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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of KEVIN McCARTY, McCARTY FOR ASSEMBLY 2018, KEVIN McCARTY FOR ASSEMBLY 2020, KEVIN McCARTY FOR ASSEMBLY 2022, KEVIN McCARTY FOR ASSEMBLY 2024, McCARTY FOR MAYOR 2024, and JAMES SANTOS, Respondents.	FPPC Case No. 2022-00434 **STIPULATION, DECISION AND ORDER**

INTRODUCTION

Respondent Kevin McCarty served in the California State Assembly, District 7, from 2014 to 2022—and he served in District 6 from 2022 to 2024. Currently, he serves as the Mayor of Sacramento (since 2024).

Respondents McCarty for Assembly 2018, Kevin McCarty for Assembly 2020, and Kevin McCarty for Assembly 2022 were McCarty's candidate-controlled committees for the 2018, 2020, and 2022 election years. Respondent Kevin McCarty for Assembly 2024 was McCarty's candidate-controlled committee for the 2024 election year, but the committee terminated in January 2024, before the March primary that year.

Respondent James Santos was the treasurer for all of McCarty's above-named Assembly committees.

Respondent McCarty for Mayor was McCarty's candidate-controlled committee for his successful 2024 campaign for Mayor of Sacramento. McCarty serves as his own treasurer for this committee.

This case involves the following violations of the Political Reform Act (the Act):[1]

a. personal use of campaign funds—including related reporting violations;

b. failure to keep required records of committee expenditures;

c. campaign reporting violations with respect to the transfer of assets (David Garibaldi paintings that McCarty purchased for $5,500 with Assembly campaign funds and did not disclose transferring); and

d. improper advertising disclosures.

SUMMARY OF THE LAW

The Act and its regulations are amended from time to time. Unless otherwise noted, all legal references and discussions of law pertain to the Act's provisions as they existed at the time of the violations in this case.

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

When enacting the Political Reform Act, the people of California found and declared that: "[p]revious laws regulating political practices have suffered from inadequate enforcement by state and local authorities."[2] Thus, it was decreed that the Act "should be liberally construed to accomplish its purposes."[3] These purposes include:

a. Distinguishing campaign contributions from personal gifts by ensuring that campaign contributions may not be used for personal purposes.[4]

b. The promotion of transparency by ensuring that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper

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[1] 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 are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to this source.

[2] Section 81001, subdivision (h).

[3] Section 81003.

[4] Sections 89510, *et seq*.

practices are inhibited.[5] Along these lines, the Act includes a comprehensive campaign reporting system.[6]

c. Setting important safeguards in place—such as recordkeeping requirements—which are meant to create a paper trail to aid the audit and enforcement process.[7]

d. Requiring "paid for by" disclosures in campaign advertisements so the public understands who is paying for political ads.

Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced."[8]

Personal Use of Campaign Funds

Campaign funds are deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office.[9]

An expenditure of campaign funds must be reasonably related to a political purpose (in the case of seeking office)—or reasonably related to a legislative or governmental purpose (in the case of holding office). However, expenditures conferring a substantial personal benefit (of more than $200 in a six-month time-frame)—must be directly related.[10]

Also, the Act provides for specific rules that apply to certain types of expenditures.[11] For example, campaign funds may not be used to pay for the purchase, lease, or refurbishment of any appliance or equipment, where the lessee or sublessor is, or the legal title resides, in whole or in part, in a candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds, or immediate family member thereof. Along these lines, the committee may use campaign funds to purchase/lease cellphones and iPads in its own name—but the candidate may not use campaign funds to purchase/lease in his own name.[12] In certain circumstances,

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[5] Section 81002, subdivision (a).

[6] Sections 84200, *et seq*.

[7] Section 84104.

[8] Section 81002, subdivision (f).

[9] Section 89510.

[10] See Sections 89511, 89512, and Regulation 18960.

[11] Sections 89513, *et seq*.

