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7
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA
9

10 In the Matter of:

11 ARCADIAN’S RIGHTS PROTECTION
ASSOCIATION TO SUPPORT ROGER
12 CHANDLER AND BOB HARBICHT
FOR ARCADIA CITY COUNCIL 2018,
13 KARLFELDT SU, AND JOSEPH SU,

14 Respondents.

FPPC Case No. 18/153

STIPULATION, DECISION AND ORDER

15
16 **INTRODUCTION**

17 Arcadian’s Rights Protection Association to Support Roger Chandler and Bob Harbicht for
18 Arcadia City Council 2018 (the “Committee”) was a primarily formed committee supporting candidates
19 Roger Chandler (“Chandler”) and Bob Harbicht (“Harbicht”) for Arcadia City Council in connection
20 with the special municipal election held on April 10, 2018. Karlfeldt Su was the treasurer for the
21 Committee and Joseph Su was the Principal Officer. Chandler was elected to City Council, but Harbicht
22 was not successful. The Political Reform Act (the “Act”)¹ requires committees to meet formatting
23 requirements in accordance with advertisement disclosure provisions and timely file campaign disclosure
24 statements and reports. The Respondents violated the Act by failing to comply with advertisement
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27 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections
81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission
28 are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references
are to this source.

1 disclosure provisions and failing to timely file a pre-election campaign statement, a 24-hour independent
2 expenditure report, and a semi-annual campaign statement in connection with the April 10, 2018 election.

3 **SUMMARY OF THE LAW**

4 The Act and its regulations are amended from time to time. The violations in this case occurred in
5 2018. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
6 existed at that time—unless otherwise noted.

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

8 When enacting the Political Reform Act, the people of California found and declared that
9 previous laws regulating political practices suffered from inadequate enforcement by state and local
10 authorities.² Thus, it was decreed that the Act “should be liberally construed to accomplish its
11 purposes.”³ Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act
12 will be “vigorously enforced.”⁴

13 **Advertisement Disclosures**

14 An “advertisement” under the Act means any general or public communication that is authorized
15 and paid for by a committee for the purpose of supporting or opposing a candidate(s) for elective office
16 or a ballot measure(s).⁵ Under the Act, any advertisement paid for by a recipient committee shall include
17 the words “Paid for by” followed by the name of the committee as it appears on the most recent
18 Statement of Organization.⁶ On print advertisements designed to be individually distributed, such as
19 printed mailers, the disclosure area shall have a solid white background and shall be in a printed or drawn
20 box on the bottom of at least one page that is set apart from any other printed matter. The text shall be in
21 a contrasting color, in an Arial equivalent type, with a type size of at least 10-point.⁷ Further, the Act
22 requires that an advertisement supporting or opposing a candidate, paid for by an independent
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26 ² Section 81001, subdivision (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subdivision (f).

⁵ Section 84501.

⁶ Section 84502.

⁷ Section 84504.2, subdivision (a).

1 expenditure, include disclaimer language stating that it was not authorized by a candidate or a committee
2 controlled by a candidate.⁸

3 **Pre-election Campaign Statements**

4 A recipient committee to support a candidate must file two pre-election campaign statements as
5 required by the Act.⁹ A committee must file a first pre-election campaign statement no later than 40 days
6 before the election for the reporting period ending 45 days before the election. A committee must file a
7 second pre-election statement no later than 12 days before the election for the reporting period ending 17
8 days before the election. Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the
9 filing deadline for a statement shall be extended to the next regular business day.¹⁰ In particular, in
10 connection with the election held April 10, 2018, committees were required to file pre-election campaign
11 statements with the filing officer by the deadline of March 1, 2018 for the reporting period of January 1
12 through February 24, 2018, and by the deadline of March 29, 2018 for the reporting period of February
13 25 through March 24, 2018.¹¹

14 **24-Hour Independent Expenditure Reports**

15 A committee that makes a late independent expenditure shall report the late independent
16 expenditure within 24 hours of the time it is made.¹² A late independent expenditure is defined as an
17 independent expenditure that totals in the aggregate one thousand dollars (\$1,000) or more and is made
18 for or against a specific candidate or measure involved in an election during the 90-day period preceding
19 the date of the election or on the date of the election. In particular, in connection with the election held on
20 April 10, 2018, the 90-day reporting period commenced on January 10, 2018.

21 **Semi-annual Campaign Statements**

22 A recipient committee must file two semi-annual campaign statements each year no later than
23 July 31 for the period ending June 30 and no later than January 31 for the period ending December 31.¹³

26 ⁸ Section 84506.5.

27 ⁹ Section 84200.5, subd. (a).

28 ¹⁰ Regulation 18116, subd. (a).

¹¹ Section 84200.8, subds. (a) and (b); and 84215.

¹² Section 84204.

¹³ Section 84200, subd. (a).

