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

10 **STATE OF CALIFORNIA**

11 In the Matter of

12 EVAN LOW and EVAN LOW FOR
13 ASSEMBLY 2020,

14 Respondents.

FPPC Case Nos. 20/231 & 23/443

STIPULATION, DECISION AND ORDER

Date Submitted to Commission: April 2025

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16
17 **INTRODUCTION**

18 Respondent Evan Low (“Low”) was first elected to State Assembly, District 28, in 2014 and was
19 reelected in 2016, 2018, and 2020. In 2022, Low was elected to State Assembly, District 26. On or
20 around December 1, 2024, Low left office with the State Assembly. Respondent Evan Low for
21 Assembly 2020 (ID# 1414197) (the “Committee”) was Low’s controlled committee for the March 3,
22 2020 Primary Election and the November 3, 2020 General Election. Low served as the Committee’s
23 treasurer. At all relevant times, Gina Frisby (“Frisby”) and Danielle Sires (“Sires”) served as agents of
24 the Committee and Low. The Committee and Low executed a tolling agreement to toll the relevant
25 statute of limitations.

26 The Foundation for California’s Technology and Innovation Economy (the “Foundation”) was
27 established in 2017 by Low as a nonprofit 501(c)(3) corporation. Frisby serves as the Foundation’s
28 Treasurer and Chief Financial Officer. Sires serves as an independent contractor who provides specific

1 services to the Foundation including entertainment hiring and management, venue management and
2 coordination, and leads fundraising efforts. Additionally, at all relevant times, Frisby was employed by
3 the State Assembly as Low's Chief of Staff and Sires was employed by the State Assembly as a
4 Consultant for the Assembly Business and Professions Committee. Low served as the Chair of the
5 Assembly Business and Professions Committee.

6 Initially, this case was opened as a Commission-initiated investigation based on a newspaper
7 article alleging Low failed to timely file behested payment reports in violation of the Political Reform
8 Act (the "Act").¹ Additionally, the Enforcement Division received three filing officer referrals for Low's
9 failure to timely file behested payment reports.

10 During the investigation of this matter, the Enforcement Division identified multiple accrued
11 expenses, paid for by the Foundation, that the Committee and Low failed to timely disclose in violation
12 of the Act. Additionally, the Committee and Low failed to timely disclose subvendor payments made
13 associated with the accrued expenses, failed to maintain records of the accrued expenses and subvendor
14 payments, and improperly terminated the Committee. Furthermore, Low failed to verify each of the
15 Committee's campaign statements were true and correct, in violation of the Act.

16 SUMMARY OF THE LAW

17 The Act and its regulations are amended from time to time. The violations in this case occurred
18 in 2018 through 2020. For this reason, all legal references and discussions of law pertain to the Act's
19 provisions as they existed at that time.

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

21 When enacting the Act, the people of California found and declared that previous laws regulating
22 political practices suffered from inadequate enforcement by state and local authorities.² For this reason,
23 the Act is to be construed liberally to accomplish its purposes.³

24 Payments made at the behest of elected officials, including charitable donations, are a means by
25 which donors may seek to gain favor with elected officials. One purpose of the Act is to ensure

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27 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
28 are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18104 through 18998 of Title 2
of the California Code of Regulations, and all regulatory references are to this source.

² Section 81001, subd. (h).

³ Section 81003.

transparent reporting of such activity. This serves to increase public awareness regarding potential attempts in influence in this manner.⁴

Another purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁵ Along these lines, the Act includes a comprehensive campaign reporting system.⁶ A further purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁷

Duty to Timely File Behested Payment Reports

“Behested payment” includes a payment that is made at the behest of an elected officer, or an agent thereof, principally for a legislative, governmental, or charitable purpose.⁸ “Made at the behest of” means made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.⁹

An elected officer must disclose any payment, of \$5,000 or more, made at their behest within 30 days following the date in which the payment was made.¹⁰ The report must include the name and address of the payor; the amount and date of the payment; the name and address of the payee; a brief description of the goods or services provided or purchased, if any; and a description of the specific purpose or event for which the payment was made.¹¹

Duty to Timely Disclose Accrued Expenses

The Act provides that each campaign statement must contain certain information about the campaign’s financial activity, including expenditures, accrued expenses, and identifying information about the recipients of the expenditures, including subvendors.¹²

With respect to expenditures (including accrued expenses), for each person to whom an expenditure of \$100 or more has been made during the period covered by the campaign statement, the

⁴ See Sections 82004.5, 82041.3, and 84224.

⁵ Section 81002, subd. (a).

⁶ Sections 84200, *et seq.*

⁷ Section 81002, subd. (f).

⁸ Section 82004.5.

⁹ Section 82041.3.

¹⁰ Section 84224.

¹¹ *Id.*

¹² Section 84211, subd. (k).

1 filer must disclose the following information: that person's full name; that person's street address; the
2 date and amount of each expenditure; and a brief description of the consideration for which each
3 expenditure was made.¹³

4 Accrued expenses owed by a recipient committee which remain outstanding must be reported on
5 each campaign statement until extinguished.¹⁴

6 **Duty to Timely Disclose Subvendor Payments**

7 A "subvendor" is a person or company that is hired by a committee's agent or independent
8 contractor to provide goods or services for the committee. The Act requires committees to disclose
9 payments of \$500 or more made on its behalf or for its benefit by an agent or independent contractor the
10 same way it would if it were making the payment on its own.¹⁵ Disclosure of the expenditures made by
11 an agent or independent contractor are required to be made at the same time and in the same manner and
12 detail as required for the committee's direct expenditures.¹⁶ Specifically, the following information must
13 be disclosed: the subvendor's full name; the subvendor's street address; the amount of each expenditure;
14 and a brief description of the consideration for which each expenditure was made.¹⁷ This information is
15 commonly referred to as "subvendor information."

