

GALENA WEST
Chief of Enforcement
JENNA C. RINEHART
Commission Counsel
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street, Suite 3000
Sacramento, CA 95811
Telephone: (916) 323-6302
Email: JRinehart@fppc.ca.gov

Attorneys for Complainant
Enforcement Division of the Fair Political Practices Commission

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of:

FPPC Case No. 17/1081

THE COMMITTEE FOR YES ON
MEASURE V SPONSORED BY THE
MOUNTAIN VIEW TENANTS
COALITION, STEVE CHANDLER,
and MITCHELL OSTER,

STIPULATION, DECISION AND ORDER

Respondents.

INTRODUCTION

Respondent, the Committee for Yes on Measure V sponsored by the Mountain View Tenants Coalition (the “Committee”) (ID# 1385025), was a primarily formed ballot measure committee to support a local ballot measure, Measure V. Measure V, also known as Rent Control City Charter Amendment, passed in the November 8, 2016, General Election, receiving 53.57% of the votes. Respondent, Steve Chandler (“Chandler”), served as the Committee’s treasurer. Respondent, Mitchell Oster (“Oster”) doing business as Eveleth Consulting Group LLC, served as the Committee’s paid campaign consultant. Oster was compensated for managing the design and production of the Committee’s campaign literature including mass mailings and advertisements.

The Political Reform Act (the “Act”)¹ requires committees and treasurers to accurately report contributions and expenditures on campaign statements. Further, the Act requires committees,

¹The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections

1 treasurers, and paid campaign consultants to comply with disclosure requirements for advertisements
2 and mass mailings.

3 The Committee and Chandler violated the Act by failing to accurately report contributions and
4 expenditures on campaign statements. Further, the Committee, Chandler and Oster violated the Act by
5 failing to comply with disclosure requirements on mass mailings and advertisements.

6 SUMMARY OF THE LAW

7 The Act and its regulations are amended from time to time. The violations in this case occurred
8 in 2016, 2017, and 2018. For this reason, all legal references and discussions of law pertain to the Act’s
9 provisions as they existed at that time.

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

11 When enacting the Act, the people of California found and declared that previous laws regulating
12 political practices suffered from inadequate enforcement by state and local authorities.² Thus, it was
13 decreed the Act “should be liberally construed to accomplish its purposes.³ A central purpose of the Act
14 is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully
15 and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ Another
16 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously
17 enforced.”⁵

18 **Contents of Campaign Statement**

19 Each campaign statement shall contain the total amount of contributions received and the total
20 amount of expenditures made during the period covered by the campaign statement.⁶

21 **Non-Monetary Contributions**

22 A contribution is any payment made for political purposes for which a donor does not receive
23 full and adequate consideration.⁷ The term “contribution” includes discounted goods or services, any

24 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission are
25 contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to
26 this source.

27 ² Section 81001, subdivision (h).

³ Section 81003.

⁴ Section 81002, subdivision (a).

⁵ Section 81002, subdivision (f).

⁶ Section 84211, subdivision (a) and (b).

⁷ Section 82015 and Regulation 18215, subdivision (a).

1 goods or services received by a candidate or committee at no charge or at a discount from the fair
2 market value.⁸

3 **Semi-Annual Campaign Statement**

4 A primarily formed ballot measure committee must file semi-annual statements each year no
5 later than July 31 for the period ending June 30, and no later than January 31 for the period ending
6 December 31.⁹

7 **24-Hour Contribution Report**

8 A “late contribution” means a contribution that totals in the aggregate \$1,000 or more and is
9 made to or received by a committee formed primarily to oppose a measure during the 90-day period
10 preceding the date of the election at which the measure is to be voted on.¹⁰ Each committee that receives
11 a late contribution shall report the late contribution within 24 hours of the time it is made.¹¹

12 **Advertisement**

13 Under the Act, an “advertisement” means any general or public advertisement which is
14 authorized and paid for by a person or committee for the purpose of supporting or opposing a ballot
15 measure.¹²

16 **Advertisement Disclosure**

17 Any committee which supports or opposes a ballot measure, shall print or broadcast its name as
18 part of any advertisement.¹³ The disclosure must include the words “paid for by” followed by the name
19 of the committee who paid for the advertisement.¹⁴ All disclosure statements, on printed materials that
20 are larger than those designed to be individually distributed, shall constitute at least 5% of the height of
21 the advertisement and printed in a contrasting color to the background on which it appears.¹⁵

22 **Mass Mailing**

23 Under the Act, “mass mailing” means over 200 substantially similar pieces of mail.¹⁶

24 ⁸ Regulation 18215, subdivision (b)(3).

