

1 JAMES M. LINDSAY
Chief of Enforcement
2 NEAL BUCKNELL
Senior Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
4 1102 Q Street, Suite 3050
Sacramento, CA 95811
5 Telephone: (279) 237-5938

6 Attorneys for Complainant
Enforcement Division of the Fair Political Practices Commission
7

8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

9 **STATE OF CALIFORNIA**

10
11 In the Matter of

FPPC Case No. 2018-01194

12 RYAN OGULNICK; AC 2525 MAIN,
LLC, a Delaware entity, registered to do
13 business in California; RHW HOLDINGS,
LLC, a Delaware entity, registered to do
14 business in California; BEVERLY
15 GROSSMAN PALMER; and
“CALIFORNIANS FOR ETHICAL
16 PATIENT CARE, YES ON TINAJERO
FOR MAYOR AND SARMIENTO AND
17 REYNA FOR CITY COUNCIL; NO ON
BACERRA FOR CITY COUNCIL,
18 SANTA ANA 2018, SPONSORED BY
19 19TH GREEN OC, LLC” (California
Secretary of State Committee I.D. No.
20 1413264),

STIPULATION, DECISION AND ORDER

21 Respondents.

22
23 **INTRODUCTION**

24 In the election of November 6, 2018, various candidates were competing for seats on the Santa
25 Ana City Council, including the following: Miguel Pulido (an incumbent) defeated Sal Tinajero for
26 Mayor of Santa Ana; David Penaloza defeated Sandra Peña Sarmiento (and others) for City Council,
27 Ward 2; and Roman Reyna (an incumbent) defeated Phil Bacerra for City Council, Ward 4.

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1 Prior to the election (on or about 10/12/18), a Form 410 statement of organization was filed with
2 the City of Santa Ana under the name of respondent “Californians for Ethical Patient Care, Yes on
3 Tinajero for Mayor and Sarmiento and Reyna for City Council; No on Bacerra for City Council, Santa
4 Ana 2018.” (For ease of reference, this committee is identified as the PAC.) This filing reflected that the
5 PAC was primarily formed to:

- 6 a. oppose Phil Bacerra and support Roman Reyna for Santa Ana City Council, Ward 4;
- 7 b. support Sal Tinajero for Mayor of Santa Ana; and
- 8 c. support Sandra Peña Sarmiento for Santa Ana City Council, Ward 2.

9 In furtherance of supporting/opposing these candidates, the PAC spent more than \$300,000 on
10 mass mailings and online advertisements.

11 Beginning before the PAC filed the Form 410 noted above—and at all relevant times thereafter—
12 respondent Ryan Ogulnick, an Orange County Developer, was in communication with the advertising
13 vendors that were used by the PAC to produce and disseminate all of its ads. This included
14 communications regarding ad content, timing, placement, payment, etc.

15 According to respondents, the PAC originated when Ryan Ogulnick, a local developer with no
16 prior experience in campaigns, and his wife Rachel Ogulnick, wanted to engage in the 2018 City of Santa
17 Ana elections. Since Ryan Ogulnick had no prior campaign experience, he and his wife consulted with
18 Pamela Sapetto, owner of Sapetto Real Estate Solutions, Inc., which is a firm that specializes in project
19 management for all types of land development—and provides expertise for all land use entitlement needs.
20 Services provided include government relations, strategic communications, community outreach, and
21 project management. Sapetto Real Estate Solutions, Inc. had continuously done work for the Ogulnicks
22 unrelated to campaign activity.

23 Ms. Sapetto had prior campaign experience and at the time had an active campaign committee.
24 Respondents maintain that the Ogulnicks asked Ms. Sapetto if they could use her existing campaign
25 committee to engage in the desired campaign activity for the San Ana City elections, but Ms. Sapetto
26 declined, thus requiring the creation of the respondent PAC in this case. According to respondents, the
27 name of the committee was chosen because the Ogulnicks and Ms. Sapetto planned to raise funds from
28 the local cannabis dispensary industry. The PAC, through Ms. Sapetto, selected respondent Rose Redlich

1 as the principal officer of the committee, with the responsibility of running the day-to day campaign
2 operations.

3 Virtually all of the PAC’s funding, however, eventually came from two other development
4 companies, at the request/direction of Ogulnick, part-owner of both companies. These development
5 companies are named herein as respondents AC 2525 Main, LLC (a Delaware entity that first registered
6 to do business in California on or about 7/13/17) and RHW Holdings, LLC (a Delaware entity that first
7 registered to do business in California on or about 7/10/18).

8 Respondent Beverly Grossman Palmer, a campaign attorney, served as the PAC’s treasurer.
9 (Palmer is a partner with the law firm of Strumwasser & Woocher, LLP.)

10 This case involves multiple violations of the Political Reform Act, including: campaign money
11 laundering, campaign filing/reporting violations, and failure to comply with advertising disclosure
12 requirements.¹ Most of the violations served to conceal the involvement of the corporate respondents
13 with respect to the PAC.

14 Ogulnick had no prior experience with campaigns. For this reason, he consulted with and relied
15 upon Palmer and her law firm.

16 From the outset, Ogulnick maintains that he had hoped to raise funds from the cannabis
17 dispensary industry to help pay for the PAC’s advertisements in this case, consistent with the name that
18 was chosen for the PAC (“Californians for Ethical Patient Care”)—but when this funding did not
19 materialize, the LLC respondents in this case contributed to the PAC at the request/direction of Ogulnick.

20 The LLC respondents did not want to be disclosed as the true sources of the contributions to the
21 PAC, and for this reason, they made their contributions through an intermediary company. Ogulnick and
22 the LLC respondents maintain that they had communicated these facts to their legal counsel and
23 treasurer, Palmer, but these communications resulted in confusion—the end result of which was a lack of
24 correct reporting.

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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 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 Act and its regulations are amended from time to time. Unless otherwise noted, all legal
3 references and discussions of law pertain to the Act’s provisions as they existed at the time of the
4 violations in this case (2018).

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

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

10 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
11 election campaigns are “fully and truthfully disclosed in order that the voters may be fully informed and
12 improper practices may be inhibited.”⁴ Along these lines, the Act includes a comprehensive campaign
13 reporting system—and the true sources of campaign contributions may not be concealed.⁵

14 Another purpose of the Act is to promote transparency by requiring each committee that is
15 sponsored by a business entity to disclose this sponsorship on all campaign filings, in the committee
16 name, and in “paid for by” disclosures for advertisements—which also must disclose top contributors of
17 (\$50,000 or more).⁶

18 Yet another purpose of the Act is to provide adequate enforcement mechanisms so that the Act
19 will be “vigorously enforced.”⁷

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25 ² Section 81001, subdivision (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subdivision (a).

28 ⁵ Sections 84200, *et seq.*; 84301; and 84302.

⁶ Sections 84101; 84102, subdivisions (a) and (b); 84103; 84106; 84200, *et seq.*; 84211, subdivision (o); 84501, *et seq.*; Regulations 18402; 18410; and 18419.

⁷ Section 81002, subdivision (f).

1 **Definition of Person**

2 “Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business
3 trust, company, corporation, limited liability company, association, committee—and any other
4 organization or group of persons acting in concert.⁸

5 **Definition of Recipient Committee**

6 A “committee” includes any person—or combination of persons—who directly or indirectly
7 receive contributions totaling \$2,000 or more in a calendar year.⁹ This type of committee commonly is
8 referred to as a “recipient committee.”

9 **Definition of “IE” / Independent Expenditure Committee**

10 Also, a “committee” includes any person—or combination of persons—who directly or indirectly
11 make independent expenditures totaling \$1,000 or more in a calendar year.¹⁰ This type of committee
12 commonly is referred to as an “IE” or “independent expenditure committee.”

13 **Definition of Major Donor Committee**

14 Additionally, a “committee” includes any person—or combination of persons—who directly or
15 indirectly make contributions totaling \$10,000 or more in a calendar year to or at the behest of candidates
16 or committees.¹¹ This type of committee commonly is referred to as a “major donor committee.”

17 **Definition of Principal Officer**

18 “Principal officer” means the individual primarily responsible for approving the political activities
19 of a committee, including, but not limited to, the following activities: authorizing the content of
20 communications made by the committee; authorizing expenditures, including contributions, on behalf of
21 the committee; determining the committee’s campaign strategy. If two or more individuals share the
22 primary responsibility for approving the political activities of a committee, each individual is a principal
23 officer.¹²

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26 ⁸ Section 82047.

27 ⁹ Section 82013, subdivision (a).

28 ¹⁰ Section 82013, subdivision (b).

¹¹ Section 82013, subdivision (c).

¹² See Section 82047.6 and Regulation 18402.1.

1 **Definitions of Sponsor and Sponsored Committee**

2 Any person, except a candidate or other individual, may become a “sponsor” of a committee. A
3 “sponsored committee” is any type of committee, other than a candidate-controlled committee, that has
4 one or more sponsors.¹³

5 There are multiple ways that a sponsorship of a committee may arise under the Act. For example,
6 a person becomes a sponsor of a committee if the person—alone or in combination with other
7 organizations—sets the policies for soliciting contributions or making expenditures of committee funds.¹⁴

8 Also, a person becomes a sponsor of a committee if the committee receives 80 percent or more of
9 its contributions from the person—or from the person’s members, officers, employees, or shareholders.¹⁵

10 Additionally, a person becomes a sponsor of a committee if the person—alone or in combination
11 with other organizations—provides all or nearly all of the administrative services for the committee.¹⁶

12 **Definition of Intermediary**

13 A person is an intermediary for a campaign contribution if “[t]he recipient of the contribution
14 would consider the person to be the contributor without the disclosure of the identity of the true source of
15 the contribution.”¹⁷

16 **Definition of Expenditure**

17 “Expenditure” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or
18 an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is
19 not made for political purposes.¹⁸

20 An expenditure is made on the date that payment is made—or on the date consideration, if any, is
21 received—whichever is earlier.¹⁹

22 A payment is made for political purposes if it is made for purposes of influencing or attempting to
23 influence the action of the voters for or against the nomination or election of a candidate or candidates—

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25 ¹³ See Section 82048.7, subdivision (a).

26 ¹⁴ Section 82048.7, subdivision (b)(4).

27 ¹⁵ Section 82048.7, subdivision (b)(1).

28 ¹⁶ Section 82048.7, subdivision (b)(3).

¹⁷ Regulation 18432.5, subdivision (a)(1).

¹⁸ Section 82025, subdivision (a).

¹⁹ Section 82025, subdivision (a).

