

1 JAMES M. LINDSAY
Chief of Enforcement
2 JONATHAN E. RIVERA
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
1102 Q Street, Suite 3050
Sacramento, CA 95811
4 Telephone: (279) 237-5913
5 Email: JRivera@fppc.ca.gov

6 Attorneys for Complainant
7 Enforcement Division of the Fair Political Practices Commission

8
9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 20/569

12 **THINK LONG COMMITTEE, INC.**
13 **SPONSORED BY NICOLAS**
14 **BERGGRUEN INSTITUTE TRUST**
15 **(501c4), NICOLAS BERGGRUEN**
INSTITUTE TRUST and JAMES

STIPULATION, DECISION AND ORDER

Date Submitted to Commission: September 2024

16 Respondents.

17
18 **INTRODUCTION**

19 Respondent, Think Long Committee, Inc. Sponsored by Nicolas Berggruen Institute Trust
20 (501c4) (ID#1391706) (“Think Long”), was originally a state general purpose committee that
21 contributed to various committees supporting/opposing ballot measures throughout the state. Due to its
22 activity in 2019, Think Long qualified as a committee primarily formed to support Los Angeles Unified
23 School District Measure EE in the June 4, 2019 election. In 2019, Respondent, Nicolas Berggruen
24 Institute Trust (the “Trust”), qualified as a major donor committee (ID#1335016) and sponsored Think
25 Long. Respondent, James Sutton (“Sutton”), served as Think Long’s treasurer.

26 This case was opened in response from a referral from the Los Angeles City Ethics Commission
27 (“L.A. Ethics”). Respondents cooperated with the Enforcement Division by entering into a tolling
28 agreement with respect to the applicable statute of limitations.

1 The Political Reform Act (the “Act”)¹ requires committees and treasurers to timely file certain
2 campaign statements and reports. Think Long, the Trust, and Sutton violated the Act by failing to timely
3 file certain campaign statements and reports.

4 **SUMMARY OF THE LAW**

5 The Act and its regulations are amended from time to time. The violations in this case occurred
6 in 2019. For this reason, all legal references and discussions of law pertain to the Act’s provisions as
7 they existed at that time.

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

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

12 A central purpose of the Act is to promote transparency by ensuring that receipts and
13 expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed
14 and improper practices are inhibited.⁴ Another purpose of the Act is to provide adequate enforcement
15 mechanisms so that the Act will be “vigorously enforced.”⁵

16 **Primarily Formed Committee**

17 A “recipient committee” is a person or combination of persons who directly or indirectly
18 receives contributions totaling \$2,000 or more in a calendar year.⁶ A “primarily formed committee”
19 includes a recipient committee which is formed or exists primarily to support a single measure.⁷

20
21
22 ///

24 ¹ The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections
25 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission are
26 contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to
27 this source.

26 ² Section 81001, subd. (h).

27 ³ Section 81003.

27 ⁴ Section 81002, subd. (a).

28 ⁵ Section 81002, subd. (f).

28 ⁶ Section 82013, subd. (a).

28 ⁷ Section 82047.5, subd. (a).

1 **Sponsored Committee**

2 A “sponsored committee” is a committee that has one or more sponsors.⁸ A person⁹ sponsors a
3 committee if the committee receives 80% or more of its contributions from the person or its members,
4 officers, employees, or shareholders.¹⁰

5 **Major Donor Committee**

6 A “major donor committee” is a person or combination of persons who directly or indirectly
7 makes contributions totaling \$10,000 or more in a calendar year to or at the behest of candidates or
8 committees.¹¹

9 **Statement of Organization**

10 A recipient committee shall file a statement of organization with the Secretary of State.¹² The
11 committee shall file the original of the statement of organization with the Secretary of State and shall
12 also file a copy of the statement of organization with the local filing officer, if any.¹³ The original and
13 copy of the statement of organization shall be filed within 10 days after the committee has qualified as a
14 committee.¹⁴ In the case of a sponsored committee, the name of the committee shall include the name of
15 its sponsor.¹⁵ In the case of a sponsored committee, the statement of organization shall include the name,
16 street address, and telephone number of each sponsor.¹⁶

17 **Duty to File Campaign Statements**

18 The Act requires committees and treasurers to file campaign statements and reports at specific
19 times disclosing information regarding contributions received and expenditures made by the campaign
20 committees.¹⁷ If the filing due date for a statement or report falls on a Saturday, Sunday, or official state
21 holiday, then the filing due date shall be extended to the next regular business day.¹⁸ This extension does
22

23 ⁸ Section 82048.7, subd. (a).