16 **Duty to Maintain Campaign Records**

17 It is the duty of each candidate and treasurer to maintain detailed accounts, records, bills, and
18 receipts necessary to prepare campaign statements, to establish that campaign statements were properly
19 filed, and to otherwise comply with the provisions of the Act.¹⁸

20 **Duty to Verify Campaign Statements**

21 All campaign statements filed must be signed and verified by the filer.¹⁹ A statement filed by a
22 recipient committee must be signed and verified by the treasurer and, if applicable, the controlling
23 candidate.²⁰ The controlling candidate and the treasurer of a committee must verify that to the best of
24

25 ¹³ Section 84211, subd. (k).

26 ¹⁴ Regulation 18421.6, subd. (a).

27 ¹⁵ Section 84303, subd. (a); Section 84211, subd. (k).

28 ¹⁶ Regulation 18431, subd. (c); Section 84211, subd. (k).

¹⁷ Section 84211, subd. (k).

¹⁸ Section 84104.

¹⁹ Section 81004, subd. (a).

²⁰ Section 81004, subd. (b); Regulation 18427, subds. (a) and (c).

1 their knowledge the committee's campaign statements are true and complete and they must use all
2 reasonable diligence in the preparation of the statements.²¹

3 **Duty to Properly Terminate Committee**

4 Committees and candidates shall terminate their filing obligation pursuant to regulations adopted
5 by the Commission which insure that a committee or candidate will have no activity which must be
6 disclosed pursuant to the Act subsequent to the termination.²² A treasurer of a recipient committee may
7 terminate the committee's status as a committee, only by completing the termination section on the
8 Form 410 (Statement of Organization) declaring that the committee: (1) has ceased to receive
9 contributions and make expenditures and does not anticipate receiving contributions or making
10 expenditures in the future; (2) has eliminated or has declared that it has no intention or ability to
11 discharge all of its debts, loans received and other obligations; (3) has no surplus funds; and (4) has filed
12 all required campaign statements disclosing all reportable transactions.²³

13 **Liability**

14 Any person who violates any provision of the Act is liable for administrative penalties up to
15 \$5,000 per violation.²⁴ Under the Act, it is a duty of the candidate and treasurer of a controlled
16 committee to ensure that the committee complies with all the requirements of the Act concerning the
17 receipt, expenditure, and reporting of funds.²⁵ The candidate and treasurer may be held jointly and
18 severally liable, along with the committee, for violations committed by the committee.²⁶

19 **SUMMARY OF THE FACTS**

20 **Failure to Timely File Behested Payment Reports**

21 Between 2018 and 2020, Low served as a member of the State Assembly. During this time,
22 payments were made at Low's behest to organizations, including the Foundation and the California
23 Legislative LGBT Foundation ("LGBT Foundation"). As discussed above, Low established the
24 Foundation and Frisby, Low's Chief of Staff, serves as the Foundation's Treasurer/Director.

26 ²¹ Section 81004, subd. (a); Regulation 18427, subds. (a) and (c).

27 ²² Section 84214.

28 ²³ Regulation 18404, subd. (b).

²⁴ Sections 83116 and 83116.5.

²⁵ Sections 81004, 84100, 84104, and 84213; Regulation 18427.

²⁶ Sections 83116.5 and 91006.

1 Additionally, Low serves as the President of the LGBT Foundation and Frisby serves as its Secretary.
 2 As an elected officer, Low was required to file a behested payment report within 30 days of each
 3 payment of \$5,000 or more. Low failed to timely file the following behested payment reports:

Payment Date	Payor	Payee	Report Due Date	Date Filed	Amount
02/09/2018	San Manuel Band of Mission Indians	Foundation for California's Technology and Innovation Economy	03/12/2018	5/16/2018 (65 days late)	\$5,000
03/02/2018	Santa Ynez Band of Chumash Indians	California Legislative LGBT Foundation	04/02/2018	05/17/2018 (45 days late)	\$12,500
03/06/2018	Cox Communications	Foundation for California's Technology and Innovation Economy	04/05/2018	05/16/2018 (41 days late)	\$17,500
03/14/2018	California Dental Association	California Legislative LGBT Foundation	04/13/2018	05/17/2018 (34 days late)	\$5,000
03/14/2018	Ghost Management	California Legislative LGBT Foundation	04/13/2018	05/17/2018 (34 days late)	\$10,000
03/21/2018	Sycuan Band of the Kumeyaay Nation	California Legislative LGBT Foundation	04/20/2018	05/17/2018 (27 days late)	\$12,500
04/11/2018	CalChamber	California Legislative LGBT Foundation	05/11/2018	05/17/2018 (6 days late)	\$15,000
04/11/2018	Sutter Health	California Legislative LGBT Foundation	05/11/2018	05/17/2018 (6 days late)	\$20,000
11/02/2018	Apple	Foundation for California's Technology and Innovation Economy	12/03/2018	05/13/2020 (527 days late)	\$35,000
04/18/2019	Facebook	Foundation for California's Technology and Innovation Economy	05/20/2019	05/13/2020 (359 days late)	\$10,000
01/17/2020	AT&T	Foundation for California's Technology and Innovation Economy	02/17/2020	05/13/2020 (86 days late)	\$30,000
02/28/2020	California Federation of Teachers	Equality California	03/30/2020	04/07/2020 (8 days late)	\$10,000
02/28/2020	Gilead Sciences, Inc.	Equality California	03/30/2020	04/07/2020 (8 days late)	\$25,000
02/28/2020	LinkedIn	Equality California	03/30/2020	04/07/2020 (8 days late)	\$5,000
03/03/2020	West Coast Property	Equality California	04/02/2020	04/07/2020 (5 days late)	\$7,500

	Management				
03/17/2020	Perkins Coie	Equality California	04/16/2020	04/24/2020 (8 days late)	\$7,500
TOTAL:					\$227,500

In summary, Low failed to timely file 16 behested payment reports for payments totaling \$227,500, the reports were filed between 5 and 528 days late. As to the eight behested payments made between February 9, 2018 and April 11, 2018, totaling \$97,500, Low late-filed behested payment reports prior to the opening of this case. As to the remaining eight behested payments made between November 2, 2018 and March 17, 2020, totaling \$130,000, Low late-filed behested payment reports after receiving contact from the Enforcement Division regarding the opening of this case. These violations are aggravated as the information regarding the behested payments should have been easily obtained and timely disclosed as Low established the Foundation and serves as the President of the LGBT Foundation. Additionally, Frisby, Low's Chief of Staff and the designated contact person on Low's behested payment reports, serves as the Foundation's Treasurer/Director and as the LGBT Foundation's Secretary.