1 or if the payment is made by an organization formed or existing primarily for such purposes (such as a
2 political action committee established by a business entity). This rule also applies to payments made by
3 candidates, candidate-controlled committees, and official political party committees.²⁰

4 Payments made by other persons/organizations count as “expenditures” if they are used for
5 communications that expressly advocate the nomination, election, or defeat of a clearly identified
6 candidate or candidates.²¹

7 A communication “expressly advocates” the nomination, election, or defeat of a candidate if it
8 contains express words of advocacy such as “vote for,” “elect,” “support,” “cast your ballot,” “vote
9 against,” “defeat,” “reject,”—or within 60 days before an election in which the candidate appears on the
10 ballot, the communication otherwise refers to a clearly identified candidate so that the communication,
11 taken as a whole, unambiguously urges a particular result in the election.²² When an expenditure for a
12 communication is required to be reported, the amount must include all costs directly attributable to the
13 communication, including, but not limited to, salaries, production, postage, space/time purchased, agency
14 fees, printing, and any additional administrative or overhead costs attributable to the communication
15 (excluding regular ongoing business overhead that will be incurred in similar amounts regardless of the
16 communication).²³ Costs directly traceable to the communication are reportable when the communication
17 is made—or when payments are made in connection with the development, production, or dissemination
18 of the communication—whichever occurs first.²⁴

19 **Definition of Independent Expenditure**

20 “Independent expenditure” includes an expenditure made by any person in connection with a
21 communication that expressly advocates the election or defeat of a clearly identified candidate—or taken
22 as a whole and in context, unambiguously urges a particular result in an election, but which is not made
23 to or at the behest of the affected candidate or committee.²⁵

24 ²⁰ See Section 82025, subdivision (b).

25 ²¹ Section 82025, subdivision (c).

26 ²² Section 82025, subdivision (c)(2).

27 ²³ Section 82025, subdivision (c)(3)(A).

28 ²⁴ Section 82025, subdivision (c)(3)(C).

²⁵ Section 82031.

1 **Definitions of Late Independent Expenditure and Late Contribution**

2 “Late independent expenditure” includes any independent expenditure that totals in the aggregate
3 \$1,000 or more—that is made for or against a specific candidate during the 90 days leading up to the
4 candidate’s election (or on the date of the election).²⁶

5 “Late contribution” includes any contribution that totals in the aggregate \$1,000 or more—that is
6 made during the 90 days leading up to an election (or on the date of the election) to a committee formed
7 or existing primarily to support or oppose a candidate who is on the ballot for the election.²⁷

8 For the election of November 6, 2018, the 90-day, 24-hour reporting period started on August 8,
9 2018.

10 **Definitions of Advertisement and Top Contributors**

11 “Advertisement” includes any general or public communication that is authorized and paid for by
12 a committee for the purpose of supporting or opposing a candidate or candidates for elective office.²⁸

13 In the case of a recipient committee that pays for an advertisement, “top contributors” are the
14 persons from whom the committee has received its three highest cumulative contributions of \$50,000 or
15 more (during the period beginning 12 months before the date of the expenditure and ending seven days
16 before the time the advertisement is sent to the printer or broadcaster).²⁹

17 **Required Disclosures for Advertisements**

18 The Act requires certain disclosures for advertisements, but different requirements apply,
19 depending on the type of committee paying for the ad, the advertising medium, and whether the ad is an
20 independent expenditure.

21 *Ads Paid for by Independent Expenditure Committees*

22 Any advertisement that is a print ad—or internet website—paid for by an independent
23 expenditure committee must include the words “Paid for by” followed by the name by which the filer is
24 identified for other legal purposes (or any name by which the filer commonly is known to the public).

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26 Section 82036.5.

27 Section 82035, subdivision (a).

28 Section 84501, subdivision (a); Regulation 18450.1.

29 Section 84501, subdivisions (b) and (c).

1 This must include the name of any sponsor—or in the case of multiple sponsors, a term identifying the
2 industry or group to which the sponsors belong.³⁰

3 If the advertisement is a video disseminated over the internet, the disclosure noted above must
4 appear at the beginning or end of the ad—and be displayed for at least five seconds of a broadcast of 30
5 seconds or less, or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.³¹

6 If the advertisement is an electronic media advertisement (other than a website), the ad must
7 include the text: “Who funded this ad?” This text must be a hyperlink to a website containing the same
8 disclosure as described above for print ads and websites. If this text would be impracticable, the ad need
9 only include a hyperlink to the website containing the required disclosures.³²

10 *Ads Paid for by Recipient Committees*

11 The foregoing disclosure requirements also apply to ads that are paid for by a recipient
12 committee.³³ Additionally, if the committee has any top contributors of \$50,000 or more (as defined
13 above), then the ad disclosures are required to include the words “committee major funding from”
14 followed by the names of the top contributors.³⁴ In the case of online ads that are continuously
15 disseminated over a period of time spanning multiple days, if one or more new contributors qualify as top
16 contributors, the ads must be updated to reflect the new top contributors within five business days.³⁵

17 In some cases, a person directs and controls multiple contributions from affiliated entities—
18 whose aggregate contributions trigger “top contributor” disclosures. When this happens, the “top
19 contributors” must be disclosed as a single “person” and identified using the “name of filer” designation
20 that is discussed below in the section regarding proper reporting of aggregated contributions.³⁶

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23 ³⁰ See Sections 84502, subdivision (b); 84211, subdivision (o); 84504.2, subdivision (a); 84504.3, subdivision (c);
and Regulation 18419, subdivision (b)(1).

24 ³¹ Section 84504.1, subdivisions (a) and (b).

25 ³² Section 84504.3, subdivisions (a) and (b).

26 ³³ Sections 84102, subdivisions (a) and (b); 84103; 84106; 84502, subdivision (a)(1); 84504.1, subdivisions (a) and
27 (b); 84504.2, subdivision (a); 84504.3, subdivisions (a)-(c); Regulations 18402; 18410; and 18419.

28 ³⁴ Sections 84503, subdivision (a); 84504.1, subdivision (a); 84504.2, subdivision (a); 84504.3, subdivisions (a) and
(c).

³⁵ Section 84509.

³⁶ Regulation 18450.1, subdivision (c); Lang advice letter ([I-18-160](#)), pages 2-4.

1 *When the Ad is an Independent Expenditure*

2 Also, an advertisement supporting or opposing a candidate that is paid for by an independent
3 expenditure must include a statement that it was not authorized by a candidate or a committee controlled
4 by a candidate. Generally, this statement must appear with (and below) the “paid for by” language and
5 any top contributor disclosures.³⁷

6 **Required Aggregation of Contributions and Independent Expenditures**

7 The contributions of an entity whose contributions are directed and controlled by any individual
8 must be aggregated with contributions made by that individual and any other entity whose contributions
9 are directed and controlled by the same individual.³⁸

10 Also, contributions made by entities that are majority owned by any person must be aggregated
11 with the contributions of the majority owner and all other entities that are majority-owned by that person,
12 unless those entities act independently in their decision to make contributions.³⁹

13 Additionally, if two or more entities make contributions that are directed and controlled by a
14 majority of the same persons, the contributions of those entities must be aggregated.⁴⁰

15 Similar rules apply regarding aggregation of independent expenditures.⁴¹

16 **Reporting of Aggregated Contributions and Independent Expenditures**

17 Any major donor committee that is required to aggregate contributions or independent
18 expenditures, must file its campaign statement reflecting the total aggregated amount made during the
19 reporting period. The campaign statement must be filed in the name of an individual (or one of the
20 contributing entities) that directs and controls the making of the payments of the entity or entities whose
21 contributions or independent expenditures are required to be aggregated. The “name of filer” designation
22 is a combination of the name of the person exerting the direction and control—plus a statement indicating
23 that the report includes the aggregated activities of other entities directed and controlled by the filer. In
24 itemizing the amount of each contribution or independent expenditure made, the campaign statement also

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26 ³⁷ See Sections 84504.1, subdivision (c); 84504.2, subdivision (a); 84504.3, subdivisions (a)(2), (b), and (c); 84506.5.

27 ³⁸ Regulation 18215.1, subdivision (b).

28 ³⁹ Regulation 18215.1, subdivision (d).

⁴⁰ Regulation 18215.1, subdivision (c).

⁴¹ Regulation 18225.4.

1 must identify the name of the entity making the contributions or independent expenditures for each
2 itemized payment made.⁴²

3 When a recipient committee receives contributions subject to aggregation, the recipient committee
4 must report the contributions as received from the “name of filer” of the major donor committee that
5 made the aggregated contributions.⁴³

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

8 A committee’s full, legal name must include the name of its sponsor—for all purposes. If the
9 sponsored committee has more than one sponsor and the sponsors are members of an industry or other
10 identifiable group, the name of the committee must include a term identifying that industry or group.
11 These rules apply even if the committee is not required to file a statement of organization (as would be
12 the case for a sponsored independent expenditure committee).⁴⁴

13 **Required Filing of Campaign Statements and Reports by Specific Deadlines**

14 At the core of the Act’s campaign reporting system is the requirement that committees must file
15 campaign statements and reports for certain reporting periods and by certain deadlines.⁴⁵

16 *Statement of Organization (Form 410 Filing)*

17 For example, when a committee first qualifies as a recipient committee under the Act, this must
18 be disclosed by filing an initial statement of organization within 10 days of qualification. However, in the
19 case of a committee that qualifies before the date of an election in connection with which the committee
20 is required to file pre-election campaign statements—if the committee qualifies after the closing date of
21 the last pre-election reporting period, then this 10-day deadline is shortened to 24 hours. (If the
22 committee previously filed a statement of organization, stating that the committee was not yet qualified,

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25 ⁴² See Regulation 18428, subdivision (b)(1); and the Lang advice letter ([I-18-160](#)), pages 2-3.

26 ⁴³ Regulation 18428, subdivision (c)(1).

27 ⁴⁴ See Regulation 18419, subdivision (b)(1), which applies regardless of whether the sponsored committee is required
28 to file a statement of organization. For more information, see the Commission’s fact sheet entitled “[Sponsored Committee
Qualification and Naming Requirements](#).” 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.

⁴⁵ Sections 84200, et seq.

1 then the qualification of the committee must be disclosed by filing an amended statement of
2 organization.)⁴⁶

3 *Semi-annual Campaign Statements (Form 460 and 461 filings)*

4 Recipient committees must file two semi-annual campaign statements each year. Generally, the
5 first is for the reporting period of January 1 through June 30—and this statement must be filed by the
6 deadline of July 31. The second is for the reporting period of July 1 through December 31—and this
7 statement must be filed by January 31.⁴⁷ The same is true with respect to independent expenditure
8 committees and major donor committees (if they have made contributions or independent expenditures
9 during the reporting period).⁴⁸

10 In some cases, the first weeks or months of a semi-annual reporting period will be covered by the
11 required filing of a pre-election campaign statement (as discussed below). When this happens, instead of
12 starting on January 1 or July 1, the reporting period for the semi-annual campaign statement begins on
13 the day after the last day covered by the prior reporting period. If a person has not previously filed a
14 campaign statement, the period covered begins on January 1.⁴⁹

15 *Pre-election Campaign Statements (Form 460 filings)*

16 Also, a recipient committee that is primarily formed to support and/or oppose one or more
17 candidates who are on the ballot for an upcoming election must file two pre-election campaign statements
18 before the election.⁵⁰ For example, in connection with the November 6, 2018 election, such a committee
19 was required to file a first pre-election campaign statement for the reporting period of July 1 through
20 September 22, 2018, by the deadline of September 27, 2018—and a second pre-election campaign
21 statement for the reporting period of September 23 through October 20, 2018, by the deadline of October
22 25, 2018.⁵¹

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25 ⁴⁶ Sections 84101 through 84103; and Regulation 18410.

