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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

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11 In the Matter of:

12 RE-ELECT LIZ KNISS FOR CITY
COUNCIL 2016 and LIZ KNISS,

13 Respondents.
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FPPC Case No. 17/114

STIPULATION, DECISION AND ORDER

17
18 **INTRODUCTION**

19 Re-Elect Liz Kniss for City Council 2016 (the “Committee”) is a controlled committee formed for
20 the re-election of Liz Kniss to Palo Alto City Council. Elizabeth (Liz) Kniss was the controlling incumbent
21 officeholder and Tom Collins (“Collins”) was the treasurer. Collins has passed away and is not named as
22 a respondent. The Committee reported receiving a total of \$71,823.44 in contributions, and \$69,931.22 in
23 expenditures during the campaign.

24 From August 2016 through November 2016, Kniss used personal funds to pay for permissible
25 campaign expenses without first depositing the respective funds in the campaign bank account, as required.
26 Instead, Collins used campaign funds to reimburse Kniss for campaign expenses.

27 The Committee timely filed its three required campaign statements. However, on each campaign
28 statement, the Committee failed to disclose pertinent information about some of its contributors who

1 contributed \$100 or more. As a result of the foregoing, the Committee and Kniss violated the Political
2 Reform Act (the “Act”).¹

3 **SUMMARY OF THE LAW**

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

5 When enacting the Political Reform Act, the people of California found and declared that previous
6 laws regulating political practices suffered from inadequate enforcement by state and local authorities.²
7 Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”³

8 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
9 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
10 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵
11 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
12 “vigorously enforced.”⁶

13 **One Committee Bank Account Rule**

14 Once an individual files a statement of intention of candidacy, that individual must establish one
15 campaign contribution account with a financial institution within the state.⁷ All contributions or loans made
16 to the candidate in contribution to the candidate’s campaign efforts must be deposited into the single
17 campaign contribution account. All expenditures must be made from the campaign account and any
18 personal funds used for the election of the candidate must be deposited in the campaign bank account
19 before being used for expenditures.⁸

20 **Disclosure of Contributor Information**

21 For each campaign statement that a committee is required to file, the committee must disclose
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24 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 81000
25 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission are
26 contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to
27 this source.

28 ² Section 81001, subd. (h).

³ Section 81003.

⁴ Section 81002, subd. (a).

⁵ Sections 84200, *et seq.*

⁶ Section 81002, subd. (f).

⁷ Section 85201, subd. (a) and Regulation 18521, subd. (a).

⁸ Section 85201, subd. (d) and (e).

1 certain information about contributors who contribute a cumulative amount of \$100 or more.⁹ Under
2 Section 84211, subdivision (f), the committee must disclose the following about these contributors: (1) the
3 contributor's full name; (2) the contributor's street address; (3) the contributor's occupation; (4) the name
4 of the contributor's employer, or if he or she is self-employed, the name of the business; (5) the date and
5 amount received during the period covered by the campaign statement; and (6) the cumulative amount of
6 contributions.

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

8 It is the duty of a committee treasurer and the candidate to ensure that the committee complies with
9 the Act's campaign reporting.¹⁰ A treasurer and candidate may be held jointly and severally liable with the
10 committee for violations committed by the committee.¹¹

11 **SUMMARY OF THE FACTS**

12 Kniss has served as an elected public official since the 1980s, and she continues to serve in such
13 roles. The Committee was formed to support the re-election of Kniss to the Palo Alto City Council in the
14 November 8, 2016 General Election. Kniss's campaign was successful and Kniss was re-elected.
15 According to campaign statements, the Committee received a total of \$71,823.44 in contributions and
16 issued a total of \$69,931.22 in expenditures between July 1, 2016 and December 31, 2016.

17 Failure to Use Funds from One Committee Bank Account for Campaign Expenses

18 Between August 30, 2016 and November 30, 2016, Kniss charged 24 transactions totaling
19 \$7,241.39 in campaign-related expenses to her personal credit card. Kniss also paid \$1,876.01 for
20 campaign printing using a check from her personal bank account.