25 ⁹ Section 84200.

26 ¹⁰ Section 82036, subdivision (a).

27 ¹¹ Section 84203, subdivision (b).

28 ¹² Section 84501, subdivision (a).

¹³ Section 84504, subdivision (c).

¹⁴ Regulation 18450.4, subdivision (b)(1).

¹⁵ Regulation 18450.4, subdivision (b)(3)(D).

¹⁶ Section 82041.5.

1 **Mass Mailing Disclosure**

2 No committee shall send a mass mailing unless the name, street address, and city of the
3 committee are shown on the outside of each piece of mail in the mass mailing in no less than 6-point
4 type which shall be in a color or print which contrasts with the background so as to be easily legible.¹⁷
5 Also, the required disclosure must be preceded by the words, “Paid for by.”¹⁸ Under the Act, “street
6 address” means the street name and building number, and the city, state, and zip code.¹⁹

7 **Joint and Several Liability of Committee and Treasurer**

8 It is the duty of a committee treasurer to ensure the committee complies with the Act.²⁰ A
9 treasurer may be held jointly and severally liable, along with the committee, for violations committed by
10 the committee.²¹

11 **Liability for Violations**

12 Any person who violates any provision of the Act, who purposely or negligently causes any
13 other person to violate any provision of the Act, or who aids and abets any other person in the violation
14 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.²² However,
15 this applies only to persons who are compensated for services involving the planning, organizing, or
16 directing any activity regulated under the Act.²³

17 **SUMMARY OF THE FACTS**

18 The Committee and Chandler were successful in their campaign to support local ballot measure,
19 Measure V, in the November 8, 2016, General Election. The total size of the Committee in 2016 was
20 approximately \$40,933.87 received in contributions and \$40,823.79 spent on expenditures.

21 **Failure to Accurately Report Contributions and Expenditures**

22 The Committee’s campaign bank records were compared to the Committee’s campaign
23 statements, and the comparison highlighted multiple errors in the Committee’s campaign statements.
24 Throughout 2016, the Committee over reported monetary contributions and expenditures by

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26 ¹⁷ Section 84305, subdivision (a).
27 ¹⁸ Regulation 18435, subdivision (d).
28 ¹⁹ Regulation 18421.2, subdivision (a).
²⁰ Sections 81004, 84100, and Regulation 18427.
²¹ Sections 83116.5 and 91006.
²² Sections 83116 and 83116.5.
²³ Section 83116.5.

1 approximately \$3,353.40 and under reported monetary contributions and expenditures by approximately
 2 \$3,046.42 as follows:

Reporting Period	Schedule	Bank Records	Form 460	Over Reported	Under Reported	Variance
01/01/2016 – 06/30/2016	A – Contributions	\$11,310.51	\$12,745.00	\$1,434.43	-	12.682%
	E – Payments	\$7,641.66	\$7,985.21	\$343.55	-	4.496%
07/01/2016 - 09/24/2016	A – Contributions	\$7,262.74	\$7,674.02	\$411.28	-	5.663%
	E – Payments	\$7,444.11	\$7,415.47	-	\$28.64	0.385%
09/25/2016 – 10/22/2016	A – Contributions	\$16,800.51	\$17,964.65	\$1,164.14	-	6.929%
	E – Payments	\$14,446.21	\$14,446.21	-	-	0%
10/23/2016 – 12/31/2016	A – Contributions	\$5,560.15	\$5,340.11	-	\$220.04	3.957%
	E – Payments	\$11,291.81	\$8,494.07	-	\$2,797.74	24.777%
TOTALS:				\$3,353.40	\$3,046.42	

11 After receiving notice from Enforcement regarding the sworn complaints, the Committee and
 12 Chandler amended the campaign statements to accurately report the Committee’s contributions and
 13 expenditures. A comparison of the bank records to the Committee’s amended campaign statements
 14 revealed continuing errors in the amended campaign statements. The Committee over reported monetary
 15 contributions and expenditures by approximately \$5,519.67. In addition to the over and under reporting
 16 of the Committee’s monetary contributions and expenditures, the Committee and Chandler failed to
 17 accurately report non-monetary contributions received.