According to Low, the five behested payments made between February 28, 2020 and March 17, 2020, were reported late due to the pandemic as everyone was working remotely and the information for the reports was received later than usual.

Failure to Timely Disclose Accrued Expenses

In late 2019, the Foundation was preparing for its annual Technology and Policy Summit ("Tech Summit"), a fundraising event which brings together California Senators and Assemblymembers with tech industry members, which was scheduled to be held on February 6-7, 2020. During this time, the Committee and Low were preparing for the annual Lunar New Year celebration ("Lunar Event"), a fundraising event to support Low's re-election to State Assembly, which was scheduled to be held on February 7, 2020.

On October 4, 2019, Sires, on behalf of the Foundation, reached out to the Creative Artists Agency (the "CAA") via email for a list of celebrities, and their fees, to appear at the Tech Summit to be held on February 6-7, 2020. Later that day, the CAA responded to Sires with a list of celebrities and

1 their fees which included Alec Baldwin (“Baldwin”), a well-known celebrity, for a fee of “\$150,000
2 plus first [-class airfare] for two from New York.”

3 On October 16, 2019, Sires, on behalf of the Foundation, the Committee, and Low, submitted a
4 speaking engagement firm offer to the CAA for the appearance of Baldwin. The proposed firm offer was
5 for Baldwin to appear at both the Tech Summit and the Lunar Event for a fee of \$205,000. Ultimately,
6 the parties settled on a fee of \$220,000 plus travel costs for Baldwin to speak at both the Tech Summit
7 and the Lunar Event.

8 By email, dated November 20, 2019, the CAA provided Sires with a draft contract for the two-
9 event appearance by Baldwin. On November 21, 2019, Sires responded to the CAA email stating, “Is
10 there a way to have the lunar year year [sic] portion in a separate contract stating that option is
11 voluntary?” The CAA responded to Sires stating, “So two separate contracts but all the money under
12 one? But its not voluntary. If he doesn’t do it, he would still be paid his full fee. That doesn’t work in
13 your favor to include the voluntary part.”

14 On November 22, 2019, the CAA provided Sires with another draft contract. Again, Sires
15 responded stating, “Can we have the evening event as a separate volunteer event? (From Attorney).”
16 Sires’ references to an attorney are referring to the Foundation’s attorneys. The CAA responded to Sires
17 stating, “I really don’t think that is a good idea. if it is listed as volunteer, it will be confusing and if the
18 contract says voluntary, what if he opts not to volunteer for it? Is there language the attorney can come
19 up with that indicates the pay is for the first event?” On November 23, 2019, Sires responded stating,
20 “okay so if we include that payment in full will ensure that we have access have him available until
21 8:00pm (PT) is what they have suggested?”

22 On November 26, 2019, the CAA reached out to Sires on the same email chain again and stated,
23 “Hi – did you get feedback from the lawyer on how they want it to look? Someone reached out on behalf
24 of Evan speaking well of the event and asking him to consider it. Anyway, it really caused some
25 confusion since he already accepted and he’d like to see the contract asap.” On November 27, 2019,
26 Sires emailed the CAA stating, “Please see attached and let me know what you think. **Attorneys**
27 **separated into two contracts.** Make any other changes you deem appropriate. Happy Thanksgiving.
28 We are ready to make the wire transfer as soon as we execute.” (**Emphasis** added.)

1 On December 4, 2019, the CAA provided Sires with two revised draft contracts. The first revised
2 contract provided for an engagement fee of \$220,000 and identified the venue as two separate locations
3 and identified two separate audiences. The second revised contract was similar to the first revised
4 contract and identified the same venues and audiences. The main difference in the second revised
5 contract related to the engagement fee. Unlike the first revised contract, that provided a \$220,000
6 engagement fee, the second revised contract stated the engagement fee as “Voluntary Appearance.”
7 Both contracts were fully executed with Frisby signing both contracts on December 4, 2019 on behalf of
8 the Foundation, the Committee, and Low, and Baldwin signing both contracts on December 6, 2019.

9 While the second contract stated the engagement fee as voluntary, the first contract expressly
10 required for Baldwin to appear at two separate events. The Enforcement Division contends the
11 communications and multiple contracts evidence an intent to conceal the portions of the agreement
12 pertaining to the Lunar Event.

13 The Foundation paid the CAA \$220,000 for Baldwin to appear on February 7, 2020 at both the
14 Tech Summit and the Lunar Event. On December 20, 2019, the Foundation wired the CAA \$110,000.
15 On January 8, 2020, the Foundation wired the CAA the remaining \$110,000. Low contends the parties
16 intended for the Committee and Low to repay the Foundation for the portion of the expenses related to
17 Baldwin’s appearance at the Lunar Event.

18 Additionally, per the terms of the executed contract, the Foundation, Committee, and Low were
19 required to pay for Baldwin’s air travel, accommodations, and meals related to the travel required for the
20 two events. On February 3, 2020, the Foundation paid the CAA approximately \$4,499 for Baldwin’s
21 airfare from New York to California for the two events. On February 4, 2020, the Foundation paid Five
22 Emerald Limousine \$1,449 for the transportation of Baldwin between the California airport, Baldwin’s
23 hotel room, the Tech Summit, and the Lunar Event. On February 6, 2020, the Foundation paid Carey
24 International, Inc., a premium executive ground transportation company, \$188 to pick up Baldwin in
25 New York and to transport Baldwin to the airport in New York. On February 7, 2020, the Foundation
26 paid approximately \$724 for Baldwin’s one night stay at The Fairmont San Jose. On February 10, 2020,
27 the Foundation paid Carey International, Inc. approximately \$189 to pick up Baldwin from the airport in
28 New York and to transport Baldwin to Baldwin’s New York residence.

