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8
9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
10 STATE OF CALIFORNIA

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12 In the Matter of:

13 KAYLA JONES FOR SEASIDE CITY
COUNCIL 2016, KAYLA JONES, and
14 RYAN GIBSON,

15 Respondents.
16

FPPC No. 18/1090

STIPULATION, DECISION, AND ORDER

17 **INTRODUCTION**

18 Respondent Kayla Jones (“Jones”) was an unsuccessful candidate for Mayor of City of Seaside
19 in the November 6, 2018 General Election. Respondent Kayla Jones for Seaside City Council 2016 (the
20 “Committee”) was her candidate-controlled committee. Respondent Ryan Gibson (“Gibson”) was the
21 Committee’s treasurer at all relevant times. Jones and Gibson violated the Political Reform Act (the
22 “Act”),¹ by failing to open a separate controlled committee and separate bank account for Jones’s mayoral
23 campaign in 2018. The Committee, Jones, and Gibson violated the Act by failing to timely file semi-
24 annual campaign statements and failing to timely file 24-hour contribution reports.

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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 **SUMMARY OF THE LAW**

2 The violations in this case occurred in 2018 and 2019, and all legal references and discussions of
3 law pertain to the Act’s provisions as they existed at that time.

4 Need for Liberal Construction and Vigorous Enforcement of the Act

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

12 Committees

13 A committee will qualify as a “recipient committee” when it receives \$2,000 or more in
14 contributions during a single calendar year.⁶ A committee is a “controlled committee” when it is
15 controlled directly or indirectly by a candidate.⁷

16 Redesignating Committees

17 A committee must file an original statement of organization with the Secretary of State (“SOS”)
18 and a copy with the local filing officer.⁸ The original and copy must be filed within 10 days after the
19 committee has qualified as a committee.⁹

20 An individual who intends to be a candidate for elective local office must file a statement of
21 intention with the local filing officer.¹⁰ Upon filing the statement of intention, the individual must
22 establish one campaign contribution account at a bank located in the state.¹¹ A candidate who is required
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24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (a).

27 ⁵ Section 81002, subd. (f).

28 ⁶ Section 82013, subd. (a).

⁷ Section 82016, subd. (a).

⁸ Section 84101, subd. (a).

⁹ *Id.*

¹⁰ Section 85200.

¹¹ Section 85201, subd. (a).

1 to file a statement of organization for a controlled committee must establish a separate controlled
2 committee and campaign bank account for each specific office identified in statements of intention.¹²

3 A controlled committee and campaign bank account established for an elective local office may
4 be redesignated as a campaign bank account for a future election if: (1) the future election is for the same
5 elective office; (2) the funds in the campaign bank account/committee are not considered “surplus
6 campaign funds;” (3) the candidate amends the statement of organization for the committee to reflect the
7 redesignation for the future election; (4) the candidate files a new statement, signed under penalty of
8 perjury, of intention to be a candidate for the specific future election; and (5) redesignation of
9 committee/bank accounts is not otherwise prohibited by law.¹³

10 Semi-Annual Campaign Statements

11 A controlled committee must file two semi-annual campaign statements each year no later than
12 July 31 for the period ending June 30 and no later than January 31 for the period ending December 31.¹⁴
13 If a committee has not previously filed a campaign statement, the period covered by the first campaign
14 statement begins on January 1.¹⁵

15 24-Hour Contribution Reports

16 A late contribution is a contribution that totals in the aggregate \$1,000 or more that is made to or
17 received by a candidate, a controlled committee, or a primarily formed committee during the 90-day
18 period preceding the date of the election, or on the date of the election, at which the candidate or measure
19 is to be voted on.¹⁶ Each candidate or committee that makes or receives a late contribution must report it
20 to its filing officer within 24 hours of the time it is made or received.¹⁷

21 The 90-day period prior to the November 6, 2018 election began on August 8, 2018.

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26 ¹² Regulation 18521, subd. (a).

27 ¹³ Regulation 18521, subd. (b).

28 ¹⁴ Section 84200, subd. (a).

¹⁵ Section 82046, subd. (b).

¹⁶ Section 82036, subd. (a).

¹⁷ Section 84203.

1 Joint and Several Liability

2 It is the duty of a candidate to ensure that the committee complies with the Act.¹⁸ A treasurer and
3 candidate may be held jointly and severally liable, along with the committee, for violations committed
4 by the committee.¹⁹

5 **SUMMARY OF THE FACTS**

6 Jones was elected to be a member of the Seaside City Council on November 8, 2016. The
7 Committee was opened to support Jones’s campaign in 2016. The Committee’s previous treasurer
8 resigned in February 2017. Gibson assumed the role of treasurer soon after and filed all subsequent
9 campaign statements and reports since February 2017.