24 ⁹ Under the Act, “person” includes a business trust or any other organization or group of persons acting in concert.
(Section 82047.)

25 ¹⁰ Section 82048.7, subd. (b)(1).

26 ¹¹ Section 82013 subd. (c).

27 ¹² Section 84101(a).

28 ¹³ Id.

¹⁴ Id.

¹⁵ Section 84102, subd. (a)

¹⁶ Section 84102, subd. (b).

¹⁷ See Section 84200, *et seq.*

¹⁸ Regulation 18116, subd. (a).

1 not apply to 24-hour contribution reports when the due date for these reports falls on a Saturday,
2 Sunday, or official state holiday immediately prior to an election.¹⁹

3 **Pre-Election Campaign Statements**

4 All committees primarily formed to support or oppose a measure appearing on the ballot to be
5 voted on at the next election shall file the applicable pre-election campaign statements.²⁰ The first pre-
6 election campaign statement, for the period ending 45 days before the election, shall be filed no later
7 than 40 days before the election.²¹ The second pre-election campaign statement, for the period ending 17
8 days before the election, shall be filed no later than 12 days before the election.²²

9 **24-Hour Contribution Report**

10 A “late contribution” includes a contribution that totals in the aggregate \$1,000 or more and is
11 made to or received by a committee formed or existing primarily to support or oppose a measure during
12 the 90-day period preceding the date of the election, or on the date of the election, at which the measure
13 is to be voted on.²³ Each committee that makes or receives a late contribution shall report the late
14 contribution within 24 hours of the time it is made or received.²⁴

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

16 It is the duty of the treasurer of a committee to ensure that the committee complies with all of the
17 requirements of the Act concerning the receipt, expenditure, reporting of funds.²⁵ A treasurer may be
18 held jointly and severally liable for violations committed by the committee.²⁶

19 **Liability for Violations**

20 Any person who violates any provision of the Act is liable for administrative penalties up to
21 \$5,000 per violation.²⁷

22
23 ///

24 ¹⁹ Regulation 18116, subd. (b).

25 ²⁰ Section 84200.5, subd. (a).

26 ²¹ Section 84200.8, subd. (a).

27 ²² Section 84200.8, subd. (b).

28 ²³ Section 82036, subd. (a).

²⁴ Section 84203, subd. (a).

²⁵ Section 84104 and Regulation 18427, subd. (a).

²⁶ Sections 83116.5 and 91006.

²⁷ Sections 83116 and 83116.5.

1 **SUMMARY OF THE FACTS**

2 Think Long was a general purpose committee that qualified as a committee on October 7, 2016
3 and terminated on December 31, 2016. Think Long remained inactive until they filed a semi-annual
4 campaign statement for the reporting period of January 1, 2019 to June 30, 2019 on July 31, 2019 with
5 L.A. Ethics. This statement disclosed \$250,000 in contributions and \$250,000 in expenditures.
6 Specifically, this statement disclosed that on April 26, 2019, Think Long received a \$250,000
7 contribution from its sponsor, the Trust and on April 26, 2019, Think Long made a monetary
8 contribution in the amount of \$250,000 to Yes on EE – Yes on Quality School, Sponsored by Labor
9 Organizations (ID#1416627) (“Yes on EE”). Yes on EE was a primarily formed committee supporting
10 Los Angeles Unified School District Measure EE in the June 4, 2019 election. Thus, Think Long
11 qualified as a recipient committee on April 26, 2019 when it received the \$250,000 contribution from
12 the Trust. Think Long was required to file a statement of organization by the May 6, 2019 due date, but
13 failed to do so. Instead, on August 1, 2019, 87 days late, Think Long filed its statement of organization
14 with the Secretary of State and L.A. Ethics.

15 **Failure to Timely File Pre-Election Campaign Statement**

16 Due to Think Long’s activity, and since Measure EE appeared on the June 4, 2019 election
17 ballot, Think Long was required to file a pre-election campaign statement for the reporting period of
18 January 1, 2019 through May 18, 2019, due May 23, 2019. During this reporting period, Think Long
19 received a single contribution of \$250,000 and contributed \$250,000 to Yes on EE. Think Long failed to
20 file this pre-election campaign statement. Instead, on July 31, 2019, Think Long filed a semi-annual
21 campaign statement for the reporting period of January 1, 2019 through June 30, 2019 and disclosed its
22 activity.

