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

10 **STATE OF CALIFORNIA**

11 In the Matter of

FPPC Case No. 19/951

STIPULATION, DECISION AND ORDER

12
13 WESTBERG + WHITE, INC.,

14
15 Respondent.

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17 **INTRODUCTION**

18 Respondent, Westberg + White, Inc. (the “Committee”), is a business entity incorporated in the
19 State of California for architectural services. The Committee engaged in campaign activities in 2016 as a
20 major donor committee under the Political Reform Act (the “Act”).¹ The Act requires major donor
21 committees to timely file certain campaign statements and reports to disclose their campaign activities.
22 The Committee violated the Act by failing to timely file semi-annual campaign statements and 24-hour
23 contribution reports.

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28 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred
3 in 2016. For this reason, all legal references and discussions of law pertain to the Act's provisions as
4 they existed at that time.

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

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

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

13 **Major Donor Committee**

14 Under the Act, "committee" means any person or combination of persons who directly or
15 indirectly makes contributions totaling \$10,000 or more in a calendar year to or at the behest of
16 candidates or committees.⁶ This type of committee is known as a major donor committee.

17 **General Purpose Committee**

18 Under the Act, "general purpose committee" includes major donor committees.⁷ A committee is
19 considered a state committee unless it qualifies as a city or county committee.⁸ A "county general
20 purpose committee" is a committee that makes more than 70% of its contributions or expenditures to
21 support or oppose candidates or measures voted on in only one county.⁹ A "state general purpose
22 committee" includes a committee that makes contributions or expenditures to support or oppose

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25 ² Section 81001, subd. (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subd. (a).

28 ⁵ Section 81002, subd. (f).

⁶ Section 82013, subd. (c).

⁷ Section 82027.5, subd. (a) and Regulation 18227.5, subd. (a).

⁸ Regulation 18227.5, subd. (c).

⁹ Regulation 18227.5, subd. (c)(2).

1 candidates or measures voted on in state elections, or in more than one county, and does not meet the
2 criteria for a city or county general purpose committee.¹⁰

3 **Campaign Reports and Statements; Where to File**

4 State general purpose committees shall file the original and one copy of the campaign statement
5 in paper format with the Secretary of State.¹¹ County general purpose committees shall file the original
6 and one copy of the campaign statement with the elections official of the county.¹² Each committee that
7 makes a late contribution shall report the late contribution to each office with which the committee is
8 required to file its next campaign statement.¹³ A general purpose committee shall verify its filing
9 jurisdiction quarterly at the end of March, June, September, and December.¹⁴ For purposes of
10 determining where to file, a major donor committee qualifies anew as a committee each year, and
11 accordingly shall count contributions or expenditures made to support or oppose candidates or measures
12 during the current calendar year.¹⁵

13 **Duty to File Semi-Annual Campaign Statements**

14 All major donor committees shall file semi-annual campaign statements each year no later than
15 July 31 for the period ending June 30, and no later than January 31 for the period ending December 31,
16 if they have made contributions or independent expenditures during the six-month period before the
17 closing date of the statements.¹⁶

18 **Duty to File 24-Hour Contribution Reports**

19 Under the Act, a “late contribution” includes a contribution that totals in the aggregate \$1,000 or
20 more and is made to or received by a candidate, a controlled committee, or a committee formed or
21 existing primarily to support or oppose a candidate or measure during the 90-day period preceding the
22 date of the election, or on the date of the election, at which the candidate or measure is to be voted on.¹⁷

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25 ¹⁰ Regulation 18227.5, subd. (c)(3)(A).

26 ¹¹ Section 84215, subd. (a).

27 ¹² Section 84215, subd. (c).

28 ¹³ Section 84203.

¹⁴ Regulation 18227.5, subd. (d)(1).

¹⁵ Regulation 18227.5, subd. (d)(4).

¹⁶ Section 84200, subd. (b).

¹⁷ Section 82036, subd. (a).