21 In total, Kniss' expenditures from personal accounts amounted to \$9,117.40.

22 Campaign Expenditures Reimbursed to Kniss

23

	Date	Purchase	Amount
24	1 08/30/2016	Facebook	\$25.31
25	2 09/12/2016	GoDaddy	\$300.17
26	3 09/13/2016	Branding Boulevard	\$173.13
27	4 09/17/2016	GoDaddy	\$9.98
28	5 09/18/2016	NationBuilder	\$199.00

⁹ Section 84211, subd. (f).

¹⁰ Sections 81004, 84100, 84104, and Regulation 18427.

¹¹ Sections 83116.5 and 91006.

	Date	Purchase	Amount
6	09/30/2016	Facebook	\$23.58
7	10/11/2016	Facebook	\$49.84
8	10/12/16	Pacific Printing	\$1,876.01
9	10/13/2016	Capitol Promotions Inc.	\$565.67
10	10/17/2016	GoDaddy	\$9.98
11	10/17/2016	Facebook	\$27.25
12	10/17/2016	Facebook	\$222.80
13	10/18/2016	NationBuilder	\$199.00
14	10/19/2016	Facebook	\$47.27
15	10/19/2016	Facebook	\$454.28
16	10/26/2016	Embarcadero Media	\$1,695.60
17	10/27/2016	Facebook	\$69.42
18	10/27/2016	Facebook	\$680.82
19	10/27/2016	Sing Tao Newspapers	\$1,440.00
20	10/31/2016	Facebook	\$420.45
21	10/31/2016	Facebook	\$66.56
22	11/17/2016	GoDaddy	\$9.98
23	11/18/2016	NationBuilder	\$199.00
24	11/30/2016	Facebook	\$11.58
25	11/30/2016	Facebook	\$340.72
		Total	\$9,117.40

On campaign statements filed for three reporting periods between July 1, 2016 and December 31, 2016, the Committee reported issuing reimbursements to Kniss for permissible campaign expenses.

Failure to Disclose Contributor Information

On three campaign statements filed during Kniss’s campaign, the Committee failed to disclose the employers and occupations for contributors who contributed an aggregate of \$100 or more. On the pre-election statement for the reporting period of July 1, 2016 through September 24, 2016, the Committee failed to disclose 12 required contributors’ employers and/or occupations. On its pre-election statement for the reporting period of September 25, 2016 through October 22, 2016, the Committee failed to disclose five required contributors’ employers and/or occupations. On its semi-annual statement for the period of October 23, 2016 through December 31, 2016, the Committee failed to disclose 18 required employers and 19 required occupations for contributors.

Filing Period	Number Undisclosed Emp.	Number Undisclosed Occ.	Total Contributions From Contributors with Undisclosed Emp/Occ	Total Contributions for Reporting Period	Percentage of Total Contributions
07/01/2016 to 09/24/2016	12	12	\$3,150	\$46,159.44	6.82%
09/25/2016 to 10/22/2016	5	5	\$650	\$7,999.00	8.1%
10/23/2016 to 12/31/2016	18	19	\$10,391	\$17,665	58.82%
Totals	35	36	\$14,191	\$71,823.44	19.76%

Although the Committee had some additional reporting failures, these violations are not being charged for settlement purposes.

VIOLATIONS

Count 1

Violation of One Bank Account Rule

The Committee and Kniss failed to maintain the use of one campaign bank account for \$9,117.40 in campaign expenses, in violation of Section 85201.

Count 2

Failure to Disclose Contributor Occupation and Employer

The Committee and Kniss failed to disclose 36 contributors' employers and/or occupations, in violation of Section 84211, subdivisions (f)(3) and (f)(4).

PROPOSED PENALTY

This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per count, for a maximum of \$10,000 here.¹²

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in the context of the following factors set forth in

¹² See Section 83116, subdivision (c).

1 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused
2 by the specific violation; (2) The level of experience of the violator with the requirements of the Political
3 Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence
4 or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate,
5 negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission
6 staff or any other governmental agency in a manner not constituting complete defense under Government
7 Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the
8 violator has a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the
9 violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.¹³
10 The actions of the Committee, Kniss, and Collins appear to be negligent, as opposed to intentional or
11 with an intent to conceal. Neither Kniss nor Collins has a prior record of violations. Kniss contends that
12 her longtime campaign treasurer Tom Collins, who is now deceased, was ill during the period in which
13 the violations occurred. Kniss contends this was one of the main causes of the errors that were made.