[12] See Section 89517.

incidental personal use of campaign equipment is permissible—but not if the value of the use constitutes more than five percent of the total use per month.[13]

Required Reporting of Itemized

Campaign Expenditures, Including Accurate Descriptions

Campaign expenditures of $100 or more must be itemized on committee campaign statements (usually on Form 460 Schedules E/G)—and this itemization must include accurate descriptions of the expenditures made.[14]

Required Reporting of Asset Transfers

When a committee purchases valuable artwork with campaign funds, the assets are the property of the committee. Such assets count as campaign funds because they may be converted back into cash. If the committee gives the assets to another committee, this is an in-kind/non-monetary contribution/transfer of assets—which must be reported on the campaign statements of both committees.[15]

The current case involves an undisclosed transfer of art assets from McCarty's Assembly committees to his City of Sacramento mayoral committee.

Duty to Maintain Campaign Records

It is the duty of each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to otherwise comply with the Act's campaign disclosure provisions.[16] This is an important and mandatory safeguard that is designed to create a paper trail, which aids the audit and enforcement process, and helps ensure accurate campaign reporting.

This recordkeeping requirement includes a duty to keep detailed information and original source documentation, including copies of bills, receipts, and invoices for expenditures of $25 or more. Generally, such records will pertain to activity occurring within a particular reporting period, and the records must be kept for four years after the date when the relevant campaign statement is filed.[17]

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[13] Regulation 18961.

[14] Section 84211, subdivision (k); and Regulation 18421.9.

[15] See Section 84211. Also, see the Fishburn/Angelides advice letter (A-02-571), pages 4-5; and the Bauer/Aanestad advice letter (A-02-333), page 3.

[16] Section 84104.

[17] See Regulation 18401.

Required Sender Identification for Mass Mailings

"Mass mailing" means more than 200 substantially similar pieces of mail, but does not include a form letter or other mail, which is sent in response to an unsolicited request, letter, or other inquiry.[18] When a candidate (or his committee) sends a mass mailing, the name, street address, and city of the sender must be shown on the outside of each piece of mail—and this identification must be preceded by the words: "Paid for by."[19]

Joint and Several Liability of Candidate, Committee, and Treasurer

It is the duty of a committee treasurer to ensure that the committee complies with the Act.[20] A treasurer may be held jointly and severally liable, along with the candidate and the committee, for violations committed by the committee.[21]

SUMMARY OF THE FACTS

As noted above, McCarty served in the California State Assembly (Districts 6/7) from 2014 to 2024. Currently, he serves as the Mayor of Sacramento. Santos was the treasurer for McCarty's Assembly committees. However, for McCarty's mayoral committee, McCarty serves as his own treasurer.

The violations in this case spanned multiple election years, as described in more detail below.

VIOLATIONS

Respondents cooperated with the Enforcement Division by entering into a tolling agreement with respect to the statute of limitations. Respondents were responsive to the Enforcement Division's requests for information during its investigation, this included attempts by Respondents to obtain documents not in their immediate possession.

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[18] Section 82041.5.

[19] Section 84305; Regulation 18435.

[20] Sections 81004, 84100, and Regulation 18427.

[21] Sections 83116.5 and 91006.

Counts 1 - 2: Personal Use of

Campaign Funds for AT&T Expenses

Respondent McCarty

Beginning at least as early as January 2019, and continuing through 2022, McCarty impermissibly used campaign funds totaling more than $10,000 to purchase and lease cell phones and an iPad from AT&T in his name, rather than in the name of his election committees. (The funds that McCarty used in this manner belonged to his 2018, 2020, and 2022 Assembly committees.)

This impermissible spending included use of campaign funds totaling more than $2,100 to pay for personal cellphone expenses of McCarty's wife and minor children.[22] (McCarty and his wife would sometimes make personal payments to AT&T, thereby reducing what the committee would owe AT&T. These personal payments covered roughly 60% of the personal cellphone expenses of McCarty's wife and minor children—but the remainder, more than $2,100, was paid for by the committee.)[23]

In this way, McCarty violated Sections 89510, subdivision (b); 89512, subdivision (a); and 89517, subdivision (a). Since McCarty paid these AT&T phone billings on a monthly basis over a four-year period, dozens of counts could be charged, but for settlement purposes, only two counts are recommended (as discussed in more detail below).

