, individually and on behalf of
26 Stephanie Nguyen for Assembly 2022
27
28

The foregoing stipulation of the parties “In the Matter of Stephanie Nguyen for Assembly 2022; FPPC Case No. 2022-00443, 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:

Adam E. Silver Chair

Fair Political Practices Commission

EXHIBIT A



SCAN ME



Get the Facts on **Democrat Stephanie Nguyen**

– our voice in the Assembly

Fighting against Trump to help immigrants

Every day, Democrat Stephanie Nguyen works to improve the lives of immigrants as the Executive Director of the Asian Resource Center.

**She opposed Donald Trump and
his extreme agenda.**

Keeping our communities safe

Stephanie has worked with local law enforcement to stop Asian Hate. She is married to a police officer.

Stephanie is proud of her support from local law enforcement and will continue to work with to get guns off the streets, fight gang violence and keep our communities safe.

Supported by Women Leaders

Stephanie is the daughter of immigrants and has faced the same hurdles that so many new to our country have faced. She will fight to give women a voice in the Capitol.



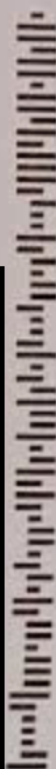
**Only candidate Officially
endorsed by the
California Democratic
Legislative Women's Caucus**

On June 7 – Vote Stephanie Nguyen.
The Right Choice for Assembly.

★ STEPHANIE
★ **NGUYEN**
★ **DEMOCRAT FOR STATE ASSEMBLY**

PSRT STD
U.S. POSTAGE
PAID
MPM

*****ECRLOT**B012



PO Box 582791
Elk Grove, CA 95758



Get the Facts on Eric Guerra

– the wrong Democrat for Assembly.



Capitol Insider

Eric Guerra works in the Capitol and is **supported by the biggest special interests** in Sacramento, because they know they can trust Eric to work for their agenda.



Failed Record

Over six years on the Sacramento City Council and has **no solutions to the homeless problems** that continue to grow.



The Wrong Democrat

Guerra **opposed** a minimum wage increase. Guerra was **kicked out of the Democratic Party** for supporting a conservative Republican.

On June 7 – Vote NO on Eric Guerra.

The Wrong Choice for Assembly.