23 **Failure to Timely File 24-Hour Contribution Reports**

24 The 90-day period preceding the June 4, 2019 election began on March 6, 2019. According to
25 Think Long’s semi-annual campaign statement, on April 26, 2019, Think Long received a late
26 contribution from the Trust that was required to be disclosed on a 24-hour contribution report.
27 According to L.A. Ethics, Think Long failed to file a 24-hour contribution report for receipt of the late
28 contribution. Additionally, the Trust failed to file a 24-hour contribution report for making the late

1 contribution. On April 26, 2019, Think Long made a late contribution to Yes on EE, but failed to file a
2 24-hour contribution report for making the late contribution, as well.

3 VIOLATIONS

4 **Respondents: Think Long and Sutton**

5 **Count 1: Failure to Timely File Pre-Election Statement**

6 Think Long and Sutton failed to timely file a pre-election campaign statement for the reporting
7 period of January 1, 2019 to May 18, 2019 by the May 23, 2019 due date, in violation of Government
8 Code Sections 84200.5 and 84200.8.

9 **Count 2: Failure to Timely File 24-Hour Contribution Report**

10 Think Long and Sutton failed to timely file a 24-hour contribution report to disclose a late
11 monetary contribution, totaling \$250,000, received on April 26, 2019 by the April 29, 2019 due date, in
12 violation of Government Code Section 84203.

13 **Count 3: Failure to Timely File 24-Hour Contribution Report**

14 Think Long and Sutton failed to timely file a 24-Hour contribution report to disclose a late
15 monetary contribution, totaling \$250,000, made on April 26, 2019 by the April 29, 2019 due date, in
16 violation of Government Code Section 84203.

17 **Respondent: Trust**

18 **Count 4: Failure to Timely File 24-Hour Contribution Report**

19 The Trust failed to timely file a 24-hour contribution report to disclose a late monetary
20 contribution, totaling \$250,000, made on April 26, 2019 by the April 29, 2019 due date, in violation of
21 Government Code Section 84203.

22 PROPOSED PENALTY

23 This matter consists of four proposed counts. The maximum penalty that may be imposed is
24 \$5,000 per count. Thus, the maximum penalty that may be imposed for the counts charged here is
25 \$20,000.²⁸

26
27
28

²⁸ Section 83116, subd. (c).

1 This case is excluded from the Tier One Streamline Program because Think Long's contributions
2 and expenditures exceeded \$50,000.²⁹ This case is excluded from the Tier Two Streamline Program
3 because Think Long's contributions and expenditures exceeded \$100,000.³⁰ Additionally, the Trust is
4 excluded from the Tier One Streamline Program because the Trust's contributions for the calendar year
5 exceeded \$75,000.³¹ The Trust is excluded from the Tier Two Streamline Program because the Trust's
6 contributions for the calendar year exceeded \$150,000.³²

7 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
8 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
9 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division
10 considers the facts and circumstances of the violation in the context of the following factors set forth in
11 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused
12 by the specific violation; (2) The level of experience of the violator with the requirements of the
13 Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The
14 presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was
15 deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the
16 Commission staff or any other governmental agency in a manner not constituting complete defense
17 under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern
18 and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
19 (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide
20 full disclosure.³³

21 The public harm inherent in campaign reporting violations is that the public is deprived of
22 important, time sensitive information regarding campaign activity. Here, Think Long and the Trust's
23 failure to timely file the pre-election campaign statement, as well as the required 24-hour contribution
24 reports prior to the election deprived the public of knowledge of Think Long's and Trust's campaign
25 activity before the election. The failure to file is somewhat mitigated because the recipient, Yes on EE,
26

27 ²⁹ Regulation 18360.1, subd. (e)(1).

³⁰ Id.

³¹ Regulation 18360.1, subd. (e)(10).

³² Id.

³³ Regulation 18361.5, subd. (e).

1 reported the contribution on a timely filed 24-hour contribution report, as well as on their pre-election
2 campaign statement. Yes on EE properly reported the recipient as Think Long Committee Inc., but there
3 was no disclosure for the Trust. Because of this, the public would not have been aware that the Trust
4 gave that money to Think Long until after the election, when the major donor statement was filed.