Count 3: Personal Use of Campaign

Funds at Restaurants, Nordstrom, and Home Depot

Respondent McCarty

During a two-year period of time (March 2020 – March 2022), McCarty impermissibly used his committee credit cards on 11 occasions for personal purchases, totaling approximately $3,996, at Nordstrom, Home Depot, Roasted Chiles restaurant in Hawaii, and another restaurant known as the Lazy Dog. McCarty maintains this was unintentional. (The Nordstrom charges were for jewelry and clothing. The Home Depot charges included measurement for new flooring, interior paint, and miscellaneous supplies/tools.)

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[22] Respondent disputes the amount of campaign funds used to pay personal cellphone expenses, but is willing to stipulate to these facts in the interest of settling this case.

[23] Personal use in January and early February 2019 lies beyond the reach of the tolling agreement in this case, but remains chargeable due to tolling of the statute of limitations as set forth in Section 91000.5, subdivision (b).

In terms of campaign reporting, two of the Home Depot charges (totaling $111.86) were described as being for a legislative dinner, but this was inaccurate reporting, and the committee has not been reimbursed for these charges.

One of the Home Depot charges ($188.43) should have been reported on Schedule G of the semi-annual campaign statement that was filed for the period ending June 30, 2020, but it was not reported. About 136 days later, McCarty reimbursed his committee for this charge.

The rest of the Home Depot charges (5 charges totaling $775.24) were reimbursed within 32 to 73 days.

The Nordstrom and restaurant charges (totaling $2,921.17) were reimbursed to the committee within 15 to 21 days.

McCarty reported his reimbursements on Schedule I of his semi-annual and pre-election campaign statements.

In this way, McCarty violated Sections 89510, subdivision (b); and 89512, subdivision (a). Eleven counts could be charged, but for settlement purposes, only one count is recommended (as discussed in more detail below).

Counts 4 - 6: Recordkeeping

Respondents McCarty, his Assembly committees (for 2018-2022), and Santos

During the reporting periods spanning roughly December 2018 through July 2022, McCarty's Assembly committees made approximately 179 expenditures of $100 or more—totaling at least $70,000—for which required receipts and invoices were not kept. This included billing and required records that should have been kept for nearly all of the personal use that is charged above.

Also, this included payments to Apple, Russian River Brewing, and Pietro Talini's Nursery—as well as payments for sporting events and airfare. Additionally, this included payments for sporting goods stores, breweries (other than Russian River), and lodging.

The vast majority of these payments were reported on required campaign statements, but the required records were not kept for at least four years after each campaign statement was filed.

In this way, McCarty, his Assembly committees (for 2018-2022), and Santos violated Section 84104. For settlement purposes, three counts are charged, as discussed in more detail below.

Count 7: Failure to Report Transfer of Committee Art Assets

Respondents McCarty, his Assembly committees (for 2022 and 2024), his mayoral committee, and Santos

In January 2021, McCarty and his 2022 Assembly committee used committee funds totaling approximately $5,500 to purchase two original David Garibaldi paintings. The expenditure was reported on Schedule E of the committee's semi-annual campaign statement as an office expense ("OFC"), "Local Art Display."

In 2024, when McCarty became Mayor of Sacramento, the paintings moved from his Assembly office (at the capitol) to his city mayoral office, as shown in the pictures below.



Hope and Justice (original painting)



Statue of Liberty (original painting 2017)

Transfer of these assets between McCarty's 2022/2024 Assembly committees and his mayoral committee should have been reported on each committee's campaign statements, but the art transfers were not reported. In this way, McCarty, his 2022/2024 Assembly committees, his mayoral committee, and Santos (as treasurer for McCarty's Assembly committees) violated Section 84211.

