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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

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11 In the Matter of:

12 PAM BERTANI FOR SOLANO
COUNTY SUPERVISOR 2014 AND
13 PAM BERTANI,

14 Respondents.

FPPC Case No. 14/1112

STIPULATION, DECISION AND ORDER

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16 INTRODUCTION

17 Respondent Pam Bertani for Solano County Supervisor 2014 (the “Committee”) is a candidate-
18 controlled committee for Respondent Pam Bertani (“Bertani”), a Solano County Supervisor candidate
19 who was successful in the primary election but unsuccessful in the general election but currently sits as a
20 member of the Fairfield City Council.

21 Under the Political Reform Act (the “Act”),¹ a candidate-controlled committee must timely
22 disclose the contributions it receives and the expenditures it makes. It must also disclose the occupation
23 and employer of contributors of \$100 or more. In addition, a committee must file 24-Hour Contribution
24 Reports for contributions of \$1,000 or more received during the 90 days preceding an election. The
25 Committee violated the Act by failing to timely disclose both contributions and contributor information
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28 ¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and 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, and all regulatory references are to this source.

1 on its campaign statements and failing to timely file three 24-Hour Contribution Reports.

2 **SUMMARY OF THE LAW**

3 All statutory references and discussions of law pertain to the Act’s provisions as they existed in
4 2014.

5 An express purpose of the Act is to ensure that campaign contributions and expenditures are fully
6 and truthfully disclosed so that voters are fully informed and improper practices are discouraged.

7 In furtherance of this purpose, the Act requires candidate-controlled committees to file semi-
8 annual campaign statements twice per year and pre-election campaign statements during election years.²
9 These campaign statements must accurately account for the committee’s total contributions received and
10 expenditures made during the relevant period.³ The statements must also disclose the occupation and
11 employer of contributors of \$100 or more.⁴

12 During the 90 days prior to an election, a Committee must file a 24-Hour Contribution Report
13 within 24 hours of receiving a contribution of \$1,000 or more or within 48 hours of receiving a non-
14 monetary contribution worth \$1,000 or more.⁵

15 A committee’s controlling candidate is liable for the Committee’s campaign reporting violations.⁶

16 **SUMMARY OF THE FACTS**

17 Bertani was a successful candidate for the Solano County Board of Supervisors in the June 3,
18 2014 Primary Election, but lost the November 4, 2014 General Election. She is currently a member of the
19 Fairfield City Council and has held that position since 2011.

20 This matter was initiated in 2014 after an informal complaint alleged that the Committee and
21 Bertani failed to timely report monetary and non-monetary contributions from the Service Employees
22 International Union Local 1021 Candidate PAC (SEIU), and failed to report occupation and employer
23 information for multiple contributors.

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26 ² Sections 84200 and 84200.5, subd. (b).

27 ³ Section 84211, subds. (a)–(d).

28 ⁴ Section 84211, subd. (f).

⁵ Sections 82036, 84203, and 84203.3.

⁶ Sections 83116.5 and 91006.

1 June 2014 Primary Pre-Election Campaign Statements

2 On the Committee's first pre-election campaign statement for January 1, 2014 through March 17,
3 2014, filed on March 24, 2014, out of 16 contributions that required the occupation and employer
4 information, only 8 occupations and 3 employers were disclosed. After Enforcement contacted the
5 Committee, they filed an amended statement for that pre-election period on October 23, 2014, which
6 included all of the required occupation and employer information for contributors.

7 The Committee's second pre-election campaign statement for March 18, 2014 through May 17,
8 2018, filed on May 22, 2014, disclosed \$26,814.00 in contributions received and \$29,749.00 in
9 expenditures made. Out of 27 contributions that required the contributor's occupation to be disclosed,
10 only 1 occupation was disclosed. The statement did not disclose any of the required employer
11 information for contributors.

12 An amended statement filed on October 23, 2014 for the second pre-election period reported
13 \$39,766.75 in contributions received and \$43,073.39 in expenditures made. At that time, all of the
14 required occupation and employer information for contributors was disclosed.