5 Due to their previous filing obligations, Think Long and the Trust had experience with the
6 requirements of the Act. As mentioned, Think Long was previously active in 2016 as a state general
7 purpose committee before terminating in 2016. Regarding the Trust, they had qualified as a major donor
8 going back to 2011, so they were aware of the major donor requirements. The experience with the Act is
9 why the Trust filed the major donor statement on time. There is no evidence to support an intent to
10 conceal, deceive, or mislead the public. The violations here appear to be negligent as Think Long and
11 Trust were aware, or should have been aware, of their filing obligations as they filed a late semi-annual
12 statement and a major donor statement, but not the required pre-election statement and 24-hour reports.

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

15 **Count 1: Failure to Timely File Pre-Election Campaign Statement**

16 *In the Matter of Associated Students of Glendale Community College*, FPPC Case No. 21/259.
17 Respondent, a major donor committee, failed to timely file one semi-annual campaign statement. The
18 statement reported campaign activity totaling \$100,000 in contributions made. The statement was filed
19 after the relevant election. However, the recipient of the contributions timely disclosed the contributions
20 on pre-election statements and 24-hour reports, thereby providing disclosure to the public prior to the
21 election. On September 16, 2021, the Commission approved a penalty of \$2,500.

22 A higher penalty than that approved in *Associated Students of Glendale Community College* is
23 recommended. Similar to *Glendale Community*, the Respondents' activity here involved one ballot
24 measure with the source of the money coming from the sponsor of the committee. Think Long failed to
25 timely file one pre-election campaign statement. This statement would have reported campaign activity
26 totaling \$250,000 in contributions and \$250,000 in expenditures, an amount of campaign activity more
27 than double of that at issue in *Glendale Community*. In mitigation, while Think Long did give \$250,000,
28 that represented only 4% of the total that Yes on EE received. Unlike the respondents in *Glendale*

1 *Community*, Think Long had prior experience with the Act. Think Long had previously filed various
2 campaign statements and were aware of the requirements. Additionally, the Respondents in *Glendale*
3 *Community* filed the 24-hour contribution report after the required date, but before the election, so there
4 was some disclosure for the public. Here, Think Long’s only disclosure before the election came from
5 the recipient reporting it on their timely filed campaign statements and report. Think Long themselves
6 had no disclosure, making it difficult for the public to know that Think Long gave money until after the
7 election. Therefore, a penalty of \$3,500 is recommended.

8 **Counts 2-4: Failure to Timely File 24-Hour Contribution Reports**

9 *In the Matter of Friends of Long Beach City College - Yes on Measure LB and Lexi Donovan;*
10 FPPC Case No. 17/1003. Respondents, a primarily formed ballot measure committee and its treasurer,
11 failed to file 24-hour contribution reports for 44 late contributions received totaling \$306,9000. In
12 mitigation, 35 of the late contributions received, totaling \$277,400, were reported prior to the election on
13 timely filed pre-election campaign statements. In particular, 17 late contributions received between
14 March 11, 2016 and April 26, 2016, totaling \$217,900, were reported late or on one of the Committee’s
15 pre-election campaign statements (1 count), 18 late contributions received between May 2, 2016 and
16 May 31, 2016, totaling \$59,500, were reported late or on one of the Committee’s pre-election campaign
17 statements (1 count), and nine late contributions received between June 1, 2016 and June 8, 2016,
18 totaling \$59,500, were not disclosed the Committee’s campaign statements or reports filed prior to the
19 election (1 count). On September 16, 2021, the Commission approved a total penalty of \$11,500; \$2,500
20 for two counts for those 24-hour contribution reports that were late-filed prior to the election and \$3,000
21 for one count for those 24-hour contribution reports that were not filed prior to the election.

22 A similar penalty than that approved in *Friends of Long Beach City College - Yes On Measure*
23 *LB* is recommended for respondents Think Long and Sutton, Counts 2-3, while a higher penalty is
24 recommended for the Trust, Count 4. Respondents failed to timely file a 24-hour contribution report for
25 the late contribution received by Think Long from the Trust (Count 2). Further, Respondents failed to
26 timely file a 24-hour contribution report for the late contribution made by Think Long to the measure
27 they were supporting (Count 3). Lastly, Respondents failed to timely file a 24-hour contribution report
28 for the late contribution made by the Trust to Think Long (Count 4). Each contribution was for