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Count 8: Mass Mailing Disclosure Violations

Respondents McCarty and his 2022 Assembly committee

In May 2022, McCarty's 2022 Assembly committee paid at least $32,000 to produce and send a mass mailing to roughly 60,000 voters in support of McCarty's Assembly re-election campaign. The front and back of this mass mailing are shown below:



The mass mailing should have stated that it was: "Paid for by Kevin McCarty for Assembly 2022," but it did not. Also, the address of the committee should have been disclosed on the mass mailing, but it was not. (Instead, the address of a campaign financial consultant was used.) Failure to include this required "paid for by" information created confusion regarding the sender of the mass mailing because the mailing prominently stated that McCarty was the only candidate endorsed by the California Democratic Party "and [s]upported by groups we trust," including California Professional Firefighters, the California Nurses Association, California Federation of Teachers, and Planned Parenthood. Recipients were left to wonder if the Democratic Party paid for the mailer, or if one of the other listed organizations paid for the mailer, or if McCarty paid for it (or if they all paid for it).

In this way, McCarty and his 2022 Assembly committee violated Section 84305 and Regulation 18435 regarding sender identification requirements for mass mailings.

STREAMLINE EXCLUSION

This case is excluded from the streamline settlement program because the extent and gravity of the public harm is more than minimal—and violations involving personal use of campaign funds are not included in the streamline program.

PROPOSED PENALTY

As discussed in more detail below, eight counts are recommended in this case—for which the maximum penalty is $40,000 (up to $5,000 per count).[24]

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:[25]

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 Act;
3. penalties previously imposed by the Commission in comparable cases;
4. the presence or absence of any intention to conceal, deceive or mislead;

[24] Section 83116.

[25] These factors are set forth in Regulation 18361.5, subdivision (e)(1) through (8).

5. whether the violation was deliberate, negligent or inadvertent;
6. whether the violator demonstrated good faith by consulting Commission staff or any other governmental agency in a manner not constituting a complete defense under Section 83114, subdivision (b);
7. whether the violation was isolated or part of a pattern—and whether the violator has a prior record of violations of the Act or similar laws; and
8. whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

Counts 1 - 2: Personal Use of

Campaign Funds for AT&T Expenses

Personal use of campaign funds causes significant public harm, eroding public confidence in the political process by creating the appearance that lawful campaign contributions are personal gifts to the public official. Here, McCarty used campaign funds totaling more than $10,000 to purchase and lease cell phones and an iPad from AT&T in the name of McCarty—instead of purchasing/leasing the equipment in the name of his committees, as required by law. Of the amount spent, more than $2,100 was for the personal cellphone expenses of McCarty's wife and minor children. On campaign filings, these charges improperly were reported as office expenses, which did not properly disclose the personal use aspect of the expenditures in this case.

Comparable Case

Recently, the Commission considered another case involving similar facts. In the Matter of Bill Brough, Bill Brough State Assembly 2018, and Bill Brough State Assembly 2020; FPPC Case No. 2019-00963 (default approved Nov. 16, 2023), a member of the California State Assembly used campaign funds totaling approximately $7,934 to pay for the personal cell phones of his wife and minor children. Three counts were charged, for which the Commission imposed the maximum penalty of $5,000 per count. (Despite being a default, the respondent in Brough admitted to the violations.)

Brough involved a pattern of intentional misuse, which occurred over a period of time spanning approximately three years—compared to at least four years in the current case.

Both cases involve experienced officeholders/candidates with a prior history of reimbursing their committees for impermissible, personal use of campaign funds. Brough reimbursed his committee ($3,572) for personal travel expenses in connection with a Paris trip—and later received a warning letter.

In 2017, before the violations in the current case, McCarty reimbursed his 2018 Assembly committee ($2,226) for personal charges on the committee credit card at a landscape and irrigation supply store. These prior acts show that both respondents were familiar with the rules against personal use of campaign funds.

Often, personal use cases involve inaccurate reporting on campaign statements to conceal the impermissible spending. The current case is no exception. McCarty inaccurately reported the AT&T expenses as office expenses, which had the effect of concealing that some of the committee payments were for the personal expenses of his wife and minor children. Similar facts were present in Brough.

In the current case, McCarty's committees were not reimbursed for the impermissible phone expenses. Brough involved a similar lack of reimbursement.

Mitigating Differences

The current case involves cooperating respondents who are settling, admitting wrongdoing, and making full payment. In contrast, Brough involved a default—with admission of wrongdoing, but without full payment—which necessitated collections proceedings.

