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11 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
12 STATE OF CALIFORNIA

13 In the Matter of:

14 Clint Olivier, Clint Olivier for Assembly
15 2016 and Richard Egan,
16 Respondents.

FPPC Case No. 19/357

STIPULATION, DECISION AND ORDER

17
18 **INTRODUCTION**

19 Clint Olivier was a member of the Fresno City Council from 2010 to 2018. Olivier was a successful
20 candidate for the California State Assembly in the June 7, 2016 Primary Election but unsuccessful for the
21 California State Assembly in the November 8, 2016 General Election. Olivier was an unsuccessful
22 candidate for the California State Assembly in the April 5, 2016 Special Election. Clint Olivier for
23 Assembly 2016 Special (“Special Committee”) was his candidate-controlled committee for the Special
24 Election. Clint Olivier for Assembly 2016 (“Assembly 2016 Committee”) was his candidate-controlled
25 committee for the Primary Election. At all relevant times, Richard Egan was the treasurer for each
26 committee.
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1 This matter is the result of an FTB Audit of the Assembly 2016 Committee for the period January
2 1, 2015, through April 23, 2016 and a complaint. During the audit period, Assembly 2016 Committee
3 received \$156,311, and made expenditures of \$157,652. A Probable Cause Report was issued in this matter,
4 effectively tolling the statute of limitations.

5 SUMMARY OF THE LAW

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

7 When enacting the Political Reform Act, the people of California found and declared that previous
8 laws regulating political practices suffered from inadequate enforcement by state and local authorities.¹
9 Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”²

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 so that voters are fully informed and improper
12 practices are inhibited.³ Along these lines, the Act includes a comprehensive campaign reporting system.⁴
13 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
14 “vigorously enforced.”⁵

15 **Pre-Election Campaign Statements**

16 The Act requires candidates, their controlled committees, and the treasurers of those committees,
17 to file campaign statements at specific times disclosing information regarding contributions received and
18 expenditures made by their committees. When a candidate runs for an office, all of the candidate’s open
19 committees must file pre-election campaign statements. A controlled committee must file two pre-election
20 campaign statements before the election in which the candidate is listed on the ballot.⁶ A committee must
21 file a first pre-election campaign statement for the period ending 45 days before the election no later than
22 40 days before the election.⁷ A committee must also file a second pre-election campaign statement for the
23 period ending 17 days before the election no later than 12 days before the election.⁸

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25 _____
26 ¹ Section 81001, subd. (h).

27 ² Section 81003.

28 ³ Section 81002, subd. (a).

⁴ Sections 84200, *et seq.*

⁵ Section 81002, subd. (f).

⁶ Section 84200.5, subd. (a).

⁷ Section 84200.8, subd. (a).

⁸ Section 84200.8, subd. (b).

1 **Duty to Timely File 24-Hour Contribution Reports**

2 When a candidate runs for an office, the candidate’s open committees must file 24-Hour
3 Contribution Reports if a late contribution is received during the late contribution reporting period. Under
4 the Act, a late contribution is a contribution from a single source that a candidate or candidate controlled
5 committee receives totaling \$1,000 or more in the 90 days before the date of the election or on the date of
6 the election.⁹ A candidate or controlled committee that receives a late monetary contribution shall report
7 this contribution on a 24-Hour Contribution Report within 24 hours of receipt.¹⁰ The late contribution
8 reporting period in connection with the April 5, 2016 Special Election was January 1, 2016, through April
9 5, 2016.

10 **Liability**

11 Under the Act, it is the duty of the candidate and treasurer of a controlled committee to ensure that
12 the committee complies with all the requirements of the Act concerning the receipt, expenditure, and
13 reporting of funds.¹¹ The candidate and treasurer may be held jointly and severally liable, along with the
14 committee, for violations committed by the committee.¹²

15 **SUMMARY OF THE FACTS**

16 Olivier was an unsuccessful candidate for the California State Assembly in the April 5, 2016
17 Special Election. Olivier was a successful candidate for the California State Assembly in the June 7, 2016
18 Primary Election but unsuccessful for the California State Assembly in the November 8, 2016 General
19 Election. The Assembly 2016 Committee qualified as a committee on May 18, 2015. The Assembly 2016
20 Committee failed to timely file the pre-election campaign statement due February 25, 2016, which was
21 triggered by the April 5, 2016 Special Election. The Assembly 2016 Committee filed the pre-election
22 campaign statement 12 days late on March 8, 2016. The Assembly 2016 Committee disclosed \$14,900 in
23 contributions received and \$128,658 in expenditures on this campaign statement.