1 In total, the Foundation paid approximately \$227,049 for Baldwin to appear at both the Tech
2 Summit and the Lunar Event. It was determined that Baldwin's time was split evenly between the Tech
3 Summit and the Lunar Event. Thus, the Committee and Low were required to disclose accrued expenses
4 made by the Foundation totaling approximately \$113,524.50, half of the total expenses paid by the
5 Foundation for Baldwin's speaking engagement at the Tech Summit and the Lunar Event, as follows:

Statement	Reporting Period	Due Date	Amount Incurred This Period	Outstanding Balance
Semi-Annual	07/01/2019 - 12/31/2019	1/31/2020	\$55,000.00	\$55,000.00
Pre-Election	01/01/2020 - 01/18/2020	1/23/2020	\$55,000.00	\$110,000.00
Pre-Election	01/19/2020 - 02/15/2020	2/20/2020	\$3,524.50	\$113,524.50
Semi-Annual	02/16/2020 - 06/30/2020	7/31/2020	\$0	\$113,524.50
Pre-Election	07/01/2020 - 09/19/2020	9/24/2020	\$0	\$113,524.50
Pre-Election	09/20/2020 - 10/17/2020	10/22/2020	\$0	\$113,524.50
Semi-Annual	10/18/2020 - 12/31/2020	2/1/2021	\$0	\$113,524.50

16 Based on the evidence, the Enforcement Division initially characterized this campaign activity as
17 non-monetary contributions from the Foundation to the Committee and Low as Low initially contended
18 that Baldwin appeared at the Lunar Event on Baldwin's "own accord." On June 14, 2024, the
19 Committee, Low, and the Foundation were served with a PC Report alleging over-the-limit non-
20 monetary contributions were made which the parties failed to timely disclose. On July 29, 2024, the
21 Committee, Low, and the Foundation submitted responses to the PC Report and requested a Probable
22 Cause Conference. On November 19, 2024, a probable cause conference was held. On November 25,
23 2024, the Hearing Officer issued an order finding that there was probable cause to believe that the
24 Committee, Low, and the Foundation violated the Act as alleged in the PC Report, and directed the
25 Enforcement Division to issue an Accusation against the parties in accordance with the finding. On
26 January 21, 2025, the Committee, Low, and the Foundation were served with an Accusation. Following
27 service of the Accusation, Low admitted that Low had knowledge of, and failed to timely disclose, the
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campaign activity at issue here. Additionally, Low confirmed that the campaign activity should be characterized as accrued expenses that the Committee and Low failed to timely disclose.

Therefore, based on the evidence, including Low's admissions, the Committee and Low failed to timely disclose accrued expenses across the seven reporting periods occurring between July 1, 2019 and December 31, 2020. Additionally, the Committee and Low were unable to provide any records, bills, or receipts for the accrued expenses. As a condition of settlement, the Committee and Low have paid off the accrued expenses and filed amendments to disclose the accrued expenses.

Failure to Timely Disclose Subvendor Payments

As discussed above, the Foundation made multiple payments, on behalf of and for the benefit of the Committee and Low, for the appearance of Baldwin at the Lunar Event. However, the Committee and Low failed to timely disclose the subvendor payments as follows:

Statement	Reporting Period	Due Date	Subvendor	Amount
Semi-Annual	07/01/2019 - 12/31/2019	1/31/2020	Creative Artists Agency	\$55,000
Pre-Election	01/01/2020 - 01/18/2020	1/23/2020	Creative Artists Agency	\$55,000
Pre-Election	01/19/2020 - 02/15/2020	2/20/2020	Creative Artists Agency; World-Wide Travel Associates	\$2,249.50
Pre-Election	01/19/2020 - 02/15/2020	2/20/2020	Five Emerald Limousine	\$724.50

In summary, the Committee and Low failed to timely disclose four subvendor payments across the three reporting periods occurring between July 1, 2019 and February 15, 2020. Additionally, the Committee and Low were unable to provide any records, bills, or receipts for the subvendor payments. As a condition of settlement, the Committee and Low have filed amendments to disclose the subvendor payments.

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1 **Failure to Verify Campaign Statements**

2 As a controlling candidate and treasurer of the Committee, Low had a duty to verify each of the
3 Committee's campaign statements and to use reasonable diligence in the preparation of the statements.
4 As discussed above, Low was aware of the accrued expenses and subvendor payments as Low, or Low's
5 agents, were involved in the contract negotiations and travel arrangements for Baldwin. However, the
6 Committee and Low failed to timely disclose each accrued expense and subvendor payment as required.

7 In summary, Low failed to verify campaign statements filed for the seven reporting periods
8 occurring between July 1, 2019 and December 31, 2020.

9 **Failure to Properly Terminate Committee**

10 As treasurer of the Committee, Low had a duty to terminate the Committee only after the
11 Committee had repaid its debts and disclosed all reportable activity. According to campaign statements,
12 the Committee terminated, effective December 31, 2020, with no outstanding debt and transferred
13 approximately \$2,519,198 to Evan Low for Assembly 2022 (ID# 1434780). However, as discussed
14 above, the Committee failed to disclose certain accrued expenses and subvendor payments on campaign
15 statements as required. Further, the Committee failed to repay its outstanding debt owed to the
16 Foundation prior to termination. Thus, Low improperly terminated the Committee.

17 **VIOLATIONS**

18 **Respondent: Low**

19 **Counts 1-3: Failure to Timely File Behested Payment Reports**

20 Between March 11, 2018 and February 16, 2020, Low failed to timely file behested payment
21 reports for 11 payments (of \$5,000 or more) totaling approximately \$172,500, by the applicable due
22 dates, in violation of Government Code Section 84224.