26 ⁴⁷ Section 84200, subdivision (a).

27 ⁴⁸ Section 84200, subdivision (b).

28 ⁴⁹ See Section 82046, subdivision (b).

⁵⁰ Section 84200.5, subdivision (a).

⁵¹ Sections 84200.5, subdivision (a); and 84200.8.

1 *24-hour Independent Expenditure Reports (Form 496 filings)*

2 Each committee that makes a “late independent expenditure” must file a Form 496 24-hour
3 independent expenditure report—within 24 hours of when the expenditure is made.⁵² In the case of a
4 committee that has accrued the expense for the communication—but not yet paid the bill—the
5 expenditure is considered made on the date that the communication is disseminated to the public.⁵³

6 *24-hour Contribution Reports (Form 497 filings)*

7 Each committee that makes or receives a “late contribution” must file a Form 497 24-hour
8 contribution report—within 24 hours of making or receiving the contribution.⁵⁴

9 *Place of Filing*

10 A recipient committee that is primarily formed to support/oppose candidates on the ballot in the
11 City of Santa Ana must file its statement of organization, other campaign statements, 24-hour
12 contribution reports (regarding receipt of late contributions), and 24-hour independent expenditure
13 reports (regarding the making of late independent expenditures in connection with the candidates) with
14 the city clerk.⁵⁵ Also, statements of organization must be filed with the Secretary of State.⁵⁶

15 A committee that qualifies as an independent expenditure committee by virtue of making one or
16 more independent expenditures in support of a candidate on the ballot in the City of Santa Ana must file
17 its campaign statements and reports with the city clerk, as well. The same is true for a committee that
18 qualifies as a major donor committee by virtue of making one or more contributions to another
19 committee that is primarily formed to support/oppose one or more candidates on the ballot in the City of
20 Santa Ana.⁵⁷

21 *Deadline Extensions for Weekends and Holidays*

22 When a filing deadline falls on a Saturday, Sunday, or official state holiday, the deadline is
23 extended to the next regular business day. However, this extension does not apply for 24-hour

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25 ⁵² Section 84204, subdivisions (a) and (b).

26 ⁵³ Section 82025, subdivisions (a) and (c)(3)(C).

27 ⁵⁴ Section 84203, subdivisions (a) and (b).

28 ⁵⁵ Sections 84215, subdivision (d); 84101, subdivision (a); 84203, subdivision (a); 84204, subdivision (c).

⁵⁶ Section 84101, subdivision (a).

⁵⁷ See Sections 82027.5; 82047.5; 84203, subdivision (a); 84204, subdivision (c); and 84215, subdivision (d).

1 independent expenditure reports. Also, for 24-hour contribution reports—this extension does not apply if
2 the weekend/holiday is immediately prior to the election.⁵⁸

3 **Contents of Campaign Filings: Required Disclosure of Sponsorships,**
4 **Proper Filer/Committee Names, Contributors, Intermediaries, and Expenditures**

5 Among other things, campaign filings are required to use the proper name of the filer/committee,
6 which must include the name of any sponsor—or in the case of multiple sponsors, the name of the
7 industry or group to which the sponsors belong.⁵⁹

8 Also, the statement of organization for a recipient committee must include the name, street
9 address, and telephone number of each sponsor.⁶⁰

10 Additionally, when reporting contributions received on 24-hour reports, pre-election and semi-
11 annual campaign statements, if the person providing the contribution is a mere intermediary for another,
12 the recipient’s campaign filings must disclose the full name, street address, occupation, employer (or
13 principal place of business, if self-employed), of *both* the intermediary and the true contributor.⁶¹

14 On Form 460 campaign filings, Schedule D must include accurate information about
15 contributions and independent expenditures of \$100 or more made during the reporting period, including:
16 dates; amounts; descriptions; the name, office, and district of each candidate for which payments were
17 made; whether each candidate was supported or opposed by the payment—and whether the payment was
18 a contribution or an independent expenditure.⁶²

19 On 24-hour independent expenditure reports, similar information about late independent
20 expenditures of \$1,000 or more is required to be reported.⁶³

21 Also, on Schedule G of Form 460 campaign filings, each expenditure of \$500 or more made by an
22 agent or independent contractor on behalf of, or for the benefit of, the committee (other than an
23 expenditure for overhead or normal operating expenses)—must be reported during the reporting period as

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25 ⁵⁸ See Regulation 18116.

26 ⁵⁹ Sections 84102, subdivision (a); 84106; 84203; 84204; 84211, subdivision (o); Regulations 18402; 18410; and
18419.

27 ⁶⁰ Section 84102, subdivision (b).

28 ⁶¹ Sections 84211, subdivision (f); 84203; 84204; 84302.

⁶² Section 84211, subdivision (k).

⁶³ Section 84204, subdivision (b).

1 if the expenditure were made directly by the committee.⁶⁴ This type of information commonly is referred
2 to as “subvendor information.” Specifically, for each such payment of \$500 or more, the following
3 information must be reported: the full name and street address of the payee; the amount of the
4 expenditure; and a brief description of the consideration for which the expenditure was made.⁶⁵ (Without
5 this required information, a committee simply could disclose that it made large payments to a single
6 consultant for campaign services, and the details of how the money was spent by the consultant—on
7 behalf of the committee—never would be disclosed to the public.)

8 **Prohibition Against Campaign Money**

9 **Laundering, Including “Straw Donor” Contributions**

10 Campaign money laundering occurs when a person makes a contribution, directly or indirectly, in
11 the name of another. This is covered by the Political Reform Act’s money laundering statute, Section
12 84301, which provides: “No contribution shall be made, directly or indirectly, by any person in a name
13 other than the name by which such person is identified for legal purposes.”

14 One of the things that this statute prohibits is “straw donor” contributions.

15 Use of “straw donors” in campaign money laundering cases is a well-recognized violation of the
16 law.

17 “In a straw donor situation, the person who actually transmits the money acts merely as a
18 mechanism, whereas it is the original source who has made the gift by arranging for his money to finance
19 the donation. *To identify the individual who has made the contribution, we must look past the*
20 *intermediary’s essentially ministerial role to the substance of the transaction.” (United States v.*
21 *O’Donnell* (9th Cir. Cal. 2010) 608 F.3d 546, 550 [submitted as persuasive authority because it interprets
22 statutory language that is virtually identical to the Act’s money laundering statute, Section 84301].
23 Emphasis added.)

24 Money laundering is prohibited because it deprives the public of important information about the
25 true source of campaign contributions. For this reason, when a person makes a contribution on behalf of
26 another (or while acting as the agent of another), that person’s intermediary relationship with the actual

27 ⁶⁴ Section 84303.

28 ⁶⁵ See Section 84211, subdivision (k)(6).

1 contributor must be disclosed to the recipient of the contribution—and the recipient’s campaign filings
2 must disclose both the intermediary and the true source of funds.⁶⁶

3 **Multiple Respondents with Joint and Several Liability**

4 If two or more persons are responsible for any violation of the Act, they are jointly and severally
5 liable.⁶⁷

6 *Normal Rules re: Max Penalty and Naming Multiple Respondents*

7 When the Commission determines that a violation of the Act occurred, it may impose a monetary
8 penalty in an amount up to \$5,000 per violation.⁶⁸ Any person who purposely or negligently causes
9 another to violate the Act, or who aids and abets another in a violation of the Act shall be liable for this
10 penalty—but this only applies to persons who have filing or reporting obligations under the Act, or who
11 are compensated for services involving the planning, organizing, or directing of any activity regulated or
12 required by the Act.⁶⁹

13 Persons with filing or reporting obligations under the Act include committees, treasurers,
14 principal officers of committees, responsible officers of sponsors (and attorneys/accountants acting as
15 agents), and responsible officers of other entities that qualify as committees (and attorneys/accountants
16 acting as agents). In particular, it is the duty of a committee treasurer to ensure that the committee
17 complies with the Act. Also, the principal officers of a committee generally bear responsibility for
18 approval of the political activity of the committee.⁷⁰ Additionally, reports/statements filed by any entity
19 must be signed and verified by a responsible officer of the entity or by an attorney or a certified public
20 accountant acting as agent for the entity.⁷¹

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25 ⁶⁶ Section 84302; and Regulation 18432.5.

26 ⁶⁷ Section 91006.

27 ⁶⁸ Section 83116.

28 ⁶⁹ Section 83116.5.

⁷⁰ See Sections 82047.6; 81004; 84100; Regulation 18316.6, 18427, and 18402.1.

⁷¹ Section 81004.

1 *Enhanced Penalties for Advertising*

2 *Violations and Special Rules re: Multiple Respondents*

3 As summarized above, the Act requires certain disclosures for advertisements. These include top
4 contributor disclosures—and for any ad that is an independent expenditure, a statement must be included
5 that the ad was not authorized by a candidate or a committee controlled by a candidate. Any person who
6 violates these provisions of the Act is liable for an enhanced penalty: up to three times the cost of the
7 advertisement, including placement costs.⁷²

8 Also, the Act requires certain “paid for by” disclosures—which vary slightly, depending on the
9 advertising medium and the type of committee placing the advertisement. Any person who intentionally
10 violates these provisions of the Act for the purpose of avoiding disclosure is liable for the enhanced
11 penalty noted above.⁷³

12 Additionally, regarding these provisions of the Act that are subject to an enhanced penalty, any
13 person who purposely causes another to violate one of these provisions is liable for the enhanced penalty.
14 The same is true for any person who aids and abets another in such a violation. (These special provisions
15 for advertising violations are not subject to the normal requirement—that the respondents must have
16 filing or reporting obligations under the Act, or must be compensated for services involving the planning,
17 organizing, or directing of any activity regulated or required by the Act.)⁷⁴

18 **SUMMARY OF THE FACTS**

19 Prior to the election of November 2018, Phil Bacerra served as a Santa Ana Planning
20 Commissioner and opposed an apartment project known as 2525 N. Main. Ogulnick was interested in the
21 success of this project.

22 Later, when Baccera ran for Santa Ana City Council, Ward 4—in the election of November 6,
23 2018—Ogulnick and his wife were interested in creating a political campaign in opposition to Baccera’s
24 candidacy. Also, they supported Baccera’s opponent, Roman Reyna, and two other candidates for

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27 ⁷² Section 84510, subdivision (a)(1).