24 Further, the Assembly 2016 Committee, Olivier and Egan failed to timely file six 24-Hour
25 Contribution Reports disclosing seven late contributions received during the late contribution reporting
26

27 ⁹ Section 82036.

28 ¹⁰ Section 84203.

¹¹ Sections 81004, 84100 84213, and Regulation 18427.

¹² Sections 83116.5 and 91006.

1 period preceding the April 5, 2016 Special Election. The following chart details the late contributions
 2 received by the Assembly 2016 Committee:

Date the Late Contribution was Received by Assembly 2016 Committee	Filing Deadline	Date Filed	Contributor	Amount of the Late Contribution
January 14, 2016	January 15, 2016	Not Filed	J & J Farms	\$1,000
January 16, 2016	January 17, 2016	Not Filed	Friends of Frank Bigelow for Assembly 2016	\$4,200
January 20, 2016	January 21, 2016	Not Filed	Kevin McCarthy for Congress	\$4,200
January 26, 2016	January 27, 2016	Not Filed	Fortune Family Farms	\$1,000
			Marc T Steinorth	\$4,200
February 24, 2016	February 25, 2016	Not Filed	Olsen for Assembly 2014	\$4,200
February 25, 2016	February 26, 2016	Not Filed	Greg Musson	\$5,000
			Total:	\$23,800

15 **VIOLATIONS**

16 Count 1: Failure to Timely File a Pre-Election Campaign Statement

17 The Assembly 2016 Committee, Olivier and Egan failed to timely file a Pre-Election campaign
 18 statement, in violation of Sections 84200.5 and 84200.8.

19 Count 2: Failure to Timely File Six 24-Hour Contribution Reports

20 The Assembly 2016 Committee, Olivier and Egan failed to timely file six 24-Hour Contribution
 21 Reports disclosing 7 late contributions received during the late contribution reporting period, in violation
 22 of Section 84203.

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1 **PROPOSED PENALTY**

2 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per count,
3 for a maximum of \$10,000 here.¹³

4 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
5 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
6 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers
7 the facts and circumstances of the violation in the context of the following factors set forth in Regulation
8 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the specific
9 violation; (2) The level of experience of the violator with the requirements of the Political Reform Act;
10 (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence or absence of
11 any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate, negligent or
12 inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission staff or any
13 other governmental agency in a manner not constituting complete defense under Government Code Section
14 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the violator has a prior
15 record of violations of the Political Reform Act or similar laws; and (8) Whether the violator, upon learning
16 of a reporting violation, voluntarily filed amendments to provide full disclosure.¹⁴

17 This case does not qualify for the Streamline Program because they had over \$100,000 in
18 expenditures on the relevant pre-election campaign statement.

19 The public harm inherent in campaign reporting violations is that the public is deprived of
20 important, time-sensitive information regarding campaign activity. Generally, these types of violations are
21 considered more serious when the public is deprived of information that was required to be disclosed prior
22 to an election. In this case, the pre-election campaign statement was filed prior to the Special Election,
23 albeit late. Olivier had served on the Fresno City Council for 8 years. However, based on the fact that the
24 Assembly 2016 Committee timely filed other campaign statements, Olivier and Egan’s actions appear to
25 be negligent, as opposed to intentional or with an intent to conceal. Egan contends he was not aware that
26 the Special Election triggered pre-election campaign statements or 24-Hour Reports for his Assembly 2016
27

28 ¹³ See Section 83116, subdivision (c).

¹⁴ Regulation 18361.5, subdivision (e).

1 Committee Further, Olivier does not have a prior record of violations and filed the pre-election campaign
2 statement when contacted by the Enforcement Division.

3 The Commission considers penalties in prior cases involving similar violations.

4 For Count 1, a comparable case involving the failure to timely file a pre-election campaign
5 statement is as follows:

6 *In the Matter of Committee to Re-Elect David L. Boyd Orange County Board of Education Trustee*
7 *Area Two—2018 and David Boyd*; FPPC No. 18/713. Respondents, a candidate and his controlled
8 committee, failed to timely file one pre-election campaign statement, disclosing \$16,561 in contributions
9 received and \$54,115 in expenditures made. Boyd acted as his own treasurer. This pre-election campaign
10 statement was filed 8 days late, but prior to the election, in violation of Sections 84200.5 and 84200.8. In
11 February 2019, the Commission approved a penalty of \$2,500 on one count.

