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

11  
12 In the Matter of:

FPPC No. 2019-01680

13 CAIXING XIE,

STIPULATION, DECISION, AND ORDER

14 Respondent.  
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17 **INTRODUCTION**

18 Respondent Caixing Xie made contributions as an individual and through various entities in 2015  
19 to Barry Chang for Assembly 2016 (the “Chang Committee”). Barry Chang was an unsuccessful  
20 candidate for the State Assembly in the June 7, 2016 Primary Election. Caixing Xie violated the Political  
21 Reform Act (the “Act”)<sup>1</sup> by making contributions over the limit to the Chang Committee and failing to  
22 timely file a major donor campaign statement.

23 **SUMMARY OF THE LAW**

24 The violations in this case occurred in 2015, and all legal references and discussions of law pertain  
25 to the Act’s provisions as they existed at that time.

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28 <sup>1</sup> 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 Need for Liberal Construction and Vigorous Enforcement of the Act

2 When enacting the Act, the people of the state of California found and declared previous laws  
3 regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup> One  
4 purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election  
5 campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are  
6 inhibited.<sup>3</sup> Along these lines, the Act includes a comprehensive campaign reporting system.<sup>4</sup> One  
7 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously  
8 enforced.”<sup>5</sup> To that end, the Act must be liberally construed to achieve its purposes.<sup>6</sup>

9 Aggregating Contributions

10 Contributions from different entities are aggregated under certain circumstances. An “entity” is  
11 any person, other than an individual, such as a corporation.<sup>7</sup> The contributions of an entity whose  
12 contributions are directed and controlled by any individual must be aggregated with contributions made  
13 by that individual and any other entity whose contributions are directed and controlled by the same  
14 individual.<sup>8</sup>

15 Limits on Campaign Contributions

16 The Act imposes campaign contribution limits with respect to the making and receiving of certain  
17 contributions. These limits are adjusted periodically, and different limits apply depending upon who is  
18 contributing and who is receiving.<sup>9</sup> During the period of January 1, 2015 through December 31, 2016, a  
19 person, other than a small contributor committee or political party committee, wishing to contribute to a  
20 candidate for the State Assembly could not contribute more than \$4,200 per election.<sup>10</sup> A candidate for  
21 the State Assembly may raise contributions for a General Election prior to the Primary Election, for the

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25 <sup>2</sup> Section 81001, subd. (h).

26 <sup>3</sup> Section 81002, subd. (a).

27 <sup>4</sup> Sections 84200, *et seq.*

28 <sup>5</sup> Section 81002, subd. (f).

<sup>6</sup> Section 81003.

<sup>7</sup> Section 85311, subd. (a)(1).

<sup>8</sup> Section 85311, subd. (b).

<sup>9</sup> Sections 83124 and 85301, subd. (a).

<sup>10</sup> Section 85301, subd. (a); Regulation 18545, subd. (a)(1).

1 same elective office if the candidate sets aside these contributions and uses these contributions for the  
2 General Election.<sup>11</sup>

3 Major Donor Committee and Campaign Statements

4 A committee will qualify as a “major donor committee” when it makes contributions totaling  
5 \$10,000 or more in a calendar year to or at the behest of candidates or committees.<sup>12</sup> A major donor  
6 committee must file a campaign statement each year no later than July 31 for the reporting period ending  
7 on June 30, and no later than January 31 of the following year for the reporting period ending on  
8 December 31, if it made contributions or independent expenditures during the six-month period before  
9 the closing date of the statements.<sup>13</sup> When the filing deadline falls on a Saturday, Sunday, or official state  
10 holiday, the filing deadline must be extended to the next regular business day.<sup>14</sup>

11 Liability

12 Any person who violates any provision of the Act, who purposely or negligently causes any other  
13 person to violate any provision of the Act, or who aids and abets any other person in the violation of any  
14 provision of the Act shall be held jointly and severally liable.<sup>15</sup>

15 **SUMMARY OF THE FACTS**

16 Campaign statements filed by and campaign records from the Chang Committee show that  
17 Caixing Xie, and related entities, made the following contributions:

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<b>Name</b>	<b>Contribution Date</b>	<b>Affiliation at Time of Contribution</b>	<b>Amount</b>
Caixing Xie	December 21, 2015	Self	\$8,400
Welkin International Industrial, Inc.	December 21, 2015	Caixing Xie – Director, President, CFO, Shareholder	\$8,300
CQQC, Inc.	December 22, 2015	Caixing Xie - Director	\$8,400

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22 Welkin and CQQC are corporations that were directed and controlled by Caixing Xie at the time  
23 when the contributions listed above were made. The by-laws for Welkin and CQQC state that “the  
24 business and affairs for the corporation shall be managed and all corporate powers shall be exercised by  
25 or under the direction of the Board of Directors.” Minutes from the two corporations’ Board of Director’s

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27 <sup>11</sup> Section 85318.

<sup>12</sup> Section 82013, subd. (c).

<sup>13</sup> Section 84200, subd. (b).

<sup>14</sup> Former Regulation 18116, subd. (a).

<sup>15</sup> Sections 83116.5 and 91006.

1 meetings show that Caixing Xie was the sole Director at all relevant times, so contributions made by  
2 those corporations should have been aggregated with Caixing Xie's separate and individual contribution  
3 to the Chang Committee. Caixing Xie contributed approximately \$25,100, in aggregation, to the Chang  
4 Committee, exceeding the contribution limit by \$16,700 total, or at least \$8,350 per election.

5 Furthermore, since Caixing Xie's aggregated contributions exceeded the \$10,000 threshold, a  
6 major donor campaign statement should have been filed for the reporting period of July 1, 2015 through  
7 December 31, 2015 by February 1, 2016, but they did not timely file that campaign statement.