⁷³ Section 84510, subdivision (a)(2).

28 ⁷⁴ See Section 84510, subdivision (b).

1 election to the Santa Ana City Council: Sal Tinajero for Mayor of Santa Ana and Sandra Peña Sarmiento
2 for Santa Ana City Council, Ward 2.

3 This political campaign consisted of two components: online ads handled by vendor
4 HashtagPinpoint, which cost approximately \$82,375 (including polling)—and mass mailings handled by
5 vendor West Coast Public Affairs (WCPA)/Shallman Communications, which cost roughly \$305,967.

6 As early as August 2018, Ogulnick was communicating with vendor representatives about the
7 timeline and budget for this advertising campaign. The plan involved using the PAC to pay for the
8 advertisements. At all relevant times, Ogulnick was involved with the PAC and its vendors with respect
9 to important decisions involving the timing, contents, and financing of the PAC’s advertisements.

10 Ogulnick performed duties similar to a principal officer of the PAC, but he was not disclosed as
11 such. Instead, PAC filings reflected that an individual named Rose Redlich was the principal officer of
12 the PAC. The PAC, through Ms. Sapetto, selected respondent Rose Redlich as the principal officer of the
13 committee, with the responsibility of running the day-to day campaign operations. Although Redlich
14 carried out some principal officer duties, she generally deferred to Ogulnick.

15 **HashtagPinpoint was engaged to run an online ad campaign against Bacerra, which**
16 **included contributing funds from the LLC respondents through another LLC—that served**
17 **as an intermediary—and using the PAC in a manner that concealed the true sources of**
18 **funding.**

19 On October 4, Ogulnick emailed Kevin Perkins, founder of HashtagPinpoint, stating: “Kevin, I
20 was referred to you my [*sic*] Councilwoman Martinez. I own a development company that does projects
21 in Orange County. We are looking to do a social media campaign in a City council city race in Santa
22 Ana. One candidate has physically abused his ex girlfriend. We want to get his message out. Here is my
23 cell phone. . . .”

24 On October 5, 2018, Pasquale Talarico of HashtagPinpoint emailed a contract/proposal for
25 \$75,000 to Ogulnick, stating: “[W]e will use every tool in the belt from social media to web and touch
26 every demographic in order to ensure success. We will be positioned on every platform and be able to
27 share the message that Phil Bacerra is not the right choice for Santa Ana. . . .” The scope of work
28 included: translation of the ad campaign into multiple languages; building a stand-alone website

1 (MeTooPhil.com) to host stories, data, and video; use of Facebook, Instagram, YouTube, Pandora,
2 Spotify, and Google Ad Words to drive traffic to the website. The timeframe for the ad campaign was
3 identified as “10/5/18 to 11/6/18.” (However, subsequent emails reflect that the ad campaign did not go
4 public until approximately 10/12/18.)

5 In response to Talarico’s proposal (still on 10/5/18), Ogulnick asked: “Does this includes [sic] all
6 paid ads until Election Day and doing all content on all platforms with ads and videos and will host email
7 site?”

8 Talarico replied in the affirmative, and Ogulnick responded: “Your client must stay absolutely at
9 all costs confidential. Is that an issue?”

10 Within a couple minutes, Talarico replied: “The only reporting would have to be the IE - I don’t
11 have much control over that.”

12 A few minutes later, Ogulnick replied: “Of course. But you or your ads do not need anything like:
13 ‘Paid for by....’”

14 About two minutes later, Talarico replied: “For Facebook - the new political rules state that must
15 have a ‘paid for’ on it - but it would be the IE listed. . . .”

16 On October 7, 2018, Ogulnick and Talarico resumed their discussions about the online ad
17 campaign against Bacerra. The plan was to include online video interview snippets of Bacerra’s former
18 girlfriend, Griselda Santos Govea, accusing Bacerra of domestic violence/abuse and drunkenness.

19 Ogulnick stated to Talarico that Griselda got emotional when Ogulnick asked her for specifics
20 about the incidents. Also, Ogulnick related that according to Griselda, Bacerra is a hard core alcoholic,
21 and when drunk, he goes ballistic.

22 Talarico and Ogulnick exchanged further emails about what they wanted on video. Ogulnick
23 offered to provide an office for the interview, but Talarico thought that using Griselda’s home would be
24 better.

25 On October 12, 2018, respondent “Californians for Ethical Patient Care, Yes on Tinajero for
26 Mayor and Sarmiento and Reyna for City Council; No on Bacerra for City Council, Santa Ana 2018”
27 filed a Form 410 statement of organization, which reflected that the PAC was not yet qualified as a
28 committee.



1 That same day, a contract was executed between the PAC and HashtagPinpoint, which was
2 substantially similar to the \$75,000 contract/proposal described above. Although the contract purported
3 to be effective as of October 5, 2018, the ad campaign went public on or about October 12, 2018, when
4 the contract ultimately was executed.

5 Generally, the online ad campaign that HashtagPinpoint ran against Bacerra included a mixture of
6 ads that expressly advocated Bacerra’s defeat in the upcoming election (specifically urging the viewer to
7 vote “No” on Bacerra)—and ads that unambiguously urged Bacerra’s defeat (by accusing Bacerra of
8 domestic violence/abuse, drunkenness, and shady backroom deals less than a month before the election).
9 Many of these ads featured video interview snippets of Bacerra’s former girlfriend—plus dramatic re-
10 enactments (with an actress resembling a younger version of Bacerra’s former girlfriend). Example
11 screenshots of these ads and the MeTooPhil.com website are shown below:

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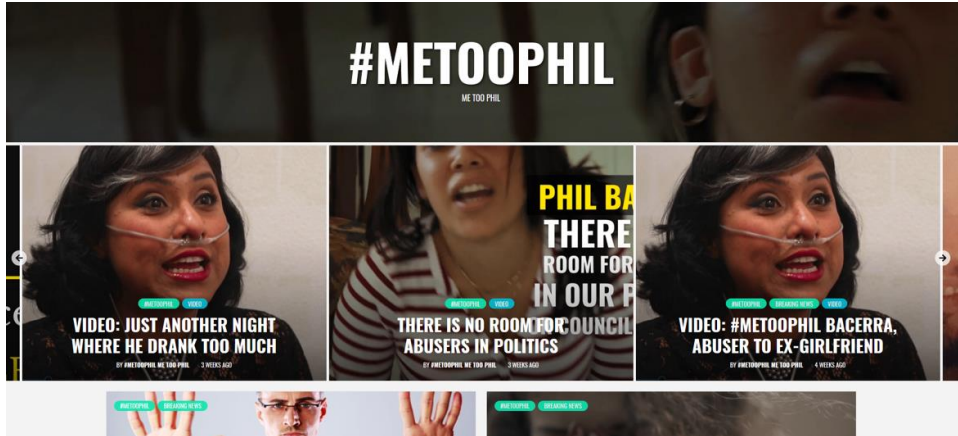
<p>Santa Ana Deserves Better Than Phil Bacerra</p> <p>See Exclusive Information at MeTooPhil.com</p>	 <p>His former girlfriend, Griselda Govea is now coming forward and sharing her story of abuse at the hands of Phil Bacerra</p>
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 <p>"I'm going to the restroom and he grabs me from the arm and said, "You're a worthless c**t and spat in my face."</p>	 <p>"He pulled me up and threw me against the wall. When I tried to get up, he grabbed me again and threw me on the floor."</p> <p>-Griselda Govea</p>
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<p>ENOUGH IS ENOUGH.</p>  <p>SHAMELESS ABUSER</p> <p>SHADY BACKROOM DEALS</p> <p>OUR CITY DESERVES BETTER</p>	<p>ON NOVEMBER 6, VOTE NO ON SHADY BACKROOM DEALER & SHAMELESS ABUSER PHIL BACERRA</p> <p>BECAUSE ENOUGH IS ENOUGH.</p>
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 <p>ATTENTION! PHIL BACERRA</p> <p>THERE IS NO ROOM FOR ABUSERS IN OUR POLITICS OR COUNCIL CHAMBERS</p>

IE Anti-Bacerra Website
MeTooPhil.com



#METOOPHIL

ME TOO PHIL

VIDEO: JUST ANOTHER NIGHT WHERE HE DRANK TOO MUCH

PHIL BACERRA THERE IS NO ROOM FOR ABUSERS IN OUR POLITICS

VIDEO: #METOOPHIL BACERRA, ABUSER TO EX-GIRLFRIEND

1 The disclaimers for these ads—and the website—noted that they were: “Paid for by Californians
2 for Ethical Patient Care, Yes on Tinajero for Mayor and Sarmiento and Reyna for City Council; No on
3 Bacerra for City Council, Santa Ana 2018. Not authorized by a candidate or committee controlled by a
4 candidate.”

5 However, this “paid for by” language was of little benefit to the public because the committee had
6 not yet received any funding when the ads started to run. Also, no committee campaign statements were
7 on file for the public to review, except for the single Form 410 statement of organization, which was filed
8 on October 12, 2018 and reflected that the committee was not yet qualified.

9 On October 23, 2018 (about 11 days after the online ad campaign started running), Kevin Perkins
10 of HashtagPinpoint, emailed the PAC’s disclosed principal officer, Rose Redlich, stating: “I have made
11 repeated attempts at contacting you regarding the payment that is currently due.”

12 Later that day, Perkins emailed Ogulnick, stating:

13 Ryan, there seems to be a breakdown in communication between you and
14 Rose (or whoever is running this IE).

15 Unfortunately, we’ll need to pause the ads until we can get this resolved.
16 We’ll restart once it’s cleared up.

17 About five minutes later, Ogulnick replied, with a cc: to Pasquale Talarico (also of
18 HashtagPinpoint), stating: “*Funds sent to PAC. Check cut tomorrow.* Still not seeing ads. [Emphasis
19 added.]”

20 That evening, Talarico provided assurances to Ogulnick regarding advertising efforts, to date,
21 which included nearly one million impressions on Google in Santa Ana and nearly 100,000 engagements
22 on Facebook. Also, Talarico stated: “Thank you for letting us know about the payment. We will keep
23 pushing. . . .”

24 The next day (on 10/24/18), respondent AC 2525 Main, LLC wired \$50,000 to an intermediary
25 company with the notation: “REF PAC CONTRI.” That same day, respondent RHW Holdings, LLC
26 wired \$125,000 to the same intermediary company: 19th Green OC, LLC. Both wire transfers were made
27 at the direction of Ogulnick and credited to an empty account for the intermediary company, which was
28 opened about 15 days earlier by Ogulnick’s wife. Secretary of State filings reflect that the intermediary

1 company was formed earlier that month and has since terminated. Respondents maintain that this
2 company was owned and operated by Ogulnick’s wife for the purpose of advocating for specified
3 development projects in Santa Ana—and that the company continued such operations after the 2018
4 election activity.