Each candidate or committee that makes or receives a late contribution shall report the late contribution within 24 hours of the time it is made or received.¹⁸

Filing Due Dates

Whenever the Act requires that a statement or report be filed prior to or not later than a specified date, and the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for such a statement or report shall be extended to the next regular business day.¹⁹

PROCEDURAL HISTORY

An administrative action for a violation of the Act has a five-year statute of limitations.²⁰ The statute of limitations is tolled upon the service of a probable cause report, as required by Section 83115.5.²¹ In this matter, a probable cause report was served on Respondents' attorney via certified mail on or around March 29, 2021, effectively tolling the statute of limitations.

SUMMARY OF THE FACTS

According to the Los Angeles County Registrar-Recorder/County Clerk's office ("LACRR"), on February 5, 2021, after receiving contact from the Enforcement Division, the Committee filed a semi-annual campaign statement for the reporting period of January 1, 2016 to December 31, 2016. The Committee qualified as a major donor committee on April 6, 2016 after making a \$15,000 contribution to a primarily formed ballot measure committee. Throughout 2016, the Committee reported making \$88,000 in contributions.

Failure to Timely File Semi-Annual Campaign Statements

As a major donor committee, the Committee was required to file a semi-annual campaign statement for the reporting period of January 1, 2016 to June 30, 2016 by the August 1, 2016 due date since it made contributions during this reporting period. The Committee's campaign statement, filed February 5, 2021, disclosed \$48,000 in contributions made between January 1, 2016 and June 30, 2016 as follows:

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¹⁸ Section 84203.

¹⁹ Regulation 18116, subd. (a).

²⁰ Section 91000.5.

²¹ Section 91000.5, subd. (a).

Date	Name	Measure	Jurisdiction	Amount
04/06/2016	Protect Our Children's Future 2016, A Committee Supporting Measure GS (ID# 1383811)	Measure GS	Los Angeles	\$5,400
04/06/2016	Friends of Long Beach City College – Yes on Measure LB (ID# 1383899)	Measure LB	Los Angeles	\$15,000
04/19/2016	Committee for College of the Canyons – Yes on Measure E (ID# 1384666)	Measure E	Los Angeles	\$10,000
04/19/2016	Protect Our Children's Future 2016, A Committee Supporting Measure GS (ID# 1383811)	Measure GS	Los Angeles	\$17,600
TOTAL:				\$48,000

Since more than 70% of the Committee's contributions were made to support measures voted on in only one county, the Committee qualified as a county committee. As a county committee, the Committee was required to file a semi-annual campaign statement with LACRR for the reporting period of January 1, 2016 and June 30, 2016 by the August 1, 2016 due date. Instead, the Committee reported these contributions on a campaign statement filed February 5, 2021 with LACRR. Thus, the Committee was 1,649 days late in disclosing its campaign activity for the reporting period of January 1, 2016 to June 30, 2016.

As a major donor committee, the Committee was required to file a semi-annual campaign statement for the reporting period of July 1, 2016 and December 31, 2016 by the January 31, 2017 due date since it made contributions during this reporting period. The Committee's campaign statement, filed February 5, 2021, disclosed \$40,000 in contributions made between July 1, 2016 and December 31, 2016 as follows:

Date	Name	Measure	Jurisdiction	Amount
08/09/2016	Parent-Teacher Alliance for Better, Safer Schools (ID# 1388934)	Measure E	Los Angeles	\$10,000
09/06/2016	Committee for Excellence in Elsinore Valley Education – Yes on V (ID# 1390532)	Measure V	Riverside	\$10,000
09/06/2016	A Strong Miracosta, Yes on MM, Sponsored by Miracosta College Foundation (ID# 1382739)	Measure MM	San Diego	\$20,000
TOTAL:				\$40,000

Since the Committee did not reach the 70% threshold to be considered a county committee and made contributions to primarily formed ballot measure committees in more than one county, the Committee's jurisdiction changed from county to state at the end of September. As a state committee, the Committee was required to file a semi-annual campaign statement with the Secretary of State ("SOS") for the reporting period of July 1, 2016 and December 31, 2016 by the January 31, 2017 due date. Instead, the Committee reported these contributions on a campaign statement filed February 5, 2021 with LACRR. Thus, the Committee was 1,466 days late in disclosing its campaign activity for the reporting period of July 1, 2016 and December 31, 2016 and failed to file this statement with the SOS.