15 This amendment also showed that \$12,952.75 in contributions and \$13,324.39 in expenditures
16 were not timely disclosed. Overall, 32 percent of the Committee's contributions and 30 percent of the
17 Committee's expenditures during the second pre-election campaign statement period were unreported
18 until four months after the June election.

19 Semi-Annual Campaign Statement

20 The Committee reported receiving \$31,754.73 in contributions and making \$47,235.84 in
21 expenditures on its semi-annual campaign statement for May 18, 2014 through June 30, 2014, filed on
22 July 31, 2014. Contributors' occupations were disclosed for just four of the seven contributors of \$100 or
23 more and no employer information for those contributors was disclosed.

24 On an amended statement for May 18, 2014 through June 30, 2014, filed October 23, 2014, the
25 Committee reported receiving contributions totaling \$49,663.19 and making expenditures totaling
26 \$64,499.74. The amendment disclosed all of the required occupation and employer information for
27 contributors. This amendment showed that the Committee failed to timely report \$17,908.46 in
28 contributions and \$17,263.90 in expenditures. Thus, 36 percent of contributions received and 26 percent
of expenditures made during the semi-annual campaign statement period were not reported until almost

1 three months after the statement deadline.

2 24-Hour Contribution Reports

3 During Bertani’s campaign for the Solano County Board of Supervisors, the Committee failed to
4 file the following 24-Hour Contribution Reports:

Date Received	Filing Deadline	Contributor	Amount
April 24, 2014	Within 48 hours	SEIU	\$2,488.00
May 5, 2014	Within 48 hours	SEIU	\$2,592.40
October 29, 2014	Within 48 hours	SEIU	\$7,741.61

7 The non-monetary contributions that were not reported on 24-Hour Reports totaled \$12,822.01.
8 The Committee received proper notice from the contributor for all three of these contributions. All of
9 these contributions were reported on the Committee’s campaign statements, but one of the three (for
10 \$7,741.61) was not disclosed until after the election.

11 **VIOLATIONS**

12 Count 1: Failure to Timely Disclose Contributions, Expenditures, and Contributor Information on Pre-
13 Election Campaign Statements for the June 2014 Primary Election

14 The Committee and Bertani failed to disclose contributions and expenditures on one pre-election
15 campaign statement and contributor information on two pre-election campaign statements, in violation of
16 Section 84211, subdivisions (a)–(f).

17 Count 2: Failure to Timely Disclose Contributions, Expenditures, and Contributor Information on a
18 Semi-Annual Campaign Statement

19 The Committee and Bertani failed to disclose contributions, expenditures, and contributor
20 information on a semi-annual campaign statement, in violation of Section 84211, subdivisions (a)–(f).

21 Count 3: Failure to File 24-Hour Contribution Reports

22 The Committee and Bertani failed to timely file three 24-Hour Contribution Reports, in violation
23 of Sections 84203 and 84203.3.

24 **PROPOSED PENALTY**

25 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
26 count, for a total of \$15,000.⁷

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28 ⁷ See Section 83116, subdivision (c).

1 In determining the appropriate penalty for a particular violation of the Act, the Commission
2 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
3 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
4 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
5 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
6 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
7 record of violations.⁸ Additionally, the Commission considers penalties in prior cases with comparable
8 violations.

9 Applying the factors to this case, the Committee and Bertani failed to timely disclose
10 contributions, expenditures, and contributor information on three separate campaign statements and
11 failed to timely file three 24-Hour Contribution Reports. However, the Committee and Bertani do not
12 have a history of violations with the Enforcement Division. Further, the two of the three non-monetary
13 contributions were reported on the pre-election campaign statements prior to the relevant election.