1 \$250,000, an amount a little lower than that at issue in *Friends of Long Beach City College - Yes On*
 2 *Measure LB*. However, the amount not disclosed on any of Think Long’s campaign statements or
 3 reports was higher than that in *Friends of Long Beach*. Unlike *Friends of Long Beach*, none of the late
 4 contributions were reported by Think Long or the Trust prior to the election. However, the Trust did
 5 report the late contribution on a major donor campaign statement timely filed after the election.
 6 Additionally, the Trust filed a late 24-hour contribution report on July 10, 2019, but this was well after
 7 the election. Unlike Think Long, the Trust had no disclosure for their contribution until after the
 8 election. While it is possible for a member of the public to know that Think Long was active, by looking
 9 at the Yes on EE statements, this could not be done for the Trust. The Trust was not listed as the sponsor
 10 of Think Long on the recipient’s statements or reports. Because of this, the public harm is greater
 11 because there is no way of knowing that the Trust was active for this measure. As mentioned, the Trust
 12 had prior experience with the Act, so they should have known that they owed various statements and did
 13 not file one until over a month after the election and over two months past the due date. Therefore, a
 14 penalty of \$2,500 for count two where Think Long received the contribution from the Trust and \$2,500
 15 for count three where Think Long made the contribution to the ballot measure and a penalty of \$3,500
 16 for count four where the Trust made the contribution to Think Long is recommended.

17 In aggravation of Counts 1-3, Think Long committed an additional violation of the Act that is
 18 not being charged in the interest of settlement, given the lower level of public harm involved. In
 19 particular, Think Long failed to timely file a statement of organization once Think Long had qualified as
 20 a recipient committee.

21 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
 22 in the amount of \$12,000 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Failure to Timely File Pre-Election Campaign Statement	\$3,500
2	Failure to Timely File 24-Hour Contribution Report	\$2,500
3	Failure to Timely File 24-Hour Contribution Report	\$2,500
4	Failure to Timely File 24-Hour Contribution Report	\$3,500
	TOTAL:	\$12,000

1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondents, Think Long Committee, Inc. Sponsored by Nicolas Berggruen Institute Trust (501c4),
4 Nicolas Berggruen Institute Trust, and James Sutton, hereby agree as follows:

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

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

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

12 4. Respondents have consulted with its attorney, James Harrison of Olson Remcho LLP,
13 and understands, and hereby knowingly and voluntarily waive, any and all procedural rights set
14 forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This
15 includes, but is not limited to the right to appear personally at any administrative hearing held in
16 this matter, to be represented by an attorney at Respondents’ own expense, to confront and cross-
17 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to
18 have an impartial administrative law judge preside over the hearing as a hearing officer, and to
19 have the matter judicially reviewed.

20 5. Respondents agree to the issuance of the decision and orders set forth below. Also,
21 Respondents agree to the Commission imposing against them an administrative penalty in the
22 amount of \$12,000. One or more cashier’s checks or money orders totaling said amount – to be
23 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
24 payment of the administrative penalty described above, and same shall be held by the State of
25 California until the Commission issues its decision and order regarding this matter.

26 6. If the Commission refuses to approve this stipulation – then this stipulation shall become
27 null and void, and within fifteen business days after the Commission meeting at which the
28 stipulation is rejected, all payments tendered by Respondents in connection with this stipulation

1 shall be reimbursed to Respondents. If this stipulation is not approved by the Commission, and if
2 a full evidentiary hearing before the Commission becomes necessary, neither any member of the
3 Commission, nor the Executive Director, shall be disqualified because of prior consideration of
4 this stipulation.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

///

1 7. The parties to this agreement may execute their respective signature pages separately. A
2 copy of any party's executed signature page, including a hardcopy of a signature page
3 transmitted via fax or as a PDF email attachment, is as effective and binding as the original.
4

5
6 Dated: _____
7 James M. Lindsay, Chief of Enforcement
8 Fair Political Practices Commission
9

10 Dated: _____
11 Nicolas Berggruen, on behalf of
12 Nicolas Berggruen Institute Trust,
13 Respondent
14

15 Dated: _____
16 James Sutton, individually and on behalf of
17 Think Long Committee, Inc. Sponsored by Nicolas
18 Berggruen Institute Trust (501c4),
19 Respondents
20

21 The foregoing stipulation of the parties "Think Long Committee, Inc. Sponsored by Nicolas
22 Berggruen Institute Trust (501c4), Nicolas Berggruen Institute Trust, and James Sutton," FPPC Case
23 No. 20/569, is hereby accepted as the final decision and order of the Fair Political Practices
24 Commission, effective upon execution by the Chair.
25

26 IT IS SO ORDERED.

27 Dated: _____
28 Adam E. Silver, Chair
Fair Political Practices Commission