23 **Count 4: Failure to Verify Campaign Statement**

24 On or around January 23, 2020, Low failed to verify the semi-annual campaign statement filed
25 for the reporting period of July 1, 2019 to December 31, 2019, in violation of Government Code Section
26 81004.

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Count 5: Failure to Verify Campaign Statement

On or around January 23, 2020, Low failed to verify the pre-election campaign statement filed for the reporting period of January 1, 2020 to January 18, 2020, in violation of Government Code Section 81004.

Count 6: Failure to Verify Campaign Statement

On or around February 20, 2020, Low failed to verify the pre-election campaign statement filed for the reporting period of January 19, 2020 to February 15, 2020, in violation of Government Code Section 81004.

Count 7: Failure to Verify Campaign Statement

On or around July 31, 2020, Low failed to verify the semi-annual campaign statement filed for the reporting period of February 16, 2020 to June 30, 2020, in violation of Government Code Section 81004.

Count 8: Failure to Verify Campaign Statement

On or around September 24, 2020, Low failed to verify the pre-election campaign statement filed for the reporting period of July 1, 2020 to September 19, 2020, in violation of Government Code Section 81004.

Count 9: Failure to Verify Campaign Statement

On or around October 22, 2020, Low failed to verify the pre-election campaign statement filed for the reporting period of September 20, 2020 to October 17, 2020, in violation of Government Code Section 81004.

Count 10: Failure to Verify Campaign Statement

On or around February 1, 2021, Low failed to verify the semi-annual campaign statement filed for the reporting period of October 18, 2020 to December 31, 2020, in violation of Government Code Section 81004.

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Respondents: The Committee and Low

Count 11: Failure to Timely Disclose Accrued Expense

The Committee and Low failed to timely disclose an accrued expense totaling \$55,000 on the semi-annual campaign statement for the reporting period of July 1, 2019 to December 31, 2019, by the January 31, 2020 due date, in violation of Government Code Section 84211, subdivision (k), and Regulation 18421.6.

Count 12: Failure to Timely Disclose Accrued Expenses

The Committee and Low failed to timely disclose an accrued expense totaling \$55,000, and outstanding accrued expenses totaling \$110,000, on the pre-election campaign statement for the reporting period of January 1, 2020 to January 18, 2020, by the January 23, 2020 due date, in violation of Government Code Section 84211, subdivision (k), and Regulation 18421.6.

Count 13: Failure to Timely Disclose Accrued Expenses

The Committee and Low failed to timely disclose accrued expenses totaling \$3,524.50, and outstanding accrued expenses totaling \$113,524.50, on the pre-election campaign statement for the reporting period of January 19, 2020 to February 15, 2020, by the February 20, 2020 due date, in violation of Government Code Section 84211, subdivision (k), and Regulation 18421.6.

Count 14: Failure to Timely Disclose Accrued Expenses

The Committee and Low failed to timely disclose outstanding accrued expenses totaling \$113,524.50 on the semi-annual campaign statement for the reporting period of February 16, 2020 to June 30, 2020, by the July 31, 2020 due date, in violation of Government Code Section 84211, subdivision (k), and Regulation 18421.6.

Count 15: Failure to Timely Disclose Accrued Expenses

The Committee and Low failed to timely disclose outstanding accrued expenses totaling \$113,524.50 on the pre-election campaign statement for the reporting period of July 1, 2020 to September 19, 2020, by the September 24, 2020 due date, in violation of Government Code Section 84211, subdivision (k), and Regulation 18421.6.

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Count 16: Failure to Timely Disclose Accrued Expenses

The Committee and Low failed to timely disclose outstanding accrued expenses totaling \$113,524.50 on the pre-election campaign statement for the reporting period of September 20, 2020 to October 17, 2020, by the October 22, 2020 due date, in violation of Government Code Section 84211, subdivision (k), and Regulation 18421.6.

Count 17: Failure to Timely Disclose Accrued Expenses

The Committee and Low failed to timely disclose outstanding accrued expenses totaling \$113,524.50 on the semi-annual campaign statement for the reporting period of October 18, 2020 to December 31, 2020, by the February 1, 2021 due date, in violation of Government Code Section 84211, subdivision (k), and Regulation 18421.6.

Count 18: Failure to Timely Disclose Subvendor Payment

The Committee and Low failed to timely disclose and itemize a subvendor payment totaling \$55,000 on the semi-annual campaign statement for the reporting period of July 1, 2019 and December 31, 2019, by the January 31, 2020 due date, in violation of Government Code Sections 84303 and 84211, subdivision (k).

Count 19: Failure to Timely Disclose Subvendor Payment

The Committee and Low failed to timely disclose and itemize a subvendor payment totaling \$55,000 on the pre-election campaign statement for the reporting period of January 1, 2020 to January 18, 2020, by the January 23, 2020 due date, in violation of Government Code Sections 84303 and 84211, subdivision (k).

Count 20: Failure to Timely Disclose Subvendor Payment

The Committee and Low failed to timely disclose and itemize a subvendor payment totaling \$2,249.50 on the pre-election campaign statement for the reporting period of January 19, 2020 to February 15, 2020, by the February 20, 2020 due date, in violation of Government Code Sections 84303 and 84211, subdivision (k).

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Count 21: Failure to Timely Disclose Subvendor Payment

The Committee and Low failed to timely disclose and itemize a subvendor payment totaling \$724.50 on the pre-election campaign statement for the reporting period of January 19, 2020 to February 15, 2020, by the February 20, 2020 due date, in violation of Government Code Sections 84303 and 84211, subdivision (k).

Count 22: Failure to Maintain Campaign Records

The Committee and Low failed to maintain detailed campaign records for accrued expenses totaling \$113,524.50 and subvendor payments (of \$500 or more) made on the Committee's behalf totaling \$112,974, in violation of Government Code Section 84104.