10 On March 26, 2018, Jones filed a statement of intention with the Seaside City Clerk to declare
11 her candidacy for Mayor of Seaside in the November 6, 2018 General Election. Jones and Gibson did not
12 create a separate committee or campaign bank account for the 2018 mayoral campaign. Instead, Jones
13 and Gibson attempted to redesignate the Committee and campaign bank account for the 2018 mayoral
14 campaign with an amended statement of organization.

15 SOS returned the amended statement of organization; informed Jones and Gibson that the
16 redesignation was prohibited by Regulation 18521(b)(1), as a different elective office was sought; and
17 instructed them to form a new committee and open a separate campaign bank account for the 2018
18 mayoral campaign. Jones and Gibson should have opened a separate committee or campaign bank
19 account for the 2018 mayoral campaign on or around March 26, 2018 when Jones filed the statement of
20 intention for the 2018 General Election but never did so. Jones and Gibson did not file another statement
21 of organization with SOS until it terminated the Committee as of December 31, 2018.

22 Additionally, the Committee, Jones, and Gibson failed to timely file some campaign statements,
23 as shown in the following chart:

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28 ¹⁸ Sections 81004 and 84104; Regulation 18427.

¹⁹ Sections 83116.5 and 91006.

Type	Reporting Period	Date Due	Date Filed	Activities
Semi-annual	July 1, 2017 - December 31, 2017	January 31, 2018	October 4, 2018 (246 days late)	\$0 contributions \$476.44 expenditures
Semi-annual	January 1, 2018 - June 30, 2018	July 31, 2018	October 2, 2018 (63 days late)	\$2,540 contributions \$2,876.32 expenditures
Pre-election	July 1, 2018 - September 22, 2018	September 27, 2018	September 28, 2018 (1 day late)	\$10,062 contributions \$8,949.30 expenditures
Pre-election	September 23, 2018 - October 20, 2018	October 25, 2018	October 26, 2018 (1 day late)	\$4,546 contributions \$3,596 expenditures
Semi-annual	October 21, 2018 - December 31, 2018	January 31, 2019	June 30, 2020 (516 days late)	\$3,409 contributions \$5,752.09 expenditures

The Committee, Jones, and Gibson also failed to timely file two 24-hour contribution reports, as shown in the following chart:

Date Received	Contributor	Amount	Date Due	Date Filed
September 4, 2018	William Weigle	\$1,000	September 5, 2018	October 2, 2018
October 18, 2018	Democratic Women of Monterey County	\$1,000	October 19, 2018	Not filed

The \$2,000 late contributions that were not timely reported on 24-hour contribution reports account for 9.45 percent of the \$21,173.71 in total campaign activities for Jones's 2018 campaign.

VIOLATIONS

Count 1: Failure to Open a Separate Controlled Committee and Separate Bank Account

Jones and Gibson failed to open a separate controlled committee and separate campaign bank account in connection with Jones's 2018 candidacy for Mayor of Seaside, on or around March 26, 2018, in violation of Government Code Sections 84101 and 85201; and Regulation 18521.

Count 2: Failure to Timely File Semi-Annual Campaign Statements

The Committee, Jones, and Gibson failed to timely file three semi-annual campaign statements for the reporting periods covering July 1, 2017 through December 31, 2017 by January 31, 2018; January 1, 2018 through June 30, 2018 by July 31, 2018; and October 21, 2018 through December 31, 2018 by January 31, 2019, in violation of Government Code Section 84200.

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

The Committee, Jones, and Gibson failed to timely file 24-hour contribution reports for two late contributions of \$1,000 that were received on September 4, 2018 and October 18, 2018, in violation of Government Code Section 84203.

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 is \$15,000.

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 purpose of the Act. Also, 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 amendments
9 voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of
10 violations.²⁰

11 The Act requires candidates for elective local office to open separate controlled committees and
12 separate campaign bank accounts for each elective office. By failing to do so, Jones and Gibson caused
13 public harm because this violation leads to difficulties in auditing and substantiating campaign reporting.
14 Additionally, the reporting violations resulted in a lack of timely disclosures regarding Jones’s campaign
15 activities prior to and after the 2018 election cycle. The Enforcement Division has not found evidence of
16 any intention to conceal, deceive, or mislead, and the violations seem to have been negligent at best,
17 particularly since Jones was an experienced candidate who should have known about the filing
18 obligations. In mitigation, the Committee, Jones, and Gibson do not have a prior enforcement history,
19 disclosed the two late contributions prior to the election, and terminated the Committee. In aggravation,
20 the Committee, Jones, and Gibson failed to timely file an amended statement of organization to name
21 Gibson as the Committee’s treasurer as of 2017 and failed to timely file two pre-election campaign
22 statements for the November 6, 2018 General Election by a day each.

23 The Commission also considers penalties in prior cases with comparable violations. Recent cases
24 with a similar violation include the following:

25 Count 1

26 *In the Matter of Henry Jones for CalPERS 2015 (ID# 1297427) and Henry Jones*; FPPC No.
27 18/109. (The Commission approved a stipulated agreement on April 16, 2020.) Respondents re-

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²⁰ Regulation 18361.5, subd. (d).