## 8 VIOLATIONS

### 9 Count 1: Making Contributions Over the Limit

10 Caixing Xie made campaign contributions to a candidate that exceeded the campaign contribution  
11 limit for candidates for the State Assembly for the 2016 Primary and General Elections, in violation of  
12 Government Code Section 85301, subdivision (a); and Regulation 18545, subdivision (a)(1).

### 13 Count 2: Failure to Timely File a Major Donor Campaign Statement

14 Caixing Xie failed to timely file a major donor campaign statement for the reporting period of  
15 July 1, 2015 through December 31, 2015, due on February 1, 2016, in violation of Government Code  
16 Section 84200, subdivision (b).

## 17 PROPOSED PENALTY

18 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per  
19 count. Thus, the maximum total penalty that may be imposed is \$10,000.<sup>16</sup> Making contributions over  
20 the limit is a violation that does not qualify for the streamline program.

21 In determining the appropriate penalty for a particular violation of the Act, the Enforcement  
22 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an  
23 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers  
24 the facts and circumstances of the violation in the context of the following factors set forth in Regulation  
25 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the  
26 specific violation; (2) The level of experience of the violator with the requirements of the Political  
27 Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence

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<sup>16</sup> Section 83116, subd. (c).

1 or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate,  
2 negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission  
3 staff or any other governmental agency in a manner not constituting complete defense under Government  
4 Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the  
5 violator has a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the  
6 violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.<sup>17</sup>

7 Making campaign contributions in excess of the contribution limits causes serious public harm,  
8 as contribution limits exist to prevent persons from exerting disproportionate influence over elected  
9 officials. Additionally, the public harm inherent in campaign reporting violations is that the public is  
10 deprived of important, time-sensitive information regarding campaign activity. Respondent contends that  
11 they do not have any experience with the requirements of the Act, and the Enforcement Division has  
12 confirmed that Respondent does not have prior enforcement history. The violations seem to have been  
13 negligent, as Respondent contends that they were unaware of the requirements of the Act. The violations  
14 also seem to have been an isolated event, as Respondent does not have an enforcement history for  
15 violating the Act. Respondent did not consult the Commission staff or any other governmental agency  
16 prior to making contributions to the Chang Committee, and the Enforcement Division did not find  
17 evidence of any intention to conceal, deceive, or mislead, as Caixing Xie contends that they made  
18 contributions to the Chang Committee as an individual and through their various business entities based  
19 on Barry Chang's personal solicitation for support. The contributions made by Caixing Xie and their  
20 various business entities also were timely disclosed on campaign statements filed by the Chang  
21 Committee. Furthermore, Caixing Xie voluntarily filed a major donor campaign statement to provide full  
22 disclosure upon receiving contact from the Enforcement Division.

23 The Commission also considers penalties in prior cases with comparable violations. A recent case  
24 with similar violations include the following:

25 *In the Matter of Daniel Stephenson, et al.*; FPPC No. 15/1545. (The Commission approved a  
26 stipulated agreement on December 17, 2015.) Respondents, an individual and numerous entities which  
27 were directed and controlled by the same individual, made contributions to a candidate for the State  
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<sup>17</sup> Regulation 18361.5, subd. (e).

Senate that, when aggregated, exceeded the applicable contribution limit by \$7,808. Stephenson hosted two fundraisers that were valued at a total of \$7,808.58. In conjunction with the fundraisers, Stephenson provided campaign contribution checks from the entities he directed and controlled, totaling an additional \$8,200. Moreover, Respondents did not file a major donor campaign statement despite qualifying as a major donor committee as a result of the aforementioned contributions. The Enforcement Division found no evidence that Stephenson intended to conceal his contributions or his connection to the entities he directed and controlled. Respondents filed the delinquent major donor campaign statement after receiving contact from the Enforcement Division. The Commission approved a penalty of \$3,500 for making contributions over the limit and \$2,000 for failing to timely file a major donor campaign statement, for a total penalty of \$5,500.

Caixing Xie's aggregated contributions in this case exceeded the limit by more than double the amount in *Stephenson* but involved only two entities that they directed and controlled, as opposed to 17. In aggravation, unlike in *Stephenson*, the names of the entities were not similar, raising almost no suspicion that the entities were somehow affiliated with each other. As a result, a higher penalty is recommended against Caixing Xie for making contributions over the limit. In mitigation, as in *Stephenson*, Caixing Xie filed the delinquent major donor campaign statement after receiving contact from the Enforcement Division, and the same penalty is recommended for the failure to timely file a major donor campaign statement.

In summary, the following penalties are recommended:

Count #	Violation	Penalty Amount
1	Making Contributions Over the Limit	\$4,000
2	Failure to Timely File a Major Donor Campaign Statement	\$2,000
	<b>Total:</b>	<b>\$6,000</b>

### CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondent Caixing Xie hereby agree as follows:

1. The Respondent violated the Act as described in the foregoing pages, which are a true and 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  
5 the liability of the Respondent pursuant to Section 83116.

6           4.       The Respondent has consulted with their attorney, Henry Hu, and understand, and hereby  
7 knowingly and voluntarily waives, any and all procedural rights set forth in Sections 83115.5, 11503,  
8 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to, the right to appear  
9 personally at any administrative hearing held in this matter, to be represented by an attorney at the  
10 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  
12 the hearing as a hearing officer, and to have the matter judicially reviewed.

13           5.       The Respondent agrees to the issuance of the decision and order set forth below. Also, the  
14 Respondent agrees to the Commission imposing against it an administrative penalty in the amount of  
15 \$6,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General  
16 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
17 administrative penalty described above, and same shall be held by the State of California until the  
18 Commission issues its decision and order regarding the 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 the Respondent in connection with this stipulation shall be reimbursed  
22 to the 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.

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