Aggravating Differences

Brough included 10 counts for campaign reporting violations. Each of these counts included a component of false reporting, which served to conceal the personal phone expenses by mis-characterizing them as office expenses over a roughly three-year period of time. (Generally, this was not the only violation per reporting period, but it was one of the reporting violations for each reporting period.) For these 10 counts, the maximum penalty of $5,000 per count was imposed. (The default document proposed $4,000 per count, but the Commission raised the penalty to the maximum.) In the current case, false reporting is not being charged. Rather, it is being noted as aggravating information, in support of a greater number of counts and a higher penalty for the personal use violations.

Recommended Penalty and Number of Counts

Brough illustrates that the maximum penalty of $5,000 per count is warranted in cases like this. In terms of the number of counts, technically, one count may be charged per instance of misused campaign funds. There are dozens of instances in the current case (as in Brough)—but this many counts are not needed to ensure that the penalty fits the wrongdoing.

In Brough, the personal phone expenses totaled approximately $7,934. For this personal use, three counts were charged, for which a penalty of $15,000 was imposed. This equated to approximately 1.89 times the amount of misused funds. (Also, the 10 counts that included false reporting resulted in a penalty of $50,000—about 6.3 times the amount of misused funds.)

The current case involves at least $2,100 of misused funds. Two counts at $5,000 per count would result in a $10,000 penalty—equating to approximately 4.76 times the amount spent. This is the penalty that Enforcement recommends, given the considerations noted above, including the false reporting counts that could be charged, but which are being noted as aggravating information for settlement purposes.[26]

Count 3: Personal Use of Campaign Funds at Restaurants, Nordstrom, and Home Depot

Personal use of committee credit cards causes the same type of public harm as noted above for Counts 1 and 2. In this case, McCarty impermissibly used his committee credit cards on numerous occasions. (The earliest known instance was in 2017, at a landscape/irrigation supply store—where he impermissibly charged $2,226 and later reimbursed his committee. Although this instance is outside the statute of limitations, it is relevant to show a pattern—and prior knowledge of the rules—when McCarty proceeded to do the same thing 11 more times in 2020, 2021, and 2022 for personal purchases totaling approximately $3,996.)

Comparable Case

Some of the personal use in Brough involved personal phone expenses, as discussed above. However, Brough also involved impermissible campaign spending on personal travel and clothing totaling approximately $9,369. This other impermissible spending (unrelated to phone expenses) spanned roughly 11 months. The charges were incurred in connection with trips to Boston, Colorado Springs, and purchases made at J. Hilburn (a men's clothing store). Three counts were charged, and the maximum penalty of $5,000 per count was imposed.[27]

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[26] Whereas penalties for personal use violations cannot be paid for with campaign funds—penalties for false reporting may be paid for with campaign funds. See Section 89513, subdivisions (c)(1)(B)(i) and (ii).

[27] While Brough differs factually from the present case in that it involved the use of campaign funds for personal travel, it can be used as a relevant benchmark for determining the penalty amounts here.

Excluding phone-related expenses, Brough involved a pattern of impermissible spending that spanned roughly 11 months (7/23/17 - 6/6/18)—compared to about ten months in the current case (6/5/21 - 3/14/22, plus a small, early instance on 3/16/20 in the approximate amount of $188).

Both cases involve experienced officeholders/candidates with a prior history of reimbursing their committees for impermissible, personal use of campaign funds.

Mitigating Differences

Of the misused funds totaling $3,996 in the current case, virtually all of the funds were reimbursed to the committee within 15 to 136 days—and McCarty reported the reimbursements on Schedule I of his campaign statements. (The sole exceptions were two Home Depot charges—totaling $111.86—which were described as being for a legislative dinner, but this was inaccurate reporting, and the committee never was reimbursed for these charges.)

In contrast, Brough involved misused funds totaling approximately $9,369. Of this amount, only about 52% was reimbursed by Brough (and his wife)—and this reimbursement was done secretly, without reporting the reimbursements on the required campaign statements. This left approximately $4,500 unreimbursed.

Additionally, the impermissible spending in Brough (and related reimbursements) were concealed with reporting violations—but similar facts generally are not present in the current case (focusing on the non-phone expenses, and excluding the Home Depot exception noted above).