18 Non-Monetary Contributions

19 On October 21, 2016, the Committee received a letter from Bay Rising, a major donor committee
 20 (ID# 1391430), that stated Bay Rising had made an in-kind contribution to the Committee for \$2,500 on
 21 October 20, 2016. The Committee erroneously reported this non-monetary contribution as a monetary
 22 contribution received.

23 Further, the Committee and Chandler were one to two days late in filing five 24-hour
 24 contribution reports totaling \$14,000 and 12 to 14 days late in filing two 24-hour contribution reports
 25 totaling \$2,007.79. For purposes of settlement these late filings are not being charged separately as the
 26 reports were filed prior to the election and reported on the applicable campaign statement also filed prior
 27 to the election.

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1 **Failure to Comply with Disclosure Requirements for Advertisements**

2 The Committee, Chandler, and Oster created and produced 250 window signs during its
3 campaign to support Measure V. The window signs were purchased on or around September 19, 2016
4 and were 12.5” in height and 18” in width. The window signs contained the following disclosure
5 statement, “Paid for by the Committee for YES on Measure V, sponsored by the Mountain View
6 Tenants Coalition FPPC ID# 1385025.” The disclosure statement was approximately 1/3 of an inch in
7 height.

8 To meet the 5% height requirement on a window sign that is 12.5” in height, the disclosure
9 statement must be at least 5/8 of an inch in height ($0.05 \times 12.5 = 0.625$). The disclosure statement
10 included on the Committee’s window signs were approximately 53% smaller than that required ($0.333 /$
11 $0.625 = 0.53$).

12 **Failure to Comply with Disclosure Requirements for Mass Mailings**

13 The Committee, Chandler and Oster created and produced two mailers during its campaign to
14 support Measure V. These mailers were produced and purchased by the Committee, Chandler, and Oster
15 between October 20, 2016 and November 3, 2016.

16 The Committee’s first mailer supporting Measure V was a two-sided postcard. The Committee
17 purchased approximately 13,831 copies of this postcard and paid Pacific Printing to mail the postcards
18 directly to voters. The first mailer contained the following disclosure statement, “Paid for by the
19 Committee for YES on Measure V, sponsored by the Mountain View Tenants Coalition FPPC ID#
20 1385025.” The disclosure statement did not include the Committee’s street address or city. The
21 disclosure statement should have read, “Paid for by the Committee for YES on Measure V sponsored by
22 the Mountain View Tenants Coalition – 511 Walker Drive #1, Mountain View, CA 94043.”

23 The Committee’s second mailer supporting Measure V was a two-sided postcard. The
24 Committee purchased approximately 11,887 copies of this postcard and paid Pacific Printing to mail the
25 postcards directly to voters. The second mailer contained a disclosure statement as follows:

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1 Major funding by the Committee for YES on Measure V, sponsored by
2 Mountain View Tenants Coalition
3 Causa Justa :: Just Cause
4 Service Employees International Union Local 1021
5 Bay Rising
6 FPPC ID# 1385025

7 The disclosure statement on the second mailer did not include the Committee's street address or
8 city and failed to include the words "Paid for by". The Committee included on the disclosure statement
9 the Committee's highest contributors. Since the Committee did not receive any contributions from a
10 single contributor that aggregated to be \$50,000 or more, the Committee was not required to include the
11 list of its highest contributors. The disclosure statement should have read, "Paid for by the Committee
12 for YES on Measure V sponsored by the Mountain View Tenants Coalition – 511 Walker Drive #1,
13 Mountain View, CA 94043."

14 VIOLATIONS

15 The Committee and Chandler

16 **Count 1: Failure to Accurately Report Contributions and Expenditures**

17 Throughout 2016 and on or around August 9, 2017, the Committee and Chandler failed to
18 accurately report monetary and non-monetary contributions received and expenditures made, in
19 violation of Government Code Section 84211, subdivisions (a) and (b).