Count 23: Failure to Properly Terminate Committee

The Committee and Low improperly terminated the Committee by failing to repay the Committee's outstanding debts and by failing to disclose all reportable activity on campaign statements, in violation of Government Code Section 84214 and Regulation 18404, subdivision (b).

PROPOSED PENALTY

This matter consists of 23 proposed counts. The maximum penalty that may be imposed is \$5,000 per count. Thus, the maximum penalty that may be imposed for the counts charged here is \$115,000.²⁷

This matter is not eligible for the Streamline Settlement Program because there is evidence of an intent to conceal.²⁸

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 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the specific violation; (2) The level of experience of the violator with the requirements of the Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The

²⁷ Section 83116, subd. (c).

²⁸ Regulation 18360.1, subd. (d)(5)(A).

1 presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was
2 deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the
3 Commission staff or any other governmental agency in a manner not constituting complete defense
4 under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern
5 and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
6 (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide
7 full disclosure.²⁹

8 Payments made at the behest of elected officials, including charitable donations, are a means by
9 which donors may seek to gain favor with elected officials. Timely reporting of such activity serves to
10 increase public awareness regarding potential attempts to influence in this manner. There is inherent
11 public harm in non-disclosure because the public is deprived of important information that the Act
12 mandates must be timely disclosed. The Commission has found timely disclosure to be essential.

13 Failing to verify campaign statements and improperly terminating a committee are serious
14 violations of the Act as it raises questions about whether the information contained in the campaign
15 statements is true, accurate, and complete. Additionally, failing to verify campaign statements can result
16 in a lack of accountability for those who would file statements with false information as filers are
17 required to use all reasonable diligence in preparing campaign statements. The public harm inherent in
18 campaign reporting violations is that the public is deprived of important, time-sensitive information
19 regarding campaign activity. The gravity of the public harm is heightened when the campaign reporting
20 violations are related to pre-election activity. Here, these violations are aggravated as Low was aware of
21 the accrued expenses and subvendor payments at issue here but failed to timely disclose this activity on
22 relevant campaign statements. This resulted in the public having limited knowledge of the Committee's
23 expenditures related to the Lunar Event, prior to the March 3, 2020 Primary Election.

24 The public harm inherent in failing to maintain the required campaign records is that the lack of
25 records makes it difficult, and in some instances, impossible, to track and verify campaign financial
26 activity, to ensure that campaign funds are used for campaign-related purposes, and to identify other
27 potential violations. Here, the Committee and Low did not maintain any records related to those

28 ²⁹ Regulation 18361.5, subd. (e).

1 expenditures made through the Foundation for the Lunar Event. Without these records, Respondents and
2 the Enforcement Division could not verify that the Committee's campaign statements were properly and
3 accurately prepared.

4 Low is experienced with the requirements of the Act as Low has been an elected official since
5 2006 when Low was elected to the City Council for the City of Campbell.

6 In this matter, as to Counts 1-3, the Enforcement Division did not obtain any evidence to support
7 an intention to conceal, deceive, or mislead. These violations appear to be negligent as Low is
8 experienced with the Act and aware of the behested payment filing obligation. Also, since the late-filed
9 reports extended over a period of three calendar years, these violations were not isolated but instead part
10 of a pattern.

11 As to Counts 4-23, while Low now confirms Baldwin's appearance at the Lunar Event was an
12 expense that the Committee and Low were required to pay and disclose on campaign statements, the
13 Enforcement Division obtained evidence to support a contemporaneous intent to conceal the campaign
14 activity at issue here. The communications outlined above, between Sires and the CAA, evidence an
15 intent to conceal the portions of the contract pertaining to Baldwin's paid appearance at the Lunar Event.
16 Following the Lunar Event, Low referred to Baldwin's appearance at the Lunar Event as voluntary in a
17 Facebook post, further evidencing an intent to conceal. Low contends this Facebook post is evidence of
18 his good faith belief at the time that Baldwin's appearance at the Lunar Event was voluntary. On April
19 19, 2023, during an interview with Low, the Enforcement Division asked Low about Baldwin's
20 appearance at the Lunar Event, in which Low responded stating that Baldwin appeared at the Lunar
21 Event on Baldwin's "own accord" and advised that Low was not involved in booking Baldwin's
22 appearance. However, the evidence shows Baldwin was contracted and paid over \$113,000 to appear at
23 the Lunar Event and Low and Low's agents were involved in the negotiations of the contract. These
24 violations appear to be deliberate as Low was aware of the expenditures made by the Foundation on
25 Low's and the Committee's behalf. However, this was an isolated event and does not appear to be part
26 of a pattern.

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1 The Committee does not have a prior history of violating the Act. Low's prior enforcement
2 history resulted in a Warning Letter being issued, on August 6, 2013, for using personal funds for
3 campaign expenditures without first depositing the funds into a campaign bank account.³⁰ Respondents
4 did not consult with Commission staff or any other governmental agency regarding the campaign
5 activity at issue here. As a condition of settlement, the Committee and Low have paid off the
6 outstanding accrued expenses owed to the Foundation and have filed amendments to disclose the
7 campaign activity at issue here.

8 The Commission considers penalties in prior cases involving similar violations. A recent similar
9 case involving a state elected official who failed to timely file behested payment reports includes *In the*
10 *Matter of William Dodd*; FPPC Case No. 19/439 (approved January 26, 2023). The Commission
11 imposed a penalty of \$1,500 per count for five counts of failing to timely file five behested payment
12 reports totaling \$265,000. In aggravation, Dodd also failed to timely file 22 behested payment reports
13 totaling \$216,900. It was determined that the violations were the result of negligence, including clerical
14 error and difficulty obtaining the required information from third parties, as Dodd was experienced with
15 the Act. The violations were not isolated but instead appeared to be part of a pattern as the violations
16 occurred during two calendar years. In cases with a large number of violations for failing to timely file
17 behested payment reports, the Enforcement Division has historically used thresholds to separate the
18 most egregious violations, in terms of reportable activity. Thus, in *Dodd*, the five highest behested
19 payments (for payments ranging from \$20,000 to \$120,000) were charged while the less egregious
20 violations (for payments ranging from \$5,000 to \$14,400) were used as aggravation. This penalty
21 amounted to approximately 1.56% of the total behested payments. In mitigation, the reports were filed
22 between 41 and 107 days late, but all were filed before the referrals were made to the Enforcement
23 Division.