Failure to Timely File 24-Hour Contribution Reports

As a major donor committee, the Committee was also required to file 24-hour contribution reports within 24 hours of making a late contribution. The 90-day period preceding the June 7, 2016 Primary Election began on March 9, 2016. The 90-day period preceding the November 8, 2016 General Election began on August 10, 2016. The Committee's campaign statement, filed February 5, 2021, revealed late contributions made by the Committee that required 24-hour contribution reports that were never filed. The Committee failed to timely file 24-hour contribution reports as follows:

DATE MADE	NAME OF PAYEE	AMOUNT	DUE DATE
04/06/2016	Protect Our Children's Future 2016, A Committee Supporting Measure GS (ID# 1383811)	\$5,400	04/07/2016
	Friends of Long Beach City College – Yes on Measure LB (ID# 1383899)	\$15,000	
04/19/2016	Committee for College of the Canyons – Yes on Measure E (ID# 1384666)	\$10,000	04/20/2016
	Protect Our Children's Future 2016, A Committee Supporting Measure GS (ID# 1383811)	\$17,600	
09/06/2016	Committee for Excellence in Elsinore Valley Education – Yes on V (ID# 1390532)	\$10,000	09/07/2016
	A Strong Miracosta, Yes on MM, Sponsored by Miracosta College Foundation (ID# 1382739)	\$20,000	
TOTAL:		\$78,000	

1 In summary, the Committee failed to timely file three 24-hour contribution reports prior to the
2 relevant elections in 2016 to disclose six late contributions made totaling \$78,000. Each of the recipient
3 committees that received a late contribution from the Committee reported the late contributions prior to
4 the election on 24-hour contribution reports and pre-election campaign statements. Thus, all of the
5 Committee's late contributions were disclosed prior to the election by the recipient committees.

6 VIOLATIONS

7 **Count 1: Failure to Timely File Semi-Annual Campaign Statements**

8 The Committee failed to timely file semi-annual campaign statements for the reporting periods
9 ending June 30, 2016 and December 31, 2016, by the August 1, 2016 and January 31, 2017 respective
10 due dates, in violation of Government Code Section 84200, subdivision (b).

11 **Count 2: Failure to Timely File 24-Hour Contribution Reports**

12 The Committee failed to timely file three 24-hour contribution reports for six late contributions
13 made on April 6, 2016, April 19, 2016, and September 6, 2016, totaling \$78,000, by the April 7, 2016,
14 April 20, 2016, and September 7, 2016 respective due dates, in violation of Government Code Section
15 84203.

16 PROPOSED PENALTY

17 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
18 count. Thus, the maximum penalty that may be imposed here is \$10,000.²²

19 This case is excluded from the Tier One Streamline Program because the Committee's
20 contributions for calendar year 2016 exceeded \$50,000.²³ Even though the Committee's contributions
21 for calendar year 2016 were less than \$150,000, this case is not eligible for inclusion in the Tier Two
22 Streamline Program because more than three statements or reports were late during calendar year
23 2016.²⁴

24 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
25 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
26 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division

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28 ²² Section 83116, subd. (c).

²³ Regulation 18360.1, subd. (d)(13)(B)(ii)(a).

²⁴ Regulation 18360.3, subd. (d)(10)(B)(ii)(a).

1 considers the facts and circumstances of the violation in the context of the following factors set forth in
2 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused
3 by the specific violation; (2) The level of experience of the violator with the requirements of the
4 Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The
5 presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was
6 deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the
7 Commission staff or any other governmental agency in a manner not constituting complete defense
8 under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern
9 and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
10 (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide
11 full disclosure.²⁵

12 The public harm inherent in campaign reporting violations is that the public is deprived of
13 important, time-sensitive information regarding campaign activity. Here, the Committee's failure to
14 timely file semi-annual campaign statements and 24-hour contribution reports is mitigated because the
15 recipient committees who received a late contribution from the Committee reported the late
16 contributions prior to the relevant election on 24-hour contribution reports and pre-election campaign
17 statements. Thus, aside from a \$10,000 contribution made outside the 90-day reporting period, all of the
18 Committee's campaign activity was disclosed prior to the relevant elections by the recipients.