1 Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a
2 statement shall be extended to the next regular business day.¹⁴

3 **Joint and Several Liability**

4 Every committee must have a treasurer.¹⁵ Committees must also identify a principal officer.¹⁶
5 This individual is primarily responsible for approving the political activities of the committee, including,
6 but not limited to, authorizing the content of communications, authorizing expenditures, including
7 contributions, on behalf of the committee, and determining the committee’s campaign strategy.¹⁷ It is the
8 duty of the treasurer and the principal officer to ensure that the committee complies with all the
9 requirements of the Act.¹⁸ The treasurer and the principal officer may be held jointly and severally liable,
10 along with the committee, for violations committed by the committee.¹⁹

11 **SUMMARY OF THE FACTS**

12 In early 2018, Arcadian’s Rights Protection Association supported two candidates for Arcadia
13 City Council, Roger Chandler and Bob Harbicht, during the April 10, 2018 election. The Committee filed
14 an amended Statement of Organization on February 5, 2018 to indicate that it was a primarily formed
15 committee in support of the two candidates and changed the name of the committee to “Arcadian’s
16 Rights Protection Association to Support Roger Chandler and Bob Harbicht for Arcadia City Council
17 2018.” Roger Chandler was elected to Arcadia City Council, but Bob Harbicht’s bid was unsuccessful.
18 For the period starting January 1, 2018 and ending June 30, 2018, the Committee reported raising \$3,718
19 and spending \$9,352.

20 During the election cycle, the Committee paid approximately \$8,660 to send out a total of six
21 printed advertisements that were mailed to local residents. All six advertisements failed to place the
22 advertising disclosure statement in a printed or drawn box. In addition, the advertising disclosure
23 statement was too small, less than the 10-point font required by the Act. Otherwise, four of the six
24 advertisements were substantially compliant with the Act’s advertising requirements. However, two of
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26 ¹⁴ Regulation 18116, subd. (a).

27 ¹⁵ Section 84100.

28 ¹⁶ Section 84102, subd. (c).

¹⁷ Section 82047.6.

¹⁸ Sections 81004, 84100, 84104, and 84213, and Regulation 18427.

¹⁹ Sections 83116.5 and 91006.

1 the advertisements, one for Harbicht and one for Chandler, failed to comply with several of the
2 advertising requirements. Specifically, the two advertisements failed to include the required language,
3 “Paid for by,” failed to include the full name of the committee as it was last reported on a statement of
4 organization,²⁰ failed to place the disclosure statement on a solid white background, in a contrasting font,
5 in a printed or drawn box, and failed to include the disclosure statement indicating that the advertisement
6 was not authorized by a candidate or a candidate-controlled committee. In mitigation, all of the
7 advertisements were clearly from the Committee and included the address of the Committee.

8 In addition to the advertising violations, the Committee failed to timely file two campaign
9 statements and a 24-hour independent expenditure report. For the period covering January 1, 2018 to
10 February 24, 2018, the pre-election campaign statement was filed on March 8, 2018, seven days after the
11 due date of March 1, 2018. The second pre-election campaign statement was filed timely. The
12 Committee also failed to timely file a 24-hour independent expenditure report. Independent expenditures
13 for advertisements supporting Roger Chandler for City Council exceeded the \$1,000 aggregate threshold
14 on March 1, 2018, thus a report was due on March 2, 2018. The report was filed six days late, on March
15 8, 2018. For the period covering March 25, 2018 to June 30, 2018, the semi-annual campaign statement
16 was filed August 6, 2018, six days after the due date of July 31, 2018.

17 The Committee has a prior enforcement history for similar violations. On or around August 25,
18 2016, Karlfeldt Su signed stipulation in the matter of *Arcadian’s Rights Protection Association*, FPPC
19 Case No. 16/402, admitting to four violations of the Act, including failure to file a Statement of
20 Organization upon qualifying as a committee, failure to timely file a pre-election statement, and failure to
21 timely file two 24-hour reports for independent expenditures.

22 **VIOLATIONS**

23 **Count 1: Failure to Comply with Disclosure Requirements for Advertisements**

24 The Committee and Joseph Su paid for and sent two print advertisements that did not conform to
25 the requirements for advertisements, including a failure to include the “Paid for by” language, failure to
26 include the full name of the committee, failure to place the disclosure in a printed or drawn box against a

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28 ²⁰ The two advertisements referred to “Arcadian’s Rights Protection Association,” leaving off the full name of the
committee, “to support Roger Chandler and Bob Harbicht”.

1 solid white background, and failure to disclose that the advertisement was not authorized by a candidate
2 or candidate-controlled committee, in violation of Sections 84502, 84504.2 and 84506.5.