24 As to Counts 1-3, a slightly higher penalty than that approved in *Dodd* is recommended. Here,
25 Low failed to timely file 11 behested payment reports totaling \$172,500. In aggravation, Low also failed
26 to timely file five behested payment reports totaling \$55,000. In mitigation, similar to *Dodd*, according
27 to Low, these five behested payments were reported late in early 2020 due to the pandemic as everyone
28

³⁰ FPPC No. 12/587.

1 was working remotely and the information for the reports were received later than usual. All of the
2 reports at issue here were filed between 5 and 527 days late, some much later than those reports late-
3 filed in *Dodd*. Similar to *Dodd*, Low is experienced with the Act and so knew or should have known of
4 the filing obligations. Also, similar to *Dodd*, the violations here were not isolated but instead appear to
5 be part of a pattern as the violations occurred during three calendar years. Eight of the behested payment
6 reports were filed prior to the opening of this case, unlike in *Dodd*, where all of the outstanding reports
7 were filed prior to the opening of the case. Also, unlike *Dodd*, Low was closely acquainted with two of
8 the payees, as Low established the Foundation and at the time of the violations, Low's Chief of Staff
9 served as the Foundation's Treasurer and Chief Financial Officer. Also, at the time of the violations Low
10 served as the President of the LGBT Foundation and Low's Chief of Staff served as the LGBT
11 Foundation's Secretary, and thus Low was able to obtain, or should have been able to obtain, the
12 required information easily from the payees. Therefore, a penalty of \$2,000 per count is recommended.
13 This amounts to approximately 2.63% of the total behested payments.

14 A similar case involving a candidate who failed to verify campaign statements includes *In the*
15 *Matter of Tracy McMahon, Committee to Elect Tracy McMahon, and Noreen Considine*; FPPC Case
16 No. 08/668 (approved January 28, 2011). The Commission imposed a penalty in the amount of \$1,000
17 for one count of failing to verify and sign campaign statements. McMahon, the controlling candidate,
18 did not sign or verify any of the committee's campaign statements, instead they were signed and verified
19 by Considine, the committee's treasurer, only. One of the campaign statements did not contain any
20 signatures or verifications. In mitigation, the controlling candidate and treasurer did not have experience
21 with the Act and cooperated with the Enforcement Division's investigation.

22 As to Counts 4-10, significantly higher penalties than that approved in *McMahon* is
23 recommended. Unlike *McMahon*, Low was experienced with the Act and understood the duty to sign
24 and verify campaign statements as required. Therefore, a penalty of \$5,000 per count is recommended.

25 A similar case involving a candidate controlled committee that failed to timely disclose accrued
26 expenses includes *In the Matter of James Gore, James Gore for Supervisor 2014, and Rebecca Olson*;
27 FPPC Case No. 14/609 (approved September 17, 2015). The Commission imposed a penalty in the
28 amount of \$2,000 for one count of failing to timely disclose accrued expenses, totaling \$30,000, across

multiple reporting periods. Gore was a successful candidate on the June 3, 2014 Primary Election and November 4, 2014 Runoff Election. Prior to the relevant elections, Gore entered into a campaign consulting agreement with a consulting firm to provide services related advertising, printing, phone banks, and polling. The agreement called for the consulting firm to receive three separate fees in the amounts of \$15,000 each. Since Gore began receiving services under the contract prior to the Primary Election, the accrued expense for the first \$15,000 fee was required to be disclosed prior to the election. However, Gore failed to timely disclose this accrued expense until after the relevant election. Additionally, the second \$15,000 fee was required to be disclosed prior to the Runoff Election; however, Gore failed to timely disclose this accrued expense until after the relevant election.

As to Counts 11-17, significantly higher penalties than that approved in *Gore* is recommended. Similar to *Gore*, the Committee and Low also failed to timely disclose accrued expenses and outstanding accrued expenses across multiple reporting periods. However, the total amount of unreported accrued expenses at issue in *Gore* (\$30,000), is significantly lower than the total amount at issue here (\$113,524.50). Therefore, a penalty of \$5,000 per count is recommended.

A recent similar case involving a state candidate controlled committee that failed to timely disclose subvendor payments and failed to maintain campaign records includes *In the Matter of Fiona Ma for State Treasurer 2018, Fiona Ma, and James Santos*; FPPC Case No. 22/195 (approved January 18, 2024). The Commission imposed a penalty in the amount of \$5,000 for failing to timely disclose subvendor payments, totaling approximately \$867,345, across two reporting periods. Additionally, the Commission imposed a penalty in the amount of \$5,000 for failing to maintain campaign records related to the subvendor payments. Approximately \$516,981 worth of subvendor payments were required to be disclosed prior to the Primary Election; however, these subvendor payments were not disclosed until after the relevant election. The remaining \$350,364 of subvendor payments were required to be disclosed prior to the General Election; however, these subvendor payments were not timely disclosed. For purposes of settlement, an amendment was filed to disclose the missing subvendor payments. During the Franchise Tax Board (“FTB”) audit, the committee and Santos, the committee’s treasurer, were unable to provide records to support how the remaining balance held by the vendor, totaling approximately \$485,019, was spent. The Enforcement Division obtained evidence to support that Santos

1 provided inaccurate and misleading information to the FTB auditor. Santos stated that he continuously
2 asked for subvendor information but never received more than what he originally reported. The
3 Enforcement Division's investigation found that the vendor had timely notified Santos of the subvendor
4 information for each reporting period as required; however, Santos failed to timely disclose this
5 information and failed to maintain the campaign records as required.