1 designated the Committee, which was formed to support Jones’s candidacy for elective state office in
2 2007, for his re-election campaign in 2015. The Act prohibits redesignation of committees by candidates
3 for elective state office at the state level. The Respondents used the same campaign committee and same
4 designated campaign bank account for Jones’s elections in 2007, 2011, and 2015. The Commission
5 approved a penalty of \$2,000 for this violation.

6 The prohibition against redesignating committees by candidates for elective state office also is
7 stated in Regulation 18521. As in *Henry Jones*, the Committee, Jones, and Gibson redesignated the
8 Committee in violation of the Act but also terminated the Committee. For these reasons, a penalty of
9 \$2,000 is recommended.

10 Count 2

11 *In the Matter of Lenet Pacheco, L. Pacheco for VCWD B-Member 2013, L. Pacheco 4 Valley*
12 *County Water District 2018, and Ricardo Pacheco*; FPPC No. 18/1045. (The Commission approved a
13 stipulated agreement on May 21, 2020.) Respondents late-filed three semi-annual campaign statements
14 for the reporting periods ending on December 31, 2017; June 30, 2018; and December 31, 2018. These
15 campaign statements were filed five to 76 days late and reported \$1,250 to \$17,500 in activities. The
16 campaign statements that were due prior to the November 6, 2018 General Election were filed prior to
17 the election. The Commission approved a penalty of \$2,000 for this violation.

18 The Committee, Jones, and Gibson late-filed the same three semi-annual campaign statements as
19 in *Pacheco*, but filed them much later, 63 to 516 days late. Additionally, as in *Pacheco*, the campaign
20 statements that were due prior to the November 6, 2018 General Election were filed prior to the election.
21 The post-election semi-annual campaign statement for the period ending on December 31, 2018 was filed
22 after the Committee, Jones, and Gibson received contact from the Enforcement Division. In mitigation,
23 the Committee, Jones, and Gibson reported \$476.44 to \$5,72.09 in activities, amounts notably less than
24 in *Pacheco* and also terminated the Committee. A penalty of \$2,000 is recommended.

25 Count 3

26 *In the Matter of Greg Rodriguez for 42nd State Assembly, 2016 and Greg Rodriguez*; FPPC No.
27 18/179. (The Commission approved a stipulated agreement on January 15, 2020.) Respondents failed to
28 timely file 24-hour reports for three late contributions totaling \$3,473: aggregated late contribution of

1 \$1,100, aggregated late contribution of \$1,373, and late contribution of \$1,000. However, most of the
2 aggregated contributions and the \$1,000 late contribution were disclosed on pre-election campaign
3 statements. The Commission approved a penalty of \$2,000 for this violation.

4 The Committee, Jones, and Gibson failed to disclose a similar number of late contributions
5 totaling a similar amount as in *Rodriguez*. Like *Rodriguez*, the Committee, Jones, and Gibson also
6 disclosed both late contributions on pre-election campaign statements. In mitigation, the Committee,
7 Jones, and Gibson late-filed a 24-hour late contribution report for the late contribution received from
8 William Weigle prior to the election. In further mitigation, the Democratic Women of Monterey County
9 timely filed a 24-hour late contribution report its late contribution to the Committee prior to the election.
10 Considering the circumstances, a penalty of \$1,500 is recommended.

11 In summary, the following penalties are recommended:

Count #	Violation	Penalty Amount
1	Failure to Open a Separate Controlled Committee and Separate Bank Account	\$2,000
2	Failure to Timely File Campaign Statements	\$2,000
3	Failure to Timely File 24-Hour Reports	\$1,500
	Total:	\$5,500

17 CONCLUSION

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Kayla Jones for Seaside City Council 2016, Kayla Jones, and Ryan Gibson hereby agree as
20 follows:

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

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

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

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

8 5. The Respondents agree to the issuance of the decision and order set forth below. Also, the
9 Respondents agree to the Commission imposing against it an administrative penalty in the amount of
10 \$5,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General
11 Fund of the State of California—is/are submitted with this stipulation as full payment of the
12 administrative penalty described above, and same shall be held by the State of California until the
13 Commission issues its decision and order regarding the matter.

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

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

Dated: _____
Galena West, Chief of Enforcement
Fair Political Practices Commission

Dated: _____
Kayla Jones, individually and on behalf of Kayla Jones
for Seaside City Council 2016

Dated: _____
Ryan Gibson, individually and on behalf of Kayla Jones
for Seaside City Council 2016

1 The foregoing stipulation of the parties “In the Matter of Kayla Jones for Seaside City Council
2 2016, Kayla Jones, and Ryan Gibson,” FPPC No. 18/1090, is hereby accepted as the final decision and
3 order of the Fair Political Practices Commission, effective upon execution below by the Chair.
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5 IT IS SO ORDERED.
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7 Dated: _____

_____ Richard C. Miadich, Chair
8 Fair Political Practices Commission
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