As noted above, the current case involves cooperating respondents who are settling, admitting wrongdoing, and making full payment. In contrast, Brough involved a default—with admission of wrongdoing, but without full payment—which necessitated collections proceedings.

Recommended Penalty and Number of Counts

Brough illustrates the maximum penalty of $5,000 per count is warranted in cases like this. In terms of the number of counts, one count may be charged per instance of misused campaign funds. Although there are numerous instances in the current case (as in Brough)—the maximum number of counts is not necessary to ensure that the penalty fits the wrongdoing.

In Brough, three counts were charged—at $5,000 per count—for a total penalty in the amount of $15,000. This equated to approximately 1.6 times the amount of misused funds ($9,369) and 3.33 times

the amount of unreimbursed funds ($4,500). Brough also involved separate counts/penalties for reporting violations, which served to conceal the personal use violations.

In contrast, nearly all of the misused funds in the current case were reimbursed—with proper reporting. A penalty in the amount of $5,000 for one count would equate to approximately 1.25 times the amount of misused funds in the current case ($3,996), and this is the penalty Enforcement recommends, given the considerations noted above.

Counts 4 - 6: Recordkeeping

The Act's recordkeeping requirements are meant to create a paper trail to aid the audit and Enforcement process. Failure to keep these required records results in significant public harm, making it difficult (or even impossible) to track/verify campaign financial activity, to ensure that campaign funds are used for campaign-related purposes, etc. Without proper records, investigations and audits of committee activity take longer to complete, require more public resources—and the lack of a paper trail may serve to conceal other potential violations.

Comparable Case

Brough (cited above) involved failure to keep required records for expenditures totaling approximately $68,586, which were incurred over a period of time spanning roughly 32 months (13 reporting periods). Three counts were charged, and the maximum penalty of $5,000 per count was imposed.

Both cases involved experienced Assembly candidates—with professional treasurers—and comparable amounts of expenditures for which required records were not kept ($70,000 in the current case vs. $68,586 in Brough).

In both cases, the candidates did not have a history of prior, similar violations.

In both cases, the recordkeeping violations constituted a pattern spanning multiple years (32 months in Brough compared to 44 in the current case).

Both cases involved recordkeeping violations that interfered with Enforcement's ability to determine if expenditures were permissible—and prolonged Enforcement's investigation. In both cases, the recordkeeping violations involved aspects of concealment. (Brough's violations served to conceal the identities of persons eating/traveling—as well as the details of meals, beverages, and trips. In the current

case, the recordkeeping made it more difficult to detect/prove personal use violations—including those charged above—and the recordkeeping violations also led to concealment of details regarding meals/trips.)

Aggravating Differences

In Brough, the treasurer was not charged. (She educated and criticized Brough about his recordkeeping—and ultimately, she withdrew as his treasurer.) In the current case, McCarty's treasurer, Santos, is named as a recordkeeping co-respondent. As a professional treasurer, Santos was very familiar with recordkeeping requirements—and in January 2024 (after the violations in the current case), Santos was fined $5,000 for a recordkeeping violation that occurred in July 2018 (before the violations in the current case).[28]

Mitigating Differences

In Brough, it was noted that the violations were "intentional/deliberate (or something very close to it)." The current case is more consistent with negligence.

Also, as noted above, the current case involves cooperating respondents who are settling, admitting wrongdoing, and making full payment. In contrast, Brough involved a default—with admission of wrongdoing, but without full payment—which necessitated collections proceedings.

Recommended Penalty and Number of Counts

In Brough, a penalty in the amount of $15,000 was imposed: three counts at $5,000 per count. This was for reporting violations that spanned 32 months. The current case involves 44 months, which would equate to four counts. However, due to the mitigating differences noted above, Enforcement recommends three counts at $3,000 per count.