6 As to Counts 18-21, significantly higher penalties than that approved in *Ma* is recommended.
7 Here, the Committee and Low failed to timely disclose subvendor payments totaling \$112,974, a
8 significantly lower amount than that at issue in *Ma*. Therefore, a penalty of \$5,000 per count is
9 recommended.

10 As to Count 22, a similar penalty than that approved in *Ma* is recommended. Here, the
11 Committee and Low failed to maintain campaign records for accrued expenses and subvendor payments
12 in which the Committee and Low were timely notified of, similar to *Ma*. Therefore, a penalty of \$5,000
13 is recommended.

14 A similar case involving state candidate controlled committees that failed to properly terminate
15 includes *In the Matter of Maxine Sherard, Sherard for Assembly 2006, and Sherard for Assembly 2008*;
16 FPPC Case No. 10/26 (Default approved October 13, 2011). The Commission imposed default penalties
17 in the amount \$2,500 per count for two counts of failing to timely file a terminating statement of
18 organization. Since Sherard was unsuccessful in the 2006 election, and since the 2006 committee had
19 outstanding debts, a terminating statement of organization was required to be filed within two years.
20 Similarly, since Sherard was unsuccessful in the 2008 election, and since the 2008 committee had
21 outstanding debts, a terminating statement of organization was required to be filed within two years. A
22 terminating statement of organization was never filed for either committee. Sherard and the committees
23 did not cooperate with the Enforcement Division and did not file the outstanding terminating statements
24 of organization as requested. Sherard had previously received a Warning Letter from the Enforcement
25 Division for failing to timely file 24-hour reports and a semi-annual campaign statement and for failing
26 to maintain campaign records.

27 As to Count 23, a similar total penalty than that approved in *Sherard* is recommended. While the
28 Committee and Low timely filed the terminating statement of organization, they failed to repay

outstanding debts and disclose all reportable activity on campaign statements prior to filing. In *Sherard*, the committees remained open following each election as each committee had outstanding debt. Here, the Committee and Low had plenty of campaign funds to repay the Foundation for the accrued expenses but failed to do so. Additionally, the Committee and Low were aware of the accrued expenses and subvendor payments at the times they were made but failed to disclose the information on relevant campaign statements as required. Therefore, a penalty of \$5,000 is recommended.

Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty in the amount of \$106,000 is justified, as reflected in the chart below:

Count	Respondent(s)	Violation	Penalty
1	Low	Failure to Timely File Behested Payment Reports	\$2,000
2	Low	Failure to Timely File Behested Payment Reports	\$2,000
3	Low	Failure to Timely File Behested Payment Reports	\$2,000
4	Low	Failure to Verify Campaign Statement	\$5,000
5	Low	Failure to Verify Campaign Statement	\$5,000
6	Low	Failure to Verify Campaign Statement	\$5,000
7	Low	Failure to Verify Campaign Statement	\$5,000
8	Low	Failure to Verify Campaign Statement	\$5,000
9	Low	Failure to Verify Campaign Statement	\$5,000
10	Low	Failure to Verify Campaign Statement	\$5,000
Penalty for Low:			\$41,000
11	The Committee and Low	Failure to Timely Disclose Accrued Expense	\$5,000
12	The Committee and Low	Failure to Timely Disclose Accrued Expenses	\$5,000
13	The Committee and Low	Failure to Timely Disclose Accrued Expenses	\$5,000
14	The Committee and Low	Failure to Timely Disclose Accrued Expenses	\$5,000
15	The Committee and Low	Failure to Timely Disclose Accrued Expenses	\$5,000
16	The Committee and Low	Failure to Timely Disclose Accrued Expenses	\$5,000
17	The Committee and Low	Failure to Timely Disclose Accrued Expenses	\$5,000

18	The Committee and Low	Failure to Timely Disclose Subvendor Payment	\$5,000
19	The Committee and Low	Failure to Timely Disclose Subvendor Payment	\$5,000
20	The Committee and Low	Failure to Timely Disclose Subvendor Payment	\$5,000
21	The Committee and Low	Failure to Timely Disclose Subvendor Payment	\$5,000
22	The Committee and Low	Failure to Maintain Campaign Records	\$5,000
23	The Committee and Low	Failure to Properly Terminate Committee	\$5,000
Penalty for the Committee and Low:			\$65,000

CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondents, Evan Low and Evan Low for Assembly 2020, hereby agree as follows:

- Respondents violated the Act as described in the foregoing pages, which are a true and accurate summary of the facts in this matter.
- 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.
- 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 Respondents pursuant to Section 83116.
- Respondents understand and hereby knowingly and voluntarily waive 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 Respondents' 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.

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1 5. Respondents agree to the issuance of the decision and order set forth below. Also, Respondents
2 agree to the Commission imposing against them an administrative penalty in the amount of \$106,000.
3 One or more cashier's checks or money orders totaling said amount – to be paid to the General Fund of
4 the State of California – is/are submitted with this stipulation as full payment of the administrative
5 penalty described above, and same shall be held by the State of California until the Commission issues
6 its decision and order regarding this matter.

7 6. If the Commission refuses to approve this stipulation – then this stipulation shall become null
8 and void, and within fifteen business days after the Commission meeting at which the stipulation is
9 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed
10 to Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing
11 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
12 Director, shall be disqualified because of prior consideration of this stipulation.

13 7. The parties to this agreement may execute their respective signature pages separately. A copy of
14 any party's executed signature page, including a hardcopy of a signature page transmitted via fax or as
15 a PDF email attachment, is as effective and binding as the original.
16
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18 Dated: _____

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

22 Dated: _____

Evan Low, individually and on behalf of Evan Low for
Assembly 2020, Respondents

1 The foregoing stipulation of the parties “In the Matter of Evan Low and Evan Low for Assembly
2 2020,” FPPC Case Nos. 20/231 & 23/443, is hereby accepted as the final decision and order of the Fair
3 Political Practices Commission, effective upon execution by the Commission.

4
5 IT IS SO ORDERED.

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7 Dated: _____
8 _____,

9 Fair Political Practices Commission
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