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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of: BILL BROUGH, BILL BROUGH STATE ASSEMBLY 2018 (I.D. No. 1392528), and BILL BROUGH STATE ASSEMBLY 2020 (I.D. No. 1415006), Respondents.	FPPC Case No. 2019-00963 **DEFAULT DECISION AND ORDER** (Gov. Code, §§ 11506 and 11520) Date Submitted to Commission: November 2023

Complainant, the Enforcement Division of the Fair Political Practices Commission, submits this Default Decision and Order for consideration by the Commission at its next regularly scheduled meeting (or as soon thereafter as the matter may be heard).

On April 27, 2023, the above-named respondents entered into a payment plan and mainline settlement agreement with the Enforcement Division for seven counts involving personal use/appropriation of campaign funds/assets, plus three recordkeeping counts. For these 10 counts, the agreed-upon penalty was to be $47,000.[1]

The payment plan called for an initial down payment in the amount of $7,500—with the remainder to be paid over seven monthly installments. Upon full payment, the proposed mainline settlement was to be presented to the Commission for its consideration in December 2023 (or as soon thereafter as the matter could be agendized).[2]

[1] See Exhibit A-1. The payment plan begins on page 022. The attached, underlying settlement begins on page 001.
[2] See Exhibit A-1, pages 022 – 025.

The payment plan included a waiver of rights in case respondents failed to make their required installment payments by the monthly deadlines specified in the agreement. This included a waiver of respondents' rights to a probable cause conference and administrative hearing—for the purpose of allowing the Commission to enter a default decision and order against the respondents.[3]

This was a negotiated waiver, which included restrictions as to which counts could be charged/recommended by the Enforcement Division at the default stage. These agreed-upon counts included the 10 counts that were charged and described in the underlying mainline stipulation, which was attached to—and part of—the payment plan and waiver agreement.[4]

Under the waiver, the default penalty recommended by the Enforcement Division for these 10 counts could exceed the amount that originally was proposed in the underlying settlement—up to a maximum of $5,000 per count.[5]

The waiver also allowed for up to 10 additional agreed-upon counts for campaign reporting violations. These were described as aggravating information in the underlying mainline stipulation—and the waiver agreement further described which reporting periods and respondents would be charged for these counts. As above, the recommended penalty could be as high as $5,000 for each of these counts.[6]

Additionally, as part of this negotiated agreement, respondents waived their rights to receive formal notice of any default proceeding that might arise in this matter.[7]

Likewise, respondents waived the right to receive a refund of any settlement payments made under the payment plan; instead, such funds are required to be put toward partial satisfaction of any default penalty that might be imposed.[8]

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[3] See Exhibit A-1, page 023, last two paragraphs.

[4] See Exhibit A-1, page 024, paragraph "2."

[5] Exhibit A-1, page 024, paragraph "4."

[6] See Exhibit A-1, page 024, paragraphs "3" and "4."

[7] Exhibit A-1, page 023, last paragraph.

[8] Exhibit A-1, page 024, paragraph "5."

In negotiating and executing this settlement, payment plan, and waiver agreement, respondents were represented by competent legal counsel with the law firm of Bell, McAndrews & Hiltachk.[9]

Under the payment plan, respondents made their initial down payment in the amount of $7,500—but respondents have failed to make all of their required installment payments, to date. These were required to be made at the rate of $5,000 per month, beginning in May 2023. This matter now comes before the Commission as a default proceeding.

As described in more detail in Exhibit 1, the underlying settlement, payment plan, and waiver agreement—which were signed by the respondents—are properly submitted and admitted for foundational purposes. The Enforcement Division's default recommendation comports with—and does not exceed—the scope of respondents' waiver of rights in this matter.

In these circumstances, respondents have waived their rights to a probable cause conference and administrative hearing under the Political Reform Act and the Administrative Procedure Act. Likewise, respondents have waived their rights to formal notice of this default proceeding. The Commission may approve this Default Decision and Order—against the respondents—based upon respondents' express admissions or upon other evidence. For this default proceeding, affidavits may be used as evidence without notice to the respondents.[10]

Respondents Bill Brough, Bill Brough State Assembly 2018 (I.D. No. 1392528), and Bill Brough State Assembly 2020 (I.D. No. 1415006) violated the Political Reform Act as described in Exhibit 1, which is incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the law and evidence in this matter—and is supported by various affidavits and records,

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[9] Exhibit A-1, page 022: "I have been provided with an opportunity to consult an attorney of my choosing. I acknowledge that I understand my rights to a probable cause conference and administrative hearing under the Political Reform Act, the Administrative Procedure Act, and all other relevant laws." At all relevant times, the attorney for respondents was Ashlee Titus.

[10] See Government Code sections 11505, subdivision (a); 11506, subdivision (c); and 11520, subdivision (a).

which have been marked and submitted as Exhibits A, A-1 through A-26, and B through D. This Default Decision and Order is submitted to the Commission for final disposition of this matter.

Dated: November 1, 2023

James M. Lindsay

James M. Lindsay, Chief of Enforcement
Fair Political Practices Commission

ORDER

The Commission issues this Default Decision and Order, imposing an administrative penalty in the total amount of $90,000 against respondents Bill Brough, Bill Brough State Assembly 2018 (I.D. No. 1392528), and Bill Brough State Assembly 2020 (I.D. No. 1415006). Of this amount, respondents Bill Brough and his 2018 committee are jointly and severally liable for $42,000 (Counts 8-9 and 11-18); respondents Bill Brough and his 2020 committee are jointly and severally liable for $13,000 (Counts 10 and 19-20); and respondent Bill Brough is individually liable for the remainder, totaling $35,000 (Counts 1-7).

In partial satisfaction of the foregoing default penalty, respondents are to receive a credit in the amount of $7,500 for the initial down payment that respondents made under the payment plan/waiver agreement.

Pursuant to Government Code section 89513, subdivisions (c)(1)(B)(i) and (ii), campaign funds may not be used to pay the penalty imposed for Counts 1 through 6 (totaling $30,000) because each of those counts involves personal use of campaign funds that resulted in substantial personal benefits to Brough, and the expenditures were not reasonably—nor directly related to any political, legislative, or governmental purposes.

The entire penalty is payable to the "General Fund of the State of California."

IT IS SO ORDERED, effective upon execution below by the Chair of the Fair Political Practices Commission at Sacramento, California.

Dated: _____

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Richard C. Miadich, Chair
Fair Political Practices Commission