Count 7: Failure to Report Transfer of Valuable Committee Art Assets

The public harm inherent in campaign reporting violations is that the public is deprived of important, time-sensitive information regarding committee receipts and expenditures. These reporting requirements apply to transfers of valuable art assets from one committee to another. Transfer of such assets counts as an in-kind/non-monetary contribution/transfer, which must be reported by the giving and

[28] See In the Matter of Fiona Ma for State Treasurer 2018, Fiona Ma, and James Santos; FPPC Case No. 22/195 (approved Jan. 18, 2024).

receiving committees. (This is especially true where the giving committee originally purchased the art with campaign funds—and where the art may be converted back into campaign funds by the receiving committee.)[29]

Recently, the Commission considered another case involving failure to report non-monetary contributions. In the Matter of Kimberly Ho for City Council 2020 and Kimberly Ho; FPPC Case No. 21/1068 (approved Aug. 21, 2025), a city council candidate failed to report receipt of four non-monetary contributions worth $16,200 on a semi-annual campaign statement. One count was charged, for which the Commission imposed a penalty in the amount of $2,000.

The violation in the current case is consistent with negligence or inadvertence. In Ho, it was not noted that the violations were deliberate.

Both cases involve respondents who cooperated with Enforcement and do not have a history of prior, similar violations. Also, the candidates in both cases were experienced and successful.

In the current case, McCarty served as his own treasurer for his Mayoral committee. However, McCarty had the help of a professional treasurer, Santos, for McCarty's Assembly committees. Ho also had the benefit of a professional treasurer, but the treasurer in that case was not charged because the treasurer never was made aware of the contributions in question (prior to the reporting violation).

Ho involved failure to report receipt of non-monetary contributions worth $16,200. In the current case, McCarty and his 2022 Assembly committee purchased the paintings with campaign funds for $5,500 in January 2021. After McCarty became the Mayor of Sacramento in December 2024, he transferred the paintings to his mayoral office, but his mayoral committee did not report receipt of the paintings. Although the exact fair market value of the paintings at that time is not known, $5,500 would have been about 3% of reported receipts on McCarty's 2024 year-end mayoral campaign statement. This was much smaller than 46% in Ho.

In the current case, McCarty's 2022/2024 Assembly committees also failed to report transferring the art assets to McCarty's mayoral committee. In 2023, McCarty's 2022 Assembly committee filed a single campaign statement before terminating. The paintings comprised roughly 1.4% of reported

[29] See Section 84211. Also, see the Fishburn/Angelides advice letter (A-02-571), pages 4-5; and the Bauer/Aanestad advice letter (A-02-333), page 3.

expenditures for this filing (going by the 2021 purchase price of $5,500). In 2024, McCarty's 2024 Assembly committee filed a single campaign statement before terminating. The paintings comprised about 16.5% of reported expenditures for this filing.

In Ho, some of the unreported contributions exceeded the local contribution limit, which was charged as a separate, additional count. In the current case, the Commission does not have jurisdiction over the local contribution limit (and there may not have been a limit issue at the local level, given the city's rules about committee transfers and attribution).

Ho involved one committee failing to report receipt of non-monetary contributions. The current case involves one committee failing to report receipt (McCarty's mayoral committee)—and two committees failing to report the transfer of the paintings (McCarty's 2022/2024 Assembly committees). Only one count is being recommended for all three committees in the current case.

Whereas the penalty in Ho was $2,000—Enforcement recommends $1,500 in the current case (due to the differences noted above, including the amount of the reportable activity relative to campaign filings).

Count 8: Mass Mailing Disclosure Violations

A vital purpose of the Act is to ensure transparency in advertising disclosures so that voters are fully informed about sources of funding for political ads. Failure to provide this type of required information in advertising "paid for by" disclosures results in significant harm to the public—as it deprives the voters of important information that the Act mandates must be disclosed before the election, when the information matters most.

Recently, the Commission considered another case involving a similar violation. In the Matter of Michael Minnix and Committee to Re-Elect Michael Minnix; FPPC Case Nos. 20/817 and 20/998 (approved Mar. 19, 2026), a successful school board candidate sent two mass mailings, but failed to include required "paid for by" disclosures. One count was charged, for which the Commission imposed a penalty in the amount of $2,500.

Both Minnix and McCarty were experienced candidates who should have been familiar with the Act's requirements for mass mailings.

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Both cases involve mass mailings that were sent to support the respondent-candidates, but required "paid for by" information was missing.