5 That same day (still 10/24/18), at the direction of Ogulnick and consistent with his above-noted
6 promise of payment, the intermediary company wrote a check for \$170,000 to the PAC. The money was
7 received by the PAC that very same day (according to a later filed Form 460, which disclosed the
8 intermediary company as the true source of funds—and failed to identify AC 2525 Main, LLC and RHW
9 Holdings, LLC as the actual true sources).

10 Although Respondents AC 2525 Main and RHW Holdings did not want to be disclosed as the
11 true source of the contributions and, thus, made the contributions through an intermediary, respondents
12 believed they had communicated these facts to their legal counsel and treasurer, Beverley Palmer.
13 However, these communications resulted in confusion, the end result of which was a lack of correct
14 reporting.

15 On or between October 24 and 27, 2018, HashtagPinpoint was paid in full. At the time of
16 payment, the PAC had not received contributions from any other sources. Thus, the funds from the
17 Ogulnick-controlled LLC respondents (AC 2525 Main and RHW Holdings)—which were contributed in
18 the name of the above-noted intermediary company—financed 100% of the online ads against Bacerra.

19 In late October 2018, Ogulnick emailed Talarico, raising concerns that Bacerra’s opponent,
20 Roman Reyna, was losing. At the request of Ogulnick, HashtagPinpoint disseminated at least one online
21 video ad supporting Reyna—portraying him in a positive light with uplifting music and comments such
22 as: “TRUSTED LEADERSHIP,” “EFFECTIVE SOLUTIONS,” “WORKING FOR US,”
23 “#TogetherWeWin,” and “ROMAN REYNA City Council.” See screenshot of video below:



1 The “paid for by” information was similar to what already has been described above for the other
2 ads.

3 At some point after October 24, 2018 (when the PAC received its first contribution in the amount
4 of \$170,000), the “paid for by” language of the online ad campaign was updated to include “Committee
5 major funding from 19th Green OC LLC,” but this was misleading and served to conceal the real top
6 contributors of \$50,000 or more: AC 2525 Main, LLC and RHW Holdings, LLC (which used 19th Green
7 OC, LLC as an intermediary to avoid disclosure of their own involvement). Instead of the foregoing
8 language, the top contributor disclosure should have stated words to the effect: “Committee major
9 funding from aggregated contributions of entities directed and controlled by Ryan Ogulnick.”⁷⁵

10 Including polling, the PAC paid approximately \$82,375 for the above-described online
11 advertising campaign.

12 **Respondents engaged West Coast Public Affairs (WCPA)/Shallman Communications to run**
13 **a mass mailer campaign against Bacerra—and in support of Tinajero, Sarmiento, and**
14 **Reyna. As above, this included contributing funds through an intermediary LLC and using**
15 **the PAC to avoid required disclosures about who financed the campaign.**

16 As noted above, WCPA/Shallman Communications was retained to handle the second
17 component of the advertising campaign, which involved numerous mass mailings.

18 Emails reflect that Ogulnick was in communication with the vendor for these mailings as early as
19 August 2018—and continuing through October 2018.

20 On and between October 8 and 12, 2018, Ogulnick participated in email discussions regarding
21 several mail pieces that soon would be going out for the mass mailing campaign. On October 12, no
22 mailings had been sent. Ogulnick complained to the vendor that the mail pieces should have gone out
23 days ago; he demanded that the vendor take control of the process and print all of the mail pieces
24 posthaste.

25 From October 18 through 30, 2018, the following independent expenditure mass mailings were
26 sent as part of the campaign:

27 _____
28 ⁷⁵ See Regulations 18215.1; 18428, subdivision (b)(1); and the Lang advice letter ([I-18-160](#)), pages 2-4.

Date Mailed	Description	Quantity	Cost
10/18/18	"Roman Working" mass mailing in support of Roman Reyna for Santa Ana City Council.	18,250	\$20,998.76
10/18/18	"Sandra Fighting" mass mailing in support of Sandra Peña Sarmiento for Santa Ana City Council.	15,250	\$20,998.76
10/19/18	"Sal Community" mass mailing in support of Sal Tinajero for Mayor of Santa Ana.	18,250	\$20,998.76
10/19/18	"Bacerra Abuse" hit piece mass mailing in opposition to Phil Bacerra for Santa Ana City Council.	15,250	\$20,998.76
10/22/18	"Bacerra Drunk Guy" hit piece mass mailing in opposition to Phil Bacerra for Santa Ana City Council.	15,250	\$20,998.76
10/23/18	"Blueprint" mass mailing in support of Sandra Peña Sarmiento for Santa Ana City Council.	20,000	\$20,998.76
10/24/18	"Winning Team Slate" mass mailing in support of Sandra Peña Sarmiento and Roman Reyna for Santa Ana City Council - and Sal Tinajero for Mayor.	16,750	\$11,984.45
10/29/18	"Torn Paper" hit piece mass mailing in opposition to Phil Bacerra for Santa Ana City Council.	31,400	\$20,998.76
10/29/18	"Shameless" hit piece mass mailing in opposition to Phil Bacerra for Santa Ana City Council.	31,400	\$20,998.76
10/29/18	"Name" mass mailing in support of Roman Reyna for Santa Ana City Council.	31,400	\$20,998.76
10/29/18	"Improving" mass mailing in support of Roman Reyna for Santa Ana City Council.	31,400	\$20,998.76
10/29/18	"Homegrown" mass mailing in support of Sandra Peña Sarmiento for Santa Ana City Council.	31,000	\$20,998.76
10/30/18	"No Dems" hit piece mass mailing in opposition to Phil Bacerra for Santa Ana City Council.	31,400	\$20,998.76
10/30/18	"DEM Slate" mass mailing in support of Sandra Peña Sarmiento and Roman Reyna for Santa Ana City Council.	22,100	\$20,998.76
10/30/18	"Superhero" mass mailing in support of Sandra Peña Sarmiento for Santa Ana City Council.	31,400	\$20,998.76
TOTAL:			\$305,967.09

Each mass mailing expressly advocated a “Yes” vote in support of the candidate(s) supported—and each anti-Bacerra mailing expressly advocated a “No” vote.

The disclaimers for these mailings noted that they were: “Paid for by 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. Not authorized by a candidate or committee controlled by a candidate.”

For the mailings that were sent on and after October 29, 2018, the “paid for by” language was updated to include “Committee major funding from 19th Green OC LLC,” but as noted above, this was

1 misleading disclosure because 19th Green OC was a mere intermediary company for the true sources of
2 funds: respondents AC 2525 Main, LLC and RHW Holdings, LLC.

3 For the period ending December 31, 2018, the PAC reported paying approximately \$214,800 to
4 WCPA—and the PAC reported unpaid bills still owed to WCPA in excess of \$97,000. (Campaign filings
5 do not reflect that these unpaid bills ever were paid prior to the PAC’s termination in early 2021).

6 Virtually all of the PAC’s funding came from the Ogulnick-controlled LLC respondents in this
7 case, whose funds were contributed through—and in the name of—an intermediary company.

8 **In October and November 2018, the PAC received contributions totaling \$330,000. Of this**
9 **amount, about 97% (all but one of the contributions received) was received through an**
10 **intermediary company from the LLC respondents: AC 2525 Main and RHW Holdings, at**
11 **Ogulnick’s request/direction. No other funds were raised by the PAC before it terminated in**
12 **January 2021. The only political spending by the PAC was on the two ad campaigns**
13 **described above (and related polling).**

14 Under the circumstances described above, respondents AC 2525 Main, LLC and RHW Holdings,
15 LLC contributed \$170,000 to the PAC on October 24, 2018—but they did so by contributing the money
16 through—and in the name of—another company: 19th Green OC, LLC.

17 On or about November 5, 2018, the PAC reported receiving \$10,000 from Terra Tech
18 Corporation. According to respondents, this is a company engaged in the cannabis industry; despite the
19 initial plan of respondents to fund the PAC with cannabis-industry contributions, this is the only
20 contribution received by the PAC that did not come from one of the two LLC respondents.

21 Later, respondent AC 2525 Main, LLC made another contribution through an intermediary—in
22 the amount of \$150,000—to the PAC. This was in the form of a check made payable to 19th Green OC,
23 LLC. The check was deposited on November 20, 2018—when 19th Green OC, LLC had less than \$5,000
24 in its bank account.

25 That same day (11/20/18), 19th Green OC, LLC wrote a check to the PAC for the same amount of
26 money (\$150,000)—and the PAC reported receiving the funds that same day.

27 The PAC did not receive any other funds before terminating in January 2021.

28 ///

1 About 97% of the funds received were contributed through—and in the name of—an
2 intermediary, without proper disclosure of the true contributors (respondents AC 2525 Main, LLC and
3 RHW Holdings, LLC).

4 The PAC’s campaign filings reflect that all political spending was on the above-described ad
5 campaigns, including polling. (Form 460 filings for the PAC reflect numerous payments and accrued
6 expenses to/with WCPA for campaign literature and mailings. These were reported on Schedules E and
7 F, but were not reported on Schedule D as contributions or independent expenditures; nor were they
8 reported on 24-hour filings.)

9 VIOLATIONS

10 All counts identified below are preserved against the statute of limitations for multiple reasons,
11 including, but not limited to, service of a probable cause report on all respondents and execution of a
12 tolling agreement by the PAC and Palmer.⁷⁶

13 **Counts 1-3: Campaign Money Laundering**

14 As described above, the PAC received the following contributions in this case, which were made
15 through an intermediary committee (19th Green OC, LLC):

16 Count	Date	Description	Amount
17 1	10/24/18	Laundered contribution from respondent AC 2525 Main, LLC.	\$50,000
18 2	10/24/18	Laundered contribution from respondent RHW Holdings, LLC.	\$120,000
3	11/20/18	Laundered contribution from respondent AC 2525 Main, LLC.	\$150,000
19 TOTAL:			\$320,000

20 On campaign filings, the PAC improperly reported that the funds were received from the
21 intermediary company. The true sources of the funds were not disclosed.

22 In this way, respondents Ogulnick; AC 2525 Main, LLC; and RHW Holdings, LLC committed
23 three violations of Section 84301. Ogulnick and AC 2525 Main, LLC are named respondents with respect
24 to Counts 1 and 3. Ogulnick and RHW Holdings are named respondents with respect to Count 2.

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27 ⁷⁶ Also, this case involves tolling of the statute of limitations pursuant to Section 91000.5, subdivision (b).
28 Additionally, see: *Atwater Elementary School Dist. v. California Dept. of General Services* (2007) 41 Cal.4th 227, 230-34;
and *Leasequip, Inc. v. Dapeer* (2002) 103 Cal.App.4th 394, 405-408.