20 The Committee, Chandler, and Oster

21 **Count 2: Failure to Comply with Disclosure Requirements for Advertisements**

22 On or around September 19, 2016, the Committee, Chandler, and Oster failed to meet the 5%
23 height requirement for the disclosure statement on the window signs, in violation of Government Code
24 Section 84504, subdivision (c), and Regulation 184504.4, subdivision (b)(3)(D).

25 **Count 3: Failure to Comply with Disclosure Requirements for Mass Mailings**

26 Between October 20, 2016 and November 3, 2016, the Committee, Chandler, and Oster failed to
27 include the Committee's street address or city on two mass mailings, in violation of Government Code
28 Section 84305.

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1 **PROPOSED PENALTY**

2 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
3 count. Thus, the maximum penalty that may be imposed here is \$15,000.²⁴

4 In determining the appropriate penalty for a particular violation of the Act, the Commission
5 considers the facts of the case, the public harm involved, and the purposes of the Act. Further, the
6 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
7 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
8 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
9 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
10 record of violations.²⁵

11 The public harm inherent in campaign reporting violations is that the public is deprived of
12 important, time-sensitive information regarding campaign activity. The campaign reporting violations
13 committed here are mitigated due to the Committee’s good faith effort in attempting to fully disclose the
14 Committee’s receipts and expenditures on timely filed campaign statements, filed prior to the election.

15 In this case, there was no evidence to support an intent to conceal, deceive or mislead the public
16 as to the Committee’s receipts and expenditures. Further, the evidence supports there was no intent to
17 conceal, deceive or mislead the public as to who produced the advertisement and mass mailings released
18 by the Committee, Chandler, and Oster because both the window sign and the mass mailings identified
19 the name of the Committee.

20 The violations here do not appear to be deliberate as the Committee and Chandler were not
21 sophisticated with the Act. Although, the violations here do appear to be negligent as Oster has prior
22 campaign experience and was a campaign consultant from October 2013 to November 2018. The
23 violations committed here were isolated as the Committee, Chandler, and Oster have not had prior
24 enforcement history.

25 The Commission considers penalties in prior cases with the same or similar violations and
26 comparable facts.

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28 ²⁴ Section 83116, subdivision (c).

²⁵ Regulation 18361. 5, subdivision (d).

1 **Count 1: Failure to Accurately Report Contributions and Expenditures**

2 *In the Matter of Elk Grove Education Association Political Action Committee, Kathleen Tijan,*
3 *Lee Ramaley, and Jeremy Roberts*; FPPC Case No. 16/19974. Respondents, a county general purpose
4 committee, its principal officers and treasurers, under reported contributions received on two campaign
5 statements. The total size of the committee in 2016 was reported as \$65,046 received in contributions
6 and \$110,620 spent in expenditures. Respondents under reported \$6,582 in contributions received on its
7 pre-election campaign statement (1 count) and \$13,214 in contributions received on its semi-annual
8 campaign statement (1 count). In aggravation, Respondents failed to report contributor information and
9 failed to include the required “Paid for by” language on two mass mailings. On December 21, 2017, the
10 Commission approved a total penalty of \$5,000 for these two counts; \$2,500 for each count.

11 A lesser penalty than that approved in the *Elk Grove* case is recommended. Like *Elk Grove*, the
12 Committee and Chandler inaccurately reported contributions received and expenditures made on filed
13 campaign statements. The Committee and Chandler under reported by approximately \$3,046.42 and
14 over reported approximately \$3,353.40 worth of contributions received and expenditures made
15 throughout 2016. Also, the Committee and Chandler failed to accurately report two non-monetary
16 contributions received in the amount of \$2,525. The total size of the Committee in 2016 was smaller
17 than the committee in *Elk Grove*, receiving only \$40,933.87 in contributions and spending \$40,823.79 in
18 expenditures. In aggravation, the Committee was late to file five 24-hour contribution reports, although
19 the Committee filed these reports prior to the election and three of the five reports were only one to two
20 days late. Also, in aggravation, the Committee was 13 days late to file a semi-annual campaign
21 statement, although this campaign statement had no activity to report. Lastly, in aggravation, the
22 Committee and Chandler were unable to produce all supporting records associated with deposits made
23 into the Committee’s campaign bank account. Therefore, a penalty of \$1,500 is recommended.

