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7

8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA

10 In the Matter of:

11 CHRISTENSEN, SERKIN, AND  
12 WALLER FOR SCHOOL BOARD 2017,  
13 MICHAEL CHRISTENSEN, BRAD  
SERKIN, AND BRAD WALLER,

14 Respondents.

FPPC Case No. 17/0098

STIPULATION, DECISION AND ORDER

15  
16 **INTRODUCTION**

17 This matter arose from a sworn complaint submitted to the Enforcement Division of the Fair  
18 Political Practices Commission. Respondent Christensen, Serkin, and Waller for School Board 2017  
19 (“Committee”) was the candidate-controlled committee formed to support Respondents Michael  
20 Christensen (“Christensen”), Brad Serkin (“Serkin”), and Brad Waller (“Waller”). Respondent Waller  
21 served as the treasurer. The Committee, Christensen, Serkin, and Waller violated the Political Reform Act<sup>1</sup>  
22 by failing to deposit a candidate’s personal funds into the designated campaign bank account before making  
23 campaign expenditures and failing to make all expenditures out of the designated campaign bank account.

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27 <sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections  
28 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission  
are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references  
are to this source.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred in  
3 2017. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they  
4 existed at that time.

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 previous  
7 laws regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup>  
8 Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”<sup>3</sup> One purpose  
9 of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are  
10 fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.<sup>4</sup>  
11 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be  
12 “vigorously enforced.”<sup>5</sup>

13 **One Designated Campaign Bank Account**

14 A candidate-controlled committee must deposit all contributions and make all expenditures from  
15 the committee’s designated bank account.<sup>6</sup> Any loans to the candidate or committee must be deposited in  
16 the campaign bank account before being utilized.<sup>7</sup> Any personal funds a candidate intends to spend on  
17 campaign-related expenses must first be deposited in the campaign bank account before the expenditure is  
18 made.<sup>8</sup>

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25 <sup>2</sup> Section 81001, subdivision (h).

26 <sup>3</sup> Section 81003.

27 <sup>4</sup> Section 81002, subdivision (a).

28 <sup>5</sup> Section 81002, subdivision (f).

<sup>6</sup> Section 85201, subdivision (e).

<sup>7</sup> Section 85201, subdivision (c).

<sup>8</sup> Section 85201, subdivision (d) and Regulation 18524, subdivision (a).

1 **Controlled Committee**

2 A controlled committee means a committee that is controlled directly or indirectly by a candidate  
3 or state measure proponent.<sup>9</sup> A candidate controls a committee if he or she has a significant influence on  
4 the actions or decisions of the committee. A committee can be jointly controlled by more than one  
5 candidate.<sup>10</sup>

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

7 It is the duty of a committee treasurer to ensure that the committee complies with the Act.<sup>11</sup> A  
8 treasurer and the controlling candidates for a committee may be held jointly and severally liable, along  
9 with the committee, for violations committed by the committee.<sup>12</sup>

10 **SUMMARY OF THE FACTS**

11 Christensen, Serkin, and Waller successfully ran in the 2013 race for the Redondo Beach Unified  
12 School District Board of Education. The three candidates ran unopposed because only three seats were  
13 open that year. In 2017, a fourth individual ran for the Board, causing a contested race. The three  
14 Respondents agreed to form a joint committee and filed an initial Statement of Organization on November  
15 14, 2016 in anticipation of the March 7, 2017 election. According to filed campaign statements, the  
16 Committee received a total of \$10,168.56 in contributions and spent \$8,731.56 in expenditures for the  
17 election. The three Respondents were successful and are currently serving on the Board of Education.

18 This case was opened in response to a sworn complaint. The Enforcement Division conducted an  
19 investigation and determined that Serkin and Waller made payments using a personal credit card for various  
20 campaign expenses.

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27 <sup>9</sup> Section 82016.

<sup>10</sup> Section 84102 and Regulation 18430.

28 <sup>11</sup> Sections 81004, 84100, and Regulation 18427.