In both cases, the non-compliant mass mailings were sent to thousands of voters—and the respondents in both cases narrowly won their elections.

In Minnix, the first mailing was sent to 9,560 recipients. The second was sent to 5,000 recipients. Roughly 26,286 votes were cast in the election. For Minnix, the difference between winning and losing was approximately 1,297 votes.

The current case involves a mailing that was sent to 60,000 recipients. (This is about four times as many recipients, if you combine both of the mailings in Minnix.) Roughly 190,928 votes were cast in the election (more than seven times the votes cast in Minnix). McCarty won by slightly less than 2,000 votes.

In the current case, failure to include required "paid for by" information created confusion regarding the sender of the mass mailing because the mailing prominently stated that McCarty was the only candidate endorsed by the California Democratic Party "and [s]upported by groups we trust," including California Professional Firefighters, the California Nurses Association, California Federation of Teachers, and Planned Parenthood. Recipients were left to wonder if the Democratic Party paid for the mailer, or if one of the other listed organizations paid for the mailer, or if McCarty paid for it (or if they all paid for it). Similar facts were not noted to be present in the Minnix case.

In July 2014, McCarty and his 2014 Assembly committee received a warning letter (in FPPC Case No. 14/583) for the same type of violation that is being charged in the current case. Thus, in addition to being an experienced candidate, there was specific reason for McCarty to be familiar with the Act's mass mailing sender identification requirements. Given this prior history/knowledge, the violation in this case was more than inadvertent. At the very least, the violation was the result of negligence. (This is especially true given that omission of required "paid for by" language created the false appearance that the California Democratic Party may have been the sender of the mailer. Also, the close election results indicate McCarty was trying to win a tight race.)

Under these circumstances, a penalty in the amount of $4,000 is recommended.

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Summary Chart

The following agreed-upon penalty is recommended in this case:

Count(s)	Description	Respondent(s)	Penalty
1 - 2	Personal Use of Campaign Funds – AT&T Expenses ($5,000 per count)	McCarty*	$10,000
3	Other Personal Use of Campaign Funds	McCarty*	$5,000
4 - 6	Recordkeeping ($3,000 per count)	McCarty Santos 2018-2022 Assembly Committees	$9,000
7	Reporting Violations – Transfer of Art Assets	McCarty Santos 2022-2024 Assembly Committees 2024 Mayoral Committee	$1,500
8	Mass Mailing "Paid for by" Violation	McCarty 2022 Assembly Committee	$4,000
		TOTAL:	**$29,500**

* Pursuant to Section 89513, subdivisions (c)(1)(B)(i) and (ii), campaign funds may not be used to pay the penalty imposed for Counts 1 through 3 (totaling $15,000).

CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and all of the above-named respondents hereby agree as follows:

1. Respondents 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 respondents pursuant to Section 83116.

4. Respondents are represented by Richard Rios of Olson Remcho LLP. 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.

5. Respondents agree to the issuance of the decision and order set forth below. Also, respondents agree to the Commission imposing against them an administrative penalty in the amount of $29,500. One or more payments totaling this 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 they will 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 respondents in connection with this stipulation shall be reimbursed to respondents. 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.

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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: _____

_____
Kendall L.D. Bonebrake, Chief of Enforcement
Fair Political Practices Commission

Dated: _____

_____
Kevin McCarty, individually, and on behalf of McCarty for Assembly 2018, Kevin McCarty for Assembly 2020, Kevin McCarty for Assembly 2022, Kevin McCarty for Assembly 2024, McCarty for Mayor 2024, Respondents

Dated: _____

_____
James Santos, individually, and on behalf of McCarty for Assembly 2018, Kevin McCarty for Assembly 2020, Kevin McCarty for Assembly 2022, Kevin McCarty for Assembly 2024, Respondents

The foregoing stipulation of the parties "In the Matter of Kevin McCarty, McCarty for Assembly 2018, Kevin McCarty for Assembly 2020, Kevin McCarty for Assembly 2022, Kevin McCarty for Assembly 2024, McCarty for Mayor 2024, and James Santos," FPPC Case No. 2022-00434, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: _____

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Adam E. Silver, Chair
Fair Political Practices Commission