24 **Count 2: Failure to Comply with Disclosure Requirements for Advertisements**

25 *In the Matter of Citizens for a Safer Butte County*; FPPC Case No. 16/432. Respondents, a
26 general purpose committee and its treasurer, failed to meet the height requirements for its disclosure
27 statements on advertisements. Respondents had produced 80 campaign signs with disclosure statements
28 .339” in height. To meet the 5% height requirement, the disclosure statement was required to be 2.4” in

1 height. The disclosure statement provided was approximately 7 times smaller than what was required.
2 After receiving contact from Enforcement, Respondent's agreed to the issuance of a press release to
3 achieve disclosure prior to the election. On August 18, 2016, the Commission approved a penalty of
4 \$2,000.

5 A similar penalty than that approved in the *Butte* case is recommended. Like *Butte*, the
6 Committee, Chandler, and Oster failed to meet the height requirements for its disclosure statements on
7 advertisements. In mitigation, the disclosure statement here was about half the size than that required
8 whereas *Butte's* were drastically undersized. In aggravation, the Committee, Chandler, and Oster were
9 not able to amend its disclosure statement prior to the election where *Butte* agreed to the issuance of a
10 press release. Therefore, a penalty of \$2,000 is recommended.

11 **Count 3: Failure to Comply with Disclosure Requirements for Mass Mailings**

12 *In the Matter of Dan Roundtree for Thousand Oaks City Council 2015, Dan Roundtree, and*
13 *Darby Levin*, FPPC No. 15/701. Respondents, an unsuccessful candidate for City Council, his
14 controlled-committee, and campaign manager, sent out a mass mailing that failed to include the address
15 or correct name of the committee on the outside of each piece. The mailer was mailed to 14,700 voters
16 and did not include the committee's name, street address, or "paid for by" language. The envelope of
17 this mailer gave the appearance the documents inside were an electoral informational communication, as
18 opposed to a paid, candidate mailer. The mailer advocated for the election of the candidate. In March,
19 2018, the Commission approved a penalty of \$3,500 for this count.

20 A lesser penalty than that approved in the *Roundtree* case is recommended. Unlike *Roundtree*,
21 the Committee, Chandler and Oster produced and released two mass mailings. The first mass mailer
22 properly included the Committee's name but failed to include the Committee's street address or city.
23 The Committee, Chandler and Oster sent 13,831 copies of this mailer to voters. The second mass mailer
24 included the Committee's name, although, the name used was not the Committee's correct name as
25 shown on the statement of organization but an extended version including some of the Committee's
26 highest contributors. Like *Roundtree*, the Committee, Chandler, and Oster also failed to include the
27 "paid for by" language on the second mailer. Instead, the Committee, Chandler, and Oster included the
28 language "major funding by". The Committee, Chandler, and Oster sent 11,887 copies of the second

1 mailer to voters. In mitigation, unlike the mass mailing in *Roundtree*, the mass mailings here did not
2 have the appearance of being an electoral information communication as the mass mailings were not
3 labeled as such. Therefore, a penalty of \$2,500 is recommended.

4 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
5 in the amount of \$6,000 is justified, as reflected in the chart below:

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Count	Violation	Penalty
1	Failure to Accurately Report Contributions and Expenditures	\$1,500
2	Failure to Comply with Disclosure Requirements for Advertisements	\$2,000
3	Failure to Comply with Disclosure Requirements for Mass Mailings	\$2,500
	TOTAL	\$6,000

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11 **CONCLUSION**

12 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
13 Respondents, the Committee for Yes on Measure V sponsored by the Mountain View Tenants Coalition,
14 Steve Chandler, and Mitchell Oster, hereby agree as follows:

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

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

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

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

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19 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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22 Dated: _____

Steve Chandler, individually and on behalf of
the Committee for Yes on Measure V sponsored by the
Mountain View Tenants Coalition,
Respondents

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26 Dated: _____

Mitchell Oster, Respondent

1 The foregoing stipulation of the parties “In the Matter of the Committee for Yes on Measure V
2 sponsored by the Mountain View Tenants Coalition, Steve Chandler, and Mitchell Oster,” FPPC Case
3 No. 17/1081, is hereby accepted as the final decision and order of the Fair Political Practices
4 Commission, effective upon execution by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

Richard C. Miadich, Chair
Fair Political Practices Commission

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