<sup>12</sup> Sections 83116.5 and 91006.

**Summary of Activity Outside the Designated Campaign Bank Account**

<b>Reporting Period</b>	<b>Payor</b>	<b>Payee</b>	<b>Description</b>	<b>Amount</b>
7/1/2016 - 12/31/2016	Brad Serkin	San Diego Yard Signs	CMP - yard signs	\$1,436.50
1/1/2017 - 1/21/2017	Brad Serkin	CampaignLA	VOT - voter data	\$355.00
	Brad Serkin	CampaignLA	LIT - walk pieces	\$450.00
1/22/2017 - 2/18/2017	Brad Serkin	CampaignLA	CMP - banners	\$400.00
1/22/2017 - 2/18/2017	Brad Waller	Facebook	CMP – ads	\$25.06
1/22/2017 - 2/18/2017	Brad Waller	Facebook	CMP – ads	\$46.85
1/22/2017 - 2/18/2017	Brad Waller	Facebook	CMP – ads	\$3.65
<b>Total</b>				<b>\$2,717.06</b>

**VIOLATIONS**

**Count 1**

The Committee, Christensen, Serkin, and Waller failed to pay a total of \$2,717.06 in campaign expenditures from the designated campaign bank account, in violation of Section 85201.

**PROPOSED PENALTY**

This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per count. Thus, the maximum penalty that may be imposed is \$5,000.<sup>13</sup>

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of violations.<sup>14</sup> Here, the violation appears negligent, not deliberate and there is no prior enforcement history.

<sup>13</sup> See Section 83116, subdivision (c).

<sup>14</sup> Regulation 18361.5, subdivision (d).

1 Additionally, the Commission considers penalties in prior cases with comparable violations. *In the*  
2 *Matter of Friends of Frank Bigelow for Assembly 2016, Frank Bigelow, and Vona L. Copp*, FPPC Case  
3 No. 17/0079, involved respondents made campaign expenditures totaling \$2,189.78 that were not paid  
4 from the campaign bank account. In aggravation, campaign funds were used, in small amounts, for personal  
5 use and over \$500 in unitemized expenditures were not reported on campaign statements. The Commission  
6 imposed a penalty of \$2,000 for one count on December 21, 2017.

7 Here, Respondents made a similar amount of payments outside the campaign bank account. In  
8 aggravation to this one count, the Committee filed some campaign statements and 24-hour reports late.  
9 The late filings were filed one to five days late. Since the delays to filing were relatively minor and all  
10 disclosures were made prior to the election, these violations are not being charged as a separate count.  
11 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases, a total  
12 penalty of \$2,000 is recommended.

### 13 CONCLUSION

14 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
15 Respondents Christensen, Serkin, and Waller for School Board 2017, Michael Christensen, Brad Serkin,  
16 and Brad Waller, hereby agree as follows:

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

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

3           5.       Respondents agree to the issuance of the decision and order set forth below. Also,  
4 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
5 \$2,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General  
6 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
7 administrative penalty described above, and same shall be held by the State of California until the  
8 Commission issues its decision and order regarding this matter.

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

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

4       Dated: \_\_\_\_\_

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Galena West, Chief of Enforcement  
Fair Political Practices Commission

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7       Dated: \_\_\_\_\_

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Michael Christensen, Respondent

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9       Dated: \_\_\_\_\_

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Brad Serkin, Respondent

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12       Dated: \_\_\_\_\_

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Brad Waller, individually and on behalf of Christensen,  
Serkin, and Waller for School Board 2017, Respondents

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15           The foregoing stipulation of the parties "In the Matter of Christensen, Serkin, and Waller for  
16 School Board 2017, Michael Christensen, Brad Serkin, and Brad Waller, FPPC Case No. 17/0098, is  
17 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon  
18 execution below by the Chair.

19           IT IS SO ORDERED.

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21       Dated: \_\_\_\_\_

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Joann Remke, Chair  
Fair Political Practices Commission