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

15 For Count 1, a comparable case involving violations of the one bank account rule is as follows:

16 *In the Matter of Friends of Frank Bigelow For Assembly 2016, Frank Bigelow, and Vona L. Copp,*
17 FPPC Case No. 17/79, approved by the Commission in December 2017. Respondent Bigelow was an
18 incumbent candidate for State Assembly in the November 2016 General Election. He was first elected to
19 the State Assembly in 2012 and was successfully re-elected in 2016. During the 2016 campaign, Bigelow
20 made 13 charges to his personal credit card for campaign related expenses, in a total amount of \$2,189.78.
21 Bigelow did not deposit personal funds into the campaign account before he paid for these expenses.
22 Bigelow submitted invoices to committee treasurer, Copp, who used campaign funds to reimburse him.
23 The Commission considered Bigelow's prior campaign experience and recommended a middle range fine
24 of \$2,000 for this violation.

25 This matter is comparable to Count 1 as both candidates were incumbents who failed to pay for
26 campaign expenses using only one committee bank account. The matter here is distinguishable from that
27 in Bigelow, because Kniss used personal funds to pay for more campaign expenses than Bigelow. Kniss'
28 personal funds paid for \$9,117.40 in campaign expenses, whereas Bigelow only used personal funds to pay

¹³ Regulation 18361.5, subdivision (e).

1 for \$2,189.78 in campaign expenses. Kniss also had more experience with campaigns compared to Bigelow
2 who was seeking his first re-election campaign. Kniss was first elected to public office in 1985, and was
3 elected to various public positions throughout the subsequent 30 years, while Bigelow was elected once in
4 2012 before his re-election campaign in 2016. As such, a penalty in the amount of \$2,500 is recommended.

5 For Count 2, a comparable case involving a failure to disclose contributors' employers and
6 occupations is as follows:

7 *In the Matter of Tom Wheeler for Supervisor District 5-2018, Tom Wheeler, and Nancy D. Beavers,*
8 FPPC Case No. 18/381, approved by the Commission September 2018. Respondent Wheeler was an
9 incumbent candidate who had first campaigned for office in 2006. In the 2018 primary election, Wheeler
10 failed to report 24 contributors' employers and occupations. The 24 contributors contributed approximately
11 25% of the committee's total contributions. The non-disclosures occurred on two pre-election statements
12 and one semi-annual statement. The Commission approved an administrative penalty of \$1,500.

13 With regard to Count 2, *Wheeler* is analogous because, like Wheeler, Kniss is an incumbent who
14 failed to make all the required contributor disclosures on her campaign statements. Unlike Wheeler, Kniss
15 has more experience with campaigns for public office. Wheeler's first campaign occurred in 2006, when
16 he was elected to County Supervisor. Kniss was first elected in 1985 to the Palo Alto City School Board,
17 and she has been elected to various roles since then. The percentage of contributions from contributors
18 whose employer and/or occupation was not disclosed is also similar. The contributors in Wheeler
19 accounted for approximately 25% of the total contributions, whereas the contributors here accounted for
20 approximately 20% of the Committee's total contributions. As such, a penalty of \$2,000 is recommended
21 for Count 2.

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

24 CONCLUSION

25 Complainant, the Enforcement Division of the Fair Political Practices Commission, Re-Elect Liz
26 Kniss for City Council 2016 and Liz Kniss hereby agree as follows:

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

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

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

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

13 5. Respondents agree to the issuance of the decision and order set forth below. Also,
14 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
15 \$4,500. One or more payments totaling said amount—to be paid to the General Fund of the State of
16 California—is/are submitted with this stipulation as full payment of the administrative penalty described
17 above, 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 before
23 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
24 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 fax
27 or as a PDF email attachment, is as effective and binding as the original.

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1 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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4 Dated: _____

Elizabeth (Liz) Kniss, individually and on behalf of Re-
Elect Kniss for City Council 2016

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