12 In the current case, the Assembly 2016 Committee, Egan and Olivier failed to timely disclose
13 \$14,900 in contributions received and \$128,658 in expenditures on this pre-election campaign statement,
14 which is a larger amount than the statement at issue in the comparable case. Similar to the *Boyd* case,
15 Olivier had prior experience with filing requirements. However, in the current case, Olivier hired a
16 professional treasurer to assist with filings. Further, Egan contends he was not aware that the Special
17 Election triggered pre-election campaign statements for the Assembly 2016 Committee. Similar to the
18 *Boyd* case, even though the pre-election campaign statement was filed 12 days late, the campaign statement
19 was filed prior to the Special Election and the Primary Election. Additionally, the second pre-election
20 campaign statement was timely filed. As such, a lower penalty in the amount of \$2,000 is recommended.

21 For Count 2, a comparable case involving the failure to timely file 24-Hour Contribution Reports
22 is as follows:

23 *In the Matter of Alejo for Assembly 2014 and Alejo*, FPPC No. 16/188, in November 2018, the
24 Commission approved a \$3,000 penalty for Count 2 including failing to timely file three 24-Hour
25 Contribution Reports totaling \$36,000, of which \$35,000 was not disclosed until after the relevant election.
26 For one additional count in Alejo, the Commission approved a \$2,000 penalty which included eight
27 untimely filed 24-Hour Contribution Reports totaling \$18,400. Five of the eight 24-Hour Reports were
28 filed late, but before the election. Of the total amount in Count 2, \$15,420 was disclosed prior to the

1 election.

2 In the current case, there were six 24-Hour Contribution Reports that should have been filed within
3 24 hours of receipt, disclosing seven contributions. In total, the Assembly 2016 Committee failed to
4 disclose \$23,800 in late contributions received during the late filing period prior to the Special Election.
5 This amount is less than the amount not disclosed in Count 1 in the *Alejo* case, but more than Count 2 for
6 that case. Similar to the *Alejo* case, these contributions were disclosed on pre-election campaign statements
7 prior to the Special Election, except for one in the amount of \$5,000. The \$5,000 contribution was disclosed
8 prior to the June Election. Additionally, the amount of \$5,000 not disclosed prior to the Special Election is
9 much lower than in the amounts undisclosed prior to the election in the *Alejo* case. Further, Egan contends
10 he was not aware that the Special Election triggered pre-election campaign statements and 24-Hour Reports
11 for the Assembly 2016 Committee. As such, a penalty of \$2,500 is recommended.

12 After consideration of the factors in Regulation 18361.5 and penalties in prior similar cases, a
13 penalty of \$4,500 is recommended.

14 CONCLUSION

15 Complainant, the Enforcement Division of the Fair Political Practices Commission, Clint Olivier,
16 Clint Olivier for Assembly 2016 and Richard Egan 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 are represented by Brian Hildreth with Bell, McAndrews, and Hiltachk.
25 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural rights set
26 forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is
27 not limited to the right to appear personally at any administrative hearing held in this matter, to be
28 represented by an attorney at Respondents' own expense, to confront and cross-examine all witnesses

1 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative
2 law judge preside over the hearing as a hearing officer, and to have the matter judicially 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 \$4,500. One or more payments totaling said amount—to be paid to the General Fund of the State of
6 California—is/are submitted with this stipulation as full payment of the administrative penalty described
7 above, and same shall be held by the State of California until the Commission issues its decision and order
8 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 before
13 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
14 shall be disqualified because of prior consideration of this Stipulation.

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

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19 Dated: _____

Angela J. Brereton, Chief of Enforcement
Fair Political Practices Commission

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22 Dated: _____

Clint Olivier, individually and on behalf of Clint Olivier for
Assembly 2016

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25 Dated: _____

Richard Egan, individually and on behalf of Clint Olivier
for Assembly 2016

1 The foregoing stipulation of the parties “In the Matter of Clint Olivier for Assembly 2016, Clint
2 Olivier and Richard Egan,” FPPC Case No. 19/357 is hereby accepted as the final decision and order of
3 the Fair Political Practices Commission, effective upon execution below by the Chair.

4
5 IT IS SO ORDERED.

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7 Dated: _____

_____ Richard C. Miadich, Chair
Fair Political Practices Commission