19 In this case, there was no evidence to support an intent to conceal, deceive or mislead the public
20 as to the Committee's campaign activities as the Committee filed a semi-annual campaign statement
21 after receiving contact from the Enforcement Division and disclosed each of the contributions. The
22 violations here appear to be negligent as the Committee had previously qualified as a major donor
23 committee and had filed campaign statements in 2002. Thus, the Committee knew, or should have
24 known, of its filing obligations.

25 The Committee did not consult with Commission staff or any other governmental agency
26 regarding its campaign reporting obligations. Also, the Committee does not have a prior record of
27 violating the Act.

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²⁵ Regulation 18361. 5, subd. (e).

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

3 *In the Matter of Del Terra Real Estate Services, Inc.*; FPPC Case No. 2018-00619. Respondent, a
4 major donor committee, failed to timely file two semi-annual campaign statements to disclose the
5 contributions it made in 2016 totaling \$53,350 (1 count) and 24-hour contribution reports to disclose
6 three late contributions it made totaling \$40,000 (1 count). In aggravation, Respondent received at least
7 three major donor notices regarding its potential filing obligations and had previously qualified as a
8 major donor committee in 2014 and 2015. On December 17, 2020, the Commission approved a penalty
9 of \$2,500 for each of these counts.

10 A slightly higher total penalty than that approved in *Del Terra* is recommended. Here, the
11 Committee failed to timely file two semi-annual campaign statements to disclose the contributions it
12 made in 2016 totaling \$88,000, a higher amount than that at issue in *Del Terra*. Also, the Committee
13 failed to timely file three 24-hour contribution reports to disclose six late contributions made totaling
14 \$78,000, nearly double the amount at issue in *Del Terra*. In mitigation, unlike *Del Terra*, there is no
15 evidence that the Committee received major donor notices regarding its potential filing obligations.
16 Also, in mitigation, similar to *Del Terra*, the late contributions were reported prior to the election by
17 each of the recipient committees on 24-hour contribution reports and pre-election campaign statements.
18 Therefore, a total penalty of \$5,500 is recommended; \$2,500 for failing to timely file semi-annual
19 campaign statements and \$3,000 for failing to timely file 24-hour contribution reports.

20 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
21 in the amount of \$5,500 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Failure to Timely File Semi-Annual Campaign Statements	\$2,500
2	Failure to Timely File 24-Hour Contribution Reports	\$3,000
	TOTAL:	\$5,500

26 CONCLUSION

27 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
28 Respondent, Westberg + White, Inc., hereby agree as follows:

1. Respondent violated the Act as described in the foregoing pages, which are a true and accurate summary of the facts in this matter.
2. This stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting – or as soon thereafter as the matter may be heard.
3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose of reaching a final disposition without the necessity of holding an administrative hearing to determine the liability of Respondent pursuant to Section 83116.
4. Respondent has consulted with its attorney, David E. Barker of Collins, Collins, Muir, and Stewart, LLP, and understands, and hereby knowingly and voluntarily waives, any and all procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to the right to appear personally at any administrative hearing held in this matter, to be represented by an attorney at Respondent’s own expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially reviewed.
5. Respondent agrees to the issuance of the decision and orders set forth below. Also, Respondent agrees to the Commission imposing against them an administrative penalty in the amount of \$5,500. One or more cashier’s checks or money orders totaling said amount – to be paid to the General Fund of the State of California – is/are submitted with this stipulation as full payment of the administrative penalty described above, and same shall be held by the State of California until the Commission issues its decision and order regarding this matter.
6. If the Commission refuses to approve this stipulation – then this stipulation shall become null and void, and within fifteen business days after the Commission meeting at which the stipulation is rejected, all payments tendered by Respondent in connection with this stipulation shall be reimbursed to Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before the Commission becomes necessary, neither any member of the Commission, nor the Executive Director, shall be disqualified because of prior consideration of this stipulation.

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

Dated: _____

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

Dated: _____

_____, on behalf of
Westberg + White, Inc., Respondent

The foregoing stipulation of the parties "In the Matter of Westberg + White, Inc.," FPPC Case No. 19/951, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution by the Chair.

IT IS SO ORDERED.

Dated: _____

Richard C. Miadich, Chair
Fair Political Practices Commission