3 **Count 2: Failure to Timely File Campaign Statements and Reports**

4 The Committee and Karlfeldt Su failed to timely file a pre-election campaign statement, failed to
5 timely file a 24-hour independent expenditure report, and failed to timely file a semi-annual campaign
6 statement, in violation of Sections 84200.5, 84200, and 84204.

7 **PROPOSED PENALTY**

8 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
9 count. Thus, the maximum penalty that may be imposed is \$10,000.²¹

10 In determining the appropriate penalty for a particular violation of the Act, the Commission
11 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
12 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
13 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
14 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
15 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
16 record of violations.²²

17 Failure to timely file campaign statements and reports is considered a serious violation as it
18 deprives the public of timely disclosure of the Committee's actions, particularly with respect to
19 disclosing who is paying for advertisements. Failure to include proper and complete disclosure on
20 advertisements is also considered to be a serious violation, however, there is mitigation where there is
21 some compliance and it is clear from the context who is paying for the advertisement. Here, it appears
22 there was no intent to deceive or mislead in regard to the advertisements or campaign statements, rather,
23 there is only the appearance of negligence. The Committee has prior enforcement history, as referenced
24 above, having failed to file a Statement of Organization upon qualifying as a committee, to timely file a
25 pre-election statement, and to timely file two 24-hour independent expenditure reports.

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²¹ See Section 83116, subd. (c).

²² Regulation 18361.5, subd. (d).

1 Additionally, the Commission considers penalties in prior cases with comparable violations.
2 Recent similar cases include the following: *In the Matter of Bluff Cove Homeowners' Association*
3 *Measure E Opposition Committee, Jennifer Hope, and Robert L. Chapman*, FPPC No. 18/188 (The
4 Commission approved a stipulated decision on October 18, 2018.) In *Bluff Cove*, the committee spent
5 over \$10,000 on five mailed print advertisements that failed to include the correct disclosure. The
6 Commission imposed a \$2,000 penalty for failure to include the correct advertising disclosure, including
7 failure to include the "paid for by" language and failure to include the disclosure in a printed or drawn
8 box and on a solid white background. Here, the Committee spent a smaller amount on print
9 advertisements than in the comparable case, over \$8,000. The Committee sent six mailed print
10 advertisements, all of which were not fully compliant with the rules regarding advertising disclosure, by
11 failing to put any of the disclosures in a printed or drawn box. However, only two of the six
12 advertisements lacked the "paid for by" language, the full name of the committee, and the disclosure that
13 the advertisement was not authorized by a candidate or candidate-controlled committee. In aggravation,
14 the Committee has prior enforcement history. Therefore, a penalty of \$2,000 is recommended.

15 *In the Matter of Andrew Valencia for Sweetwater School Board 2016 and Andrew Valencia*,
16 FPPC No. 16/20043. The respondents failed to timely file a pre-election statement and a semiannual
17 campaign statement in connection with an election in which the candidate lost. The disclosures were
18 made after the election. The Commission imposed a penalty of \$2,000. Here, the Committee filed three
19 statements or reports late, however, the statements or reports were filed only a few days late and all were
20 filed prior to the election, giving the voters some disclosure. In aggravation, this Committee has prior
21 enforcement history for the same violations. Therefore, a penalty of \$2,000 is recommended.

22 After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant
23 facts, the penalty of \$2,000 for Count 1 as to the Committee and Joseph Su and \$2,000 for Count 2 as to
24 the Committee and Karlfeldt Su is recommended, for a total penalty of \$4,000.

25 CONCLUSION

26 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
27 Respondents Arcadian's Rights Protection Association to Support Roger Chandler and Bob Harbicht for
28 Arcadia City Council 2018, Karlfeldt Su, and Joseph Su hereby agree as follows:

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

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

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

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

15 5. Respondents agree to the issuance of the decision and order set forth below. Also,
16 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
17 \$4,000. One or more payments totaling said amount—to be paid to the General Fund of the State of
18 California—is/are submitted with this stipulation as full payment of the administrative penalty described
19 above, and same shall be held by the State of California until the Commission issues its decision and
20 order regarding this matter.

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

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 transmitted via fax
3 or as a PDF email attachment, is as effective and binding as the original.
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5 Dated: _____

_____ Galena West, Chief of Enforcement
Fair Political Practices Commission

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8 Dated: _____

_____ Karlfeldt Su, individually and on behalf of Arcadian's
Rights Protection Association, Respondents

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11 Dated: _____

_____ Joseph Su, individually and on behalf of Arcadian's
Rights Protection Association, Respondents

1 The foregoing stipulation of the parties “Arcadian’s Rights Protection Association to Support
2 Roger Chandler and Bob Harbicht for Arcadia City Council 2018, Karlfeldt Su, and Joseph Su,” FPPC
3 Case No. 18/153, is hereby accepted as the final decision and order of the Fair Political Practices
4 Commission, effective upon execution below by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

Richard C. Miadich, Chair
Fair Political Practices Commission