14 The Commission also considers penalties in prior cases involving similar violations. Recent
15 similar cases include the following:

16 Counts 1 and 2

- 17 • *In the Matter of Barry Chang, Barry Chang for City Council 2014, Sue Chang, Barry Chang for*
18 *Assembly 2014, and John Bartas*, FPPC No. 14/1275. (The Commission approved a stipulated
19 decision on March 17, 2016.) The respondents failed to timely disclose \$24,280 in contributions
20 and failed to disclose occupation and employer information for 35 contributors. The undisclosed
21 contributions accounted for 65 percent of contributions received during the relevant pre-election
22 reporting period, but were ultimately reported on statements that were amended prior to the
election. This is dissimilar to the instant case, as the Committee and Bertani filed amendments to
their pre-election campaign statements for the June primary four months after that election, and
did not timely report complete occupation and employer information across two pre-election
periods. The Commission imposed a penalty of \$2,000.

23 Count 3

- 24 • *In the Matter of Family Farmers Working for a Better California with Major Support by Western*
25 *Growers Association and Ward Kennedy*, FPPC No. 16/68. (The Commission approved a
26 stipulated decision on October 19, 2017.) The respondents failed to timely file six 24-Hour
27 Contribution Reports for non-monetary contributions with a total value of \$99,992. The
settlement included two counts, combining four non-monetary contributions that were not
reported on the pre-election campaign statement for the period July 1, 2012, through September

28 ⁸ Regulation 18361.5, subdivision (d).

1 30, 2012, and two non-monetary contributions that were not reported on the semi-annual
2 campaign statement for the period October 21, 2012, through December 31, 2012. The
Commission imposed a penalty of \$2,500 for each Count, for a total of \$5,000.

3 A central purpose of the Act is to ensure receipts and expenditures in election campaigns are fully
4 and truthfully disclosed.⁹ The Committee and Bertani failed to timely disclose significant contributions
5 and expenditures. They also failed to timely disclose the required occupations and employers of the
6 majority of the Committee's contributors during three reporting periods. Finally, the Committee and
7 Bertani failed to file three 24-Hour Contribution Reports, which would have disclosed \$12,822.01 in
8 non-monetary contributions from the SEIU.

9 In aggravation, the Committee and Bertani failed to amend their campaign statements prior to the
10 June election, which Bertani won.

11 In mitigation, the Committee and Bertani amended their campaign statements in connection with
12 the June primary prior to the November general election, so the public had notice of the Committee's
13 higher contributions and expenditures prior to the vote. Bertani lost the November 4, 2014 election. The
14 unreported late contributions were ultimately disclosed on campaign statements. In addition, SEIU
15 reported the SEIU's 24-Hour Contribution Reports prior to the June election.

16 There is no evidence that the violations were deliberate or there was intent to conceal. According
17 to Bertani, the Committee had volunteer treasurers until a professional treasurer was hired on October 9,
18 2014, and the professional treasurer quickly amended all erroneous campaign statements.

19 For these reasons, the total penalty recommended is \$2,500 per Count, for a total of \$7,500.

20 CONCLUSION

21 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
22 Respondents Pam Bertani for Solano County Supervisor 2014 and Pam Bertani hereby agree as follows:

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

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

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⁹ Section 81002, subd. (a).

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

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

11 5. Respondents agree to the issuance of the decision and order set forth below. Also,
12 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
13 \$7,500 in three payments, with \$2,500 paid on December 21, 2017, \$2,500 to be paid February 1, 2018
14 and \$2,500 to be paid March 1, 2018. One or more cashier’s checks or money orders totaling said
15 amount—to be paid to the General Fund of the State of California—will be submitted in accordance with
16 the above schedule with this stipulation as full payment of the administrative penalty described above,
17 and same shall be held by the State of California until the Commission issues its decision and order
18 regarding this matter.

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

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

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Dated: _____
Galena West, Chief, on behalf of the Enforcement
Division of the Fair Political Practices Commission

Dated: _____
Pam Bertani, individually and on behalf of Pam Bertani
for Solano County Supervisor 2014

The foregoing Stipulation of the parties “In the Matter of Pam Bertani for Solano County
Supervisor 2014 and Pam Bertani,” FPPC No. 14/1112, is hereby accepted as the final decision and order
of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: _____
Joann Remke, Chair
Fair Political Practices Commission