1 **Count 4: Misleading and Inaccurate Reporting (PAC's**

2 **Form 497 of 10/24/18 disclosing receipt of laundered funds totaling \$170,000)**

3 On 10/24/18, a Form 497 was filed disclosing that the PAC received \$170,000 from 19th Green
4 OC, LLC. This was misleading and inaccurate reporting. The true sources of the funds—AC 2525 Main,
5 LLC and RHW Holdings, LLC—were not disclosed on the filing.

6 In this way, respondents Ogulnick; AC 2525 Main, LLC; RHW Holdings, LLC; and the PAC
7 violated Section 84203.

8 **Count 5: Form 460 Reporting**

9 **Violations for Period Ending December 31, 2018**

10 Since the PAC did not qualify as a recipient committee until October 24, 2018, it was not required
11 to file a pre-election campaign statement for the period ending October 20, 2018. However, it did file the
12 statement on October 30, 2018, as well as a semi-annual campaign statement for the period ending
13 December 31, 2018. Taken together, these are treated as the semi-annual campaign statement that was
14 required to be filed for the reporting period of January 1 through December 31, 2018.

15 On Schedule D, the online ads (handled by vendor HashtagPinpoint) improperly were reported as
16 being made on October 25, 2018—when in fact the online ad campaign commenced on or about October
17 12, 2018.

18 The mass mailing advertisements (handled by vendor WCPA/Shallman Communications) were
19 not disclosed on Schedule D.

20 A contribution in the amount of \$170,000 was reported as being received from 19th Green OC,
21 LLC, but this was misleading and inaccurate. The true sources of the funds were the LLC respondents:
22 AC 2525 Main, LLC and RHW Holdings, LLC.

23 Another contribution in the amount of \$150,000 was reported as being received from 19th Green
24 OC, LLC. This was misleading and inaccurate, as well. The true source of funds was AC 2525 Main,
25 LLC.

26 Also, various payments to subvendors in amounts of \$500 or more were required to be reported
27 on Schedule G, but they were not reported.

28 ///

1 In this way, respondents Ogulnick; AC 2525 Main, LLC; RHW Holdings, LLC; the PAC; and
2 Palmer violated Section 84211, subdivisions (f), (k); and 84303.

3 **Counts 6-8: Failure to File 24-Hour Independent Expenditure Reports**

4 On or about October 12, 2018, the PAC commenced dissemination of online anti-Bacerra ads. At
5 the time, the PAC had not yet received any contributions—so it did not qualify as a recipient
6 committee—but on that day, the PAC did qualify as an independent expenditure committee. Under its
7 contract with vendor HashtagPinpoint, the PAC had agreed to pay \$75,000 for 26 days of online ads—
8 from October 12, 2018 through the date of the election. This equated to an approximate, pro rata figure of
9 \$2,884 per day (not counting polling costs). Thus, on its first day, the cost/value of the online ad
10 campaign immediately surpassed \$1,000—which is (and was) the threshold amount for qualification as
11 an independent expenditure committee.⁷⁷

12 All advertisements in this case were required to be reported on Form 496 24-hour independent
13 expenditure reports. One report was required to be filed for each row of the chart below:

Ad Date	Description	Cost
10/12/18-11/6/18	HashtagPinpoint online ad campaign against Phil Bacerra for Santa Ana City Council.	\$82,375.00
10/18/18	"Roman Working" mass mailing in support of Roman Reyna for Santa Ana City Council.	\$20,998.76
10/18/18	"Sandra Fighting" mass mailing in support of Sandra Peña Sarmiento for Santa Ana City Council.	\$20,998.76
10/19/18	"Sal Community" mass mailing in support of Sal Tinajero for Mayor of Santa Ana.	\$20,998.76
10/19/18	"Bacerra Abuse" hit piece mass mailing in opposition to Phil Bacerra for Santa Ana City Council.	\$20,998.76
10/22/18	"Bacerra Drunk Guy" hit piece mass mailing in opposition to Phil Bacerra for Santa Ana City Council.	\$20,998.76
10/23/18	"Blueprint" mass mailing in support of Sandra Peña Sarmiento for Santa Ana City Council.	\$20,998.76
10/24/18	"Winning Team Slate" mass mailing in support of Sandra Peña Sarmiento for Santa Ana City Council.	\$3,994.81
10/24/18	"Winning Team Slate" mass mailing in support of Roman Reyna for Santa Ana City Council.	\$3,994.81
10/24/18	"Winning Team Slate" mass mailing in support of Sal Tinajero for Santa Ana Mayor.	\$3,994.81

25 ⁷⁷ It is immaterial that the PAC had not yet paid for the online ads. It is enough that the PAC had entered into a
26 contract and promised to pay for the ads. Section 82025 provides that “[a]n expenditure is made on the date the payment is
27 made or on the date consideration, if any, is received, *whichever is earlier*.” (Emphasis added.) For this reason, the 2018
28 version of Chapter “3. 21” of Campaign Manual 6 for Independent Expenditure Committees provided that payment for a
communication (such as an advertisement) “must be reported as an independent expenditure no later than the date the
communication is mailed, broadcast, or otherwise disseminated to the public.” (See the Commission’s August 2018 agenda,
item 46, here: <https://www.fppc.ca.gov/about-fppc/hearings-meetings-workshops/current-agenda/past-agendas/2018-agendas/aug-2018-agenda.html>.)

Ad Date	Description	Cost
10/29/18	"Torn Paper" and "Shameless" hit piece mass mailings in opposition to Phil Bacerra for Santa Ana City Council.	\$41,997.52
10/29/18	"Name" and "Improving" mass mailings in support of Roman Reyna for Santa Ana City Council.	\$41,997.52
10/29/18	"Homegrown" mass mailing in support of Sandra Peña Sarmiento for Santa Ana City Council.	\$20,998.76
10/30/18	"No Dems" hit piece mass mailing in opposition to Phil Bacerra for Santa Ana City Council.	\$20,998.76
10/30/18	"DEM Slate" and "Superhero" mass mailings in support of Sandra Peña Sarmiento for Santa Ana City Council.	\$31,498.14
10/30/18	"DEM Slate" mass mailing in support of Roman Reyna for Santa Ana City Council.	\$10,499.38
TOTAL:		\$388,342.07

Regarding the first row of the chart above, one or more 24-hour independent expenditure reports were required to be filed beginning on or about October 13, 2018 (within 24-hours of the commencement of the online ad campaign), but no such reports were filed. (On 10/25/18, the PAC did file the required report, but it was late and improperly reported that the ads were made on 10/25/18, which concealed the much earlier start date of 10/12/18.)

Regarding the rest of the rows in the chart above, each row involves an ad or ads for which a 24-hour independent expenditure report was required to be filed within 24 hours, but no such reports were filed.

In this way, the PAC and respondent Palmer violated Section 84204. For these violations, three counts are recommended.

Count 9: Misleading and Inaccurate Top Contributor Disclosures

On or about October 24, 2018, the PAC received \$170,000 from 19th Green OC, LLC. (On this same date, the PAC qualified as a recipient committee—in addition to already being an independent expenditure committee.) However, this LLC served as an undisclosed intermediary for two other entities that were the true sources of the funds.

On or about this same date (10/24/18), the PAC updated its “paid for by” disclosures for its online ads to include “Committee major funding from 19th Green OC LLC.” This was improper because 19th Green OC, LLC was not the true source of funds.

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1 Of the amount received by the PAC, \$50,000 actually came from AC 2525 Main, LLC and
2 \$120,000 came from RHW Holdings, LLC. (Both of these entities made their contributions through the
3 above-noted intermediary LLC.)

4 Although Ogulnick maintains that he did not control the day-to-day activities of the LLC
5 respondents, he did exercise a measure of direction and control over the LLC respondents with respect to
6 the contributions that they made to the PAC in this case. (This was evidenced by Ogulnick’s email of
7 10/23/18 to the online ad vendor. When the vendor threatened to pause the online ads due to lack of
8 payment, Ogulnick replied: “*Funds sent to PAC. Check cut tomorrow. Still not seeing ads. [Emphasis
9 added.]*” The next day, the LLC respondents made their contributions to the PAC through an
10 intermediary company without disclosing the true source. Under these circumstances, the PAC’s ad
11 disclosures should have stated “Committee major funding from aggregated contributions of entities
12 directed and controlled by Ryan Ogulnick” (or similar language).⁷⁸ Pursuant to the five-business day rule
13 in Section 84509, subdivision (a), this major funding disclosure should have been included in the online
14 ads no later than October 31, 2018—for the last week leading up to the election. However, this required
15 major funding disclosure never was provided before the election.

16 In this way, respondents Ogulnick; AC 2525 Main, LLC; RHW Holdings, LLC; and the PAC
17 violated Sections 84503, 84504.1 and 84504.3.

18 **STREAMLINE EXCLUSION**

19 This case is excluded from the streamline settlement program, which does not encompass cases
20 involving campaign money laundering.⁷⁹

21 **PROPOSED PENALTY**

22 In 1996, California voters approved Proposition 208, which included creation of a penalty
23 enhancement for any violation of the Act’s advertisement disclosure rules: up to three times the cost of

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26 ⁷⁸ See Regulations 18215.1; 18428, subdivision (b)(1); 18450.1, subdivision (c); and the Lang advice letter ([I-18-160](#)), pages 2-4. Per Regulation 18215.1, subdivision (b), full direction and control of the company is not required for
27 aggregation to apply; it is enough that Ogulnick directed and controlled the specific contributions that were made to the PAC
28 in this case. Also, as noted previously, Ogulnick had an ownership interest in both LLC respondents.

⁷⁹ See Regulations 18360.1 through 18360.3.

1 the involved ads, including placement costs.⁸⁰ For purposes of any mainline stipulation, the penalty was
2 not required to be this high, but could be this high, at the discretion of the Commission.

3 In 2017, the availability of this enhanced penalty was restricted by AB 249.⁸¹

4 This restriction is best illustrated by two different types of advertising disclosure violations: (a)
5 failure to provide required, identifying information about a PAC’s sponsors—as part of the PAC’s
6 name—in “paid for by” disclosures; and (b) failure to include required, identifying information about a
7 PAC’s top contributors of \$50,000 or more (in the PAC’s ad disclosures).

8 Under Proposition 208, the enhanced penalty was available for both types of violations—and
9 remains available (to this day) for the second type of violation—but as of the operative date of AB 249
10 (1/1/18), the enhanced penalty may not be imposed for the first type of violation unless Enforcement
11 proves that the violation was “intentional” and “for the purpose of avoiding disclosure.”⁸²

12 Additionally, under both Proposition 208 and AB 249, the enhanced penalty may be imposed
13 against any respondent who “purposely” causes another person to commit either type of violation—or
14 against anyone who “aids and abets” another person in such a violation.⁸³

15 Count 9 involves misleading and inaccurate disclosure regarding the PAC’s top contributors of
16 \$50,000 or more in its online ads—during the last week leading up to the election.

17 The maximum penalty that may be imposed for this conduct is approximately \$66,533 (three
18 times the cost of the online ads, including polling—for the last week leading up to the election—when
19 the LLC respondents should have been disclosed as top contributors of \$50,000 or more).⁸⁴

20 Counts 1 through 8 are non-advertising violations, subject to a maximum penalty of \$5,000 per
21 count.⁸⁵

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24 ⁸⁰ Section 84510, subdivision (a), as in effect from 1996 through 2017.

25 ⁸¹ Known as the California Disclose Act, Section 30 of AB 249 provided: “The Legislature finds and declares that
26 this bill furthers the purposes of the Political Reform Act. . . .” This finding was included because Section 81012, subdivision
27 (a), only allows for the Act to be amended by the Legislature if the amendment furthers the purposes of the Act.

28 ⁸² Section 84510, subdivisions (a)(1) and (2), as operative after 2017.

⁸³ Section 84510, subdivision (b), as operative before and after 1/1/18.

⁸⁴ Section 84510, subdivisions (a)(1) and (b).

⁸⁵ Section 83116, subdivision (c).

1 In this case, a total of nine counts are recommended. The maximum penalty for the counts
2 charged is \$106,533.

3 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
4 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
5 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division
6 considers the facts and circumstances of the violation in the context of the following factors:⁸⁶

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

17 **Counts 1-5 (campaign money**

18 **laundrying and related reporting violations)**

19 Making a campaign contribution in the name of another is one of the most serious violations of
20 the Act. Such violations cause a high degree of public harm; deceive the public as to the true source of
21 contributions; and undermine the public's trust in the transparency of campaign reporting.

22 Counts 1 through 3 involve three laundered contributions totaling \$320,000. Although
23 respondents AC2525 Main, RHW Holdings, and Ryan Ogulnick maintain that they sought legal advice,
24 they should have known that it was unlawful to use a new LLC as an intermediary for the purpose of
25 avoiding disclosure. The other respondents maintain they were unaware of the use of the intermediary.

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28 ⁸⁶ These factors are set forth in Regulation 18361.5, subdivision (e)(1) through (8).

1 Recently, the Commission approved another case involving intentional campaign money
2 laundering. [In the Matter of Alex Villanueva, Villanueva for Los Angeles Sheriff 2018, Cine D. Ivery,](#)
3 [and Manuel Gomez](#); FPPC Case No. 18/1097 (approved Jan. 18, 2024), 10 laundering counts were
4 charged, and the maximum penalty of \$5,000 per count was imposed. The total penalty for these counts
5 equated to approximately 2.38 times the amount of laundered funds.

6 In these types of cases, one count may be charged for each laundered contribution. Villanueva
7 illustrates that for smaller laundered contributions (in amounts of \$1,500)—for settlement purposes—
8 slightly less than the maximum number of counts may be charged. However, this does not apply to the
9 current case, which involves much larger contributions (ranging in amounts from \$50,000 to \$150,000).
10 Under these circumstances, three counts are recommended, which is the maximum number of laundering
11 counts that may be charged in the current case.

12 Also, Villanueva illustrates that the Commission usually imposes the maximum penalty of
13 \$5,000 per count for these types of violations. In the current case, three counts at \$5,000 per count
14 equates to \$15,000. This is about 0.047 times the amount of laundered funds, which is small compared to
15 the figure of 2.38 in Villanueva.

16 However, in the current case, Ogulnick and the LLC respondents caused the true contributors to
17 be mis-reported on a Form 497 24-hour report (filed in late October 2018) and on a Form 460 semi-
18 annual campaign statement for the period ending December 31, 2018. The intermediary company (19th
19 Green OC, LLC) was disclosed as the true source of funds—instead of disclosing that the funds actually
20 came from AC 2525 Main, LLC and RHW Holdings, LLC. This was misleading and inaccurate
21 reporting, which served to conceal the true sources of funding. For this reason, Enforcement also
22 recommends the maximum penalty of \$5,000 per count for these violations, which are charged as Counts
23 4 and 5.⁸⁷

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27 ⁸⁷ Additionally, respondents AC2525 Main and RHW Holdings qualified as major donors and were required to report
28 their contributions to the PAC on a Form 497 24-hour report—and on a Form 461 campaign statement—but they failed to do
so. This non-reporting is noted as aggravating information, but for settlement purposes, it is not being charged because the
reportable activity is encompassed by Counts 4 and 5.

1 **Counts 6-8 (failure to timely file**

2 **24-hour independent expenditure reports)**

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

10 Regarding the online ads, these were disseminated to the public from approximately October 12,
11 2018 through the date of the election (11/6/18). No later than October 13, 2018, at least one Form 496
12 24-hour independent report should have been filed, disclosing the online ads against Bacerra. (This could
13 have included an estimate for the total cost of the online ads through election day—or the value of the
14 online ads could have been reported in chunks, on a rolling basis, on more than one report.) However, the
15 required Form 496 was not filed until October 25, 2018—at which point it was approximately 12 days
16 late. (The late filing disclosed the full cost of the online ads, which was \$82,375, including polling.
17 However, the filing improperly reported that the independent expenditure was made on 10/25/18, which
18 concealed that the ads actually started on 10/12/18.)

19 Regarding the mass mailings in this case, these were required to be reported on 15 different Form
20 496 24-hour independent expenditure reports. These reports should have been filed within 24 hours of
21 each mailing, but none of the required reports were filed. In aggravation, none of these mass mailings
22 were reported as independent expenditures on Schedule D of the PAC’s Form 460 filings (which is noted
23 as one of the reporting violations in Count 5).

24 The PAC and Palmer are the only two respondents who are named for these filing violations. As a
25 campaign attorney and professional treasurer, Palmer is very experienced with the Act’s requirements.

26 Palmer and the PAC do not have a history of prior, identical violations; however, Palmer was
27 well-versed with filing requirements and had knowledge of the specific timeframes regarding
28 expenditures.

1 Under these circumstances, the violations in this case were more than inadvertent. At the very
2 least, they were negligence. (In mitigation, Palmer maintains that the other respondents did not provide
3 an ad distribution schedule to her, and the first time she was aware of any advertisements being
4 disseminated by the PAC was on 10/25/18.)

5 *Comparable Case*

6 Recently, the Commission considered another case regarding failure to timely file several Form
7 496 24-hour independent expenditure reports. [In the Matter of BluPAC and Douglas Chan](#); FPPC Case
8 No. 16/19981 (approved Jul. 15, 2021), a PAC failed to timely file nine such reports for mailings (that
9 cost approximately \$49,265) to support and oppose local city council candidates in an upcoming election.
10 One count was charged—for which a penalty in the amount of \$3,500 was imposed.

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

13 In BluPAC, the independent expenditures were for mailers—and it was noted that the voters were
14 unaware of who paid for the mailers. Similar facts are present in the current case because respondents AC
15 2525 Main and RHW Holdings never were disclosed as the true financial backers of the PAC.

16 In BluPAC, it was noted that the PAC displayed a level of sophistication (by staying under the
17 threshold amount of \$50,000 for a multipurpose organization to qualify as a recipient committee, which
18 would have required disclosure of contributor information). In the current case, respondents also
19 displayed a level of sophistication by arranging for many of the PAC’s ads to be disseminated to the
20 voters (from 10/12 to 10/23/18)—before payments were made for the ads—and before the PAC received
21 any funding. This deprived the public of information about who was financing the PAC—and even when
22 the PAC reported receiving \$170,000 on a Form 497 filed October 24, 2018, another company was
23 disclosed as the contributor (rather than the true source of funds).

24 In BluPAC, failure to timely file Form 462 verification statements was noted as aggravating, but
25 not charged. The current case also involves violations that are noted as aggravating, but not charged.
26 (When a PAC fails to file Form 496 reports—this usually includes the lesser offense of failing to file the
27 related Form 462 verification statements.)

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1 In BluPAC, the 24-hour reports were required to be filed with the city about 51 days before the
2 election. However, they were not filed with the city until about three months after the election. (One day
3 before the election, the reports were filed with the Secretary of State, but this was the wrong filing
4 officer—and still quite late—so it was tantamount to no disclosure before the election.) In the current
5 case, the online ads were reported late (on 10/25/18, but still before the election of 11/6/18). For the rest
6 of the ads, which were mass mailings, the required 24-hour reports never were filed (and the mass
7 mailings never were disclosed on Schedule D of Form 460 as independent expenditures).

8 In BluPAC, the violation was not noted to be deliberate. In the current case, at a minimum, the
9 violations were the result of negligence.

10 Despite the foregoing similarities between the cases, there are some differences warranting more
11 counts and a higher penalty in the current case.

12 *Aggravating Differences*

13 In BluPAC, the responsible officer, Chan, was an attorney with a business law firm, and it was
14 implied that he lacked familiarity with campaign finance law. (The PAC did have a professional treasurer
15 who was not charged/found to be responsible.) Chan maintained that he did not realize he was required to
16 file the reports in question. (This was based on a claimed, mistaken belief that the payments for the
17 independent expenditures actually were payments to a statewide general purpose committee, instead of
18 being for specific independent expenditure ads.) Similar facts are not present in the current case—where
19 the violations were caused by Palmer, a campaign attorney and professional treasurer, who was
20 experienced with the Act’s requirements.

21 In BluPAC, the respondents paid a fine in the amount of \$8,380 to their local filing officer (the
22 Santa Clara City Clerk’s office). This was in addition to the penalty in the amount of \$3,500 that was
23 imposed by the Commission—for the same violations—and this is one of the reasons why only one count
24 was charged for nine 24-hour reports, but similar facts are not present in the current case.

25 *Recommended Number of Counts and*

26 *Penalty: \$12,000 (3 counts, \$4,000 per count)*

27 One count may be charged for each late-filed report, but this many counts are not always needed
28 to ensure that the penalty fits the wrongdoing. In BluPAC, one count was charged for nine late-filed

1 reports with respect to independent expenditures that cost approximately \$49,265—and a penalty in the
2 amount of \$3,500 was imposed by the Commission.

3 The current case involves almost twice as many late-filed reports (16) for ads costing nearly eight
4 times as much (\$388,342). Also, unlike BluPAC, respondents have not been fined by their local filing
5 officer in the current case. Under these circumstances, Enforcement recommends three counts—and a
6 penalty in the amount of \$4,000 per count.

7 **Count 9 (online ad disclosures)**

8 A vital purpose of the Act is to ensure transparency in advertising disclosures so that voters are
9 fully informed about sources of funding for political ads. This extends not only to the name of the PAC
10 that pays for an ad, but also to identification of top contributors of \$50,000 or more. Failure to provide
11 this type of required information in advertising “paid for by” disclosures results in significant harm to the
12 public—as it deprives the voters of important information that the Act mandates must be disclosed before
13 the election, when the information matters most.

14 As described in more detail above, Count 9 is subject to penalty enhancement under Section
15 84510.

16 *Comparable Case*

17 The last time the Commission applied an enhanced penalty under this statute was in August 2022.
18 [In the Matter of Committee for a Strong Siskiyou Economy, No on Measure H Sponsored by Crystal](#)
19 [Geyser Water Company, Kelly Lawler, Jill Harris, and Crystal Geyser Water Company](#); FPPC Case No.
20 17/123 (approved Aug. 18, 2022), Crystal Geyser water company created, financed, and sponsored a
21 committee to oppose a local ballot measure, which they succeeded in defeating with an advertising
22 campaign that cost approximately \$24,754. However, the ads failed to identify Crystal Geyser as the
23 committee’s sponsor. This was noted to be the result of negligence—not a deliberate violation of the Act.
24 One count was charged, for which the Commission imposed an enhanced penalty under Section 84510 in
25 the amount of \$49,508. This was two times the cost of the ads—or two-thirds of the maximum penalty.
26 (Under current law, as a result of AB 249, the maximum penalty for this count would be \$5,000, only.
27 Although the case was decided recently, the violation occurred prior to enactment of AB 249, so
28 Proposition 208’s penalty enhancement still applied.)

1 In the current case, Count 9 focuses on misleading and inaccurate top contributor disclosures for
2 the online ads, during the last week leading up to the election. This type of violation also is subject to
3 penalty enhancement, as in the Crystal Geysers case. Both cases involve respondents with no history of
4 prior, similar violations—who cooperated with Enforcement’s investigation.⁸⁸

5 Both cases involve additional counts that could have been charged, but were not charged for
6 settlement purposes. (Crystal Geysers noted reporting violations that could have been charged with respect
7 to a year-end semi-annual campaign statement. In the current case, Ogulnick and the LLC respondents
8 failed to file a year-end semi-annual Form 461 major donor statement and a Form 497 24-hour report
9 regarding their contributions to the PAC. Also, in the current case, the online ads and the mass mailings
10 failed to disclose that the PAC was “Sponsored by Santa Ana Developers” (or similar wording).
11 Likewise, the PAC’s development company sponsors were not identified on campaign filings. Although
12 these violations are being noted and not charged, the public harm that was caused by these violations
13 partially overlaps with several counts that are being charged above for campaign money laundering and
14 related reporting violations regarding misleading and inaccurate disclosures about the true sources of the
15 PAC’s funding.)

16 Both cases involve relatively inexperienced respondents who relied upon the technical expertise
17 of other parties. In Crystal Geysers, it was noted (at page 15, lines 20-23) that: “there is evidence to
18 suggest that the violations were negligent. . . . [The principal officer] sought advice from an attorney and
19 from Lawler [the committee’s professional campaign treasurer] regarding various aspects of compliance
20 with the Act, including the sponsorship status and advertisement disclosure rules.” Similar facts are
21 present in the current case with respect to hiring and relying upon respondent Palmer (as the campaign
22 treasurer and legal counsel).

23 Both cases involve parties who wanted to conceal their involvement, but this did not rule out
24 negligence, as noted in Crystal Geysers (at 15:9-17, with emphasis added):

25 With respect to the fourth factor, regarding the presence or absence of any
26 intention to conceal, deceive or mislead: the Enforcement Division
27 contends that there is evidence that Crystal Geysers had an intention to

28 ⁸⁸ In Crystal Geysers, respondent Kelly Lawler was noted to be a professional treasurer who had been named in four
prior matters in the preceding five years for campaign reporting violations—and who had received nine warning letters—but it
was not noted that these involved advertising disclosure violations.

1 conceal their role in the Committee and that this evidence suggests that the
2 penalty should be higher in order to promote the highest level of
3 transparency by political actors. However, there is also evidence to suggest
4 that Crystal Geysler assumed or *had an understanding that it was acting*
5 *within the confines of the law.* Crystal Geysler contends that there is no
6 evidence of any intent to conceal or deceive. The evidence shows that the
7 company sought to comply with the Act and *hired a professional treasurer*
8 *for this purpose. Respondents and the Enforcement Division agree that*
9 *intent to minimize Crystal Geysler's role in the committee is not evidence of*
10 *a deliberate violation of the Act.*

11 *Aggravating Differences*

12 Despite the similarities noted above, there are some differences between Crystal Geysler and the
13 current case, which warrant a higher penalty herein.

14 In the current case, Ogulnick and the LLC respondents contributed \$170,000 to the PAC
15 through—and in the name of—an intermediary company, which served to conceal the true source of
16 funding, resulting in misleading and inaccurate top contributor disclosures for the online ads during the
17 last week leading up to the election. Similar laundering violations were not present in Crystal Geysler.

18 In Crystal Geysler, it was generally known by the public that Crystal Geysler was opposed to the
19 ballot measure in question—and an employee of the company was publicly listed as a principal officer of
20 the committee. Also, there was some disclosure before the election that Crystal Geysler was involved in
21 supporting the activities of the Committee. Similar facts are not present in the current case. No
22 information was made available to the public about the involvement of the developer respondents.

23 In Crystal Geysler, after the election, the committee filed amended campaign statements to reflect
24 the previously undisclosed sponsorship. In the current case, respondents never corrected the record to
25 reflect the involvement of respondents AC 2525 Main and RHW Holdings as top contributors, sponsors,
26 and the true sources of the funds received by the PAC. The opposite is true, respondents sought to create
27 the misleading and inaccurate impression that an intermediary company was the true source of the PAC's
28 financial support.

29 *Recommended Penalty: \$50,000*

30 Under the circumstances described above, a penalty in the amount of \$50,000 is recommended.
(For the last week leading up to the election, three times the cost of the online ads would be \$66,533. The

1 proposed penalty of \$50,000 is approximately 75% of the maximum penalty. In Crystal Geysler, the
 2 proposed penalty was about 67% of the maximum.)⁸⁹

3 **Summary Chart**

4 Under these circumstances, the following agreed-upon penalty is recommended:

Count(s)	Description	Respondents	Penalty
1	Campaign money laundering: \$50,000 contribution.	Ogulnick AC 2525 Main, LLC	\$5,000
2	Campaign money laundering: \$120,000 contribution.	Ogulnick RHW Holdings, LLC	\$5,000
3	Campaign money laundering: \$150,000 contribution.	Ogulnick AC 2525 Main, LLC	\$5,000
4	Misleading and inaccurate reporting re: true source of \$170,000 on PAC's Form 497 of 10/24/18.	Ogulnick AC 2525 Main, LLC RHW Holdings, LLC PAC	\$5,000
5	Misleading and inaccurate reporting re: true source of \$320,000 (plus other Form 460 reporting violations) for period ending 12/31/18.	Ogulnick AC 2525 Main, LLC RHW Holdings, LLC PAC Palmer	\$5,000
6 - 8	Failure to timely file Form 496 24-hour independent expenditure reports (\$4,000 per count).	Palmer PAC	\$12,000
9	Online ads provided misleading and inaccurate "major funding" disclosures for last week before election re: two top contributors (of \$50,000 or more). In aggravation, all ads failed to disclose PAC was "Sponsored by Santa Ana Developers."	Ogulnick AC 2525 Main, LLC RHW Holdings, LLC PAC	\$50,000
TOTAL:			\$87,000

19 **CONCLUSION**

20 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
 21 respondents Ryan Ogulnick; AC 2525 Main, LLC; RHW Holdings, LLC; Beverly Grossman Palmer; and
 22 the PAC known as "Californians for Ethical Patient Care, Yes on Tinajero for Mayor and Sarmiento and
 23 _____
 24 _____

25 ⁸⁹ As of the operative date of AB 249 (1/1/18), an enhanced penalty no longer may be imposed for omission of
 26 sponsorship information in advertisements unless Enforcement proves that the omission was "intentional" and "for the
 27 purpose of avoiding disclosure." In the current case, respondents maintain that their failure to identify sponsors was the result
 28 of negligence, based on a misunderstanding of the law and due to the fact that the PAC's financing was not received until after
 advertisements started being disseminated. However, contrary to sponsorship nondisclosure, a penalty enhancement is
 available under AB 249 for top contributor disclosure violations, regardless of the level of intent. For this reason (and for
 settlement purposes), the top contributor violation has been charged, and the sponsorship issue is noted as aggravating
 information.

1 Reyna for City Council; No on Bacerra for City Council, Santa Ana 2018, Sponsored by 19th Green OC,
2 LLC” hereby agree as follows:

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

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

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

10 4. Respondents have consulted with their attorneys. Ogulnick and the LLC respondents are
11 represented by Gary Winuk of Kaufman Legal Group. Palmer and the PAC are represented by Amber
12 Maltbie of Nossaman LLP. Respondents understand and hereby knowingly and voluntarily waive, any
13 and all procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through
14 18361.9. This includes, but is not limited to, the right to appear personally at any administrative hearing
15 held in this matter, to be represented by an attorney at respondents’ own expense, to confront and cross-
16 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an
17 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter
18 judicially reviewed.

19 5. Respondents agree to the issuance of the decision and order set forth below. Also,
20 respondents agree to the Commission imposing against them an administrative penalty in the amount of
21 \$87,000. One or more payments totaling this amount—to be paid to the General Fund of the State of
22 California—is/are submitted with this stipulation as full payment of the administrative penalty described
23 above, and they will be held by the State of California until the Commission issues its decision and order
24 regarding this matter.

25 6. If the Commission refuses to approve this stipulation—then this stipulation shall become
26 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
27 rejected, all payments tendered by respondents in connection with this stipulation shall be reimbursed to
28 respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing

1 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
2 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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8 Dated: _____

_____ James M. Lindsay, Chief of Enforcement
Fair Political Practices Commission

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12 Dated: _____

_____ Ryan Ogulnick, individually, and on behalf of AC 2525
Main, LLC and RHW Holdings, LLC, Respondents

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16 Dated: _____

_____ Beverly Grossman Palmer, individually, and on behalf
of the PAC, Respondents

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19 The foregoing stipulation of the parties “In the Matter of Ryan Ogulnick; AC 2525 Main, LLC;
20 RHW Holdings, LLC; Beverly Grossman Palmer; and the PAC known as ‘Californians for Ethical
21 Patient Care, Yes on Tinajero for Mayor and Sarmiento and Reyna for City Council; No on Bacerra for
22 City Council, Santa Ana 2018, Sponsored by 19th Green OC, LLC,” FPPC Case No. 2018-01194, is

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1 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon
2 execution below by the Chair.

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4 IT IS SO ORDERED.

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6 Dated: _____

Adam E. Silver, Chair
Fair Political Practices Commission

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