



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Remke, Commissioners Audero, Cardenas, Hatch, and Hayward

From: Erin Peth, Executive Director
Galena West, Chief of Enforcement
Michael W. Hamilton, Commission Counsel

Date: February 5, 2018

RE: Assignment of Hearing to Administrative Law Judge (“ALJ”)

Case Name: In the Matter of Juan Sandoval Elect for County Superintendent of Schools 2014, Juan Sandoval and Vangie Urias (no committee ID# available) (FPPC Case No. 14/434)

I. INTRODUCTION

Respondent Juan Sandoval (“Sandoval”) was an unsuccessful candidate for County Superintendent of Schools in Fresno County in the June 3, 2014 Statewide Direct Primary. Respondent Juan Sandoval Elect for County Superintendent of Schools 2014 (the “Committee”) was Sandoval’s controlled committee. Respondent Vangie Urias (“Urias”) served as the Committee’s treasurer.

The Political Reform Act¹ imposes several requirements and prohibitions on committees. One of the most basic requirements of the Act is the requirement that committees accurately report the receipt of contributions and the making of expenditures on campaign statements and reports. The Committee, Sandoval and Urias violated this requirement when they failed to accurately report contributions and expenditures on several of the Committee’s campaign statements. Additionally, the Act prohibits committees from receiving cash contributions of \$100 or more and prohibits committees from making expenditures from bank accounts other than the one they specifically designate for the campaign. The Committee, Sandoval and Urias violated the Act by accepting cash contributions of \$100 or more. Furthermore, Sandoval individually violated the Act by making campaign expenditures from accounts other than the one he specifically designated for his campaign.

The Committee and Sandoval have requested an administrative hearing on the Accusation attached hereto as Exhibit A. Urias has not request an administrative hearing.

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

II. COMMISSION ACTION ONLY REQUIRED IF THE COMMISSION DESIRES TO PARTICIPATE IN THE ADMINISTRATIVE HEARING

The Executive Director and the Chief of Enforcement are recommending that the hearing should be conducted before an ALJ pursuant to Section 11512, Subdivision (a). The ALJ will then make a recommendation to the Commission on the findings of fact, law and penalty, if applicable, in the matter. The Commission will then have the opportunity to make the final determination on the case.

This memorandum is submitted to each member of the Commission pursuant to Regulation 18361.5, subdivision (b), which provides:

If the Executive Director determines that a hearing on the merits should be conducted before an administrative law judge alone pursuant to Government Code section 11512(a), he or she shall provide a copy of the accusation as well as a memorandum describing the issues involved to each member of the Commission. If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, the matter will be scheduled for a hearing before the Commission when an administrative law judge is available.

Thus, no Commission action is required if the Commission approves the recommendation that the administrative hearing in this matter should be conducted before an ALJ. However, two or more Commissioners may vote to keep the matter with the Commission if so desired.

III. PROCEDURAL HISTORY

The Enforcement Division initiated administrative action against the Committee, Sandoval and Urias by serving them with a Report in Support of a Finding of Probable Cause (the "Report"). Sandoval was served by certified mail on June 16, 2017. Urias was personally served on June 20, 2017. Sandoval requested a probable cause conference within 21 days of being served with the Report. Urias did not request a probable cause conference within 21 days of being served with the Report thereby waiving her rights to a probable cause conference.

A probable cause conference was conducted on August 24, 2017. Assistant General Counsel Brian Lau served as hearing officer. Mr. Sandoval appeared in person. Urias did not attend the probable cause conference, and therefore, a determination of probable cause was made solely on the papers submitted.² On August 29, 2017, Mr. Lau issued a Finding of Probable Cause and Order to prepare and Serve an Accusation on the Committee, Sandoval and Urias. A copy of that order was served on Sandoval by U.S. Mail.

On October 24, 2017, the Commission's Chief of Enforcement Galena West, issued an Accusation against the Committee, Sandoval and Urias. On November 19, 2017, the

² Regulation 18361.4, subdivision (d) "...The hearing officer may determine whether there is probable cause based solely on the probable cause report, any responses or rebuttals filed and any arguments presented at the probable cause conference by the interested parties..."

Accusation was personally served on Sandoval. On November 17, 2017, the Accusation was personally served on Urias.

On December 7, 2017, the Enforcement Division received a notice of defense from Sandoval dated December 4, 2017, requesting an administrative hearing on this matter. Urias did not file a notice of defense.

IV. PROCEDURAL ISSUES

Every hearing in a contested case must be presided over by an ALJ. The agency itself shall determine whether the ALJ is to hear the case alone or whether the agency itself is to hear the case with the ALJ.³

When the agency itself hears the case, the ALJ shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the agency on matters of law; the agency itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the ALJ. When the ALJ hears a case, he or she shall exercise all powers relating to the conduct of the hearing. A rule of the ALJ admitting or excluding evidence is subject to review in the same manner and to the same extent as the ALJ's proposed decision in the proceeding.⁴

V. SUMMARY OF THE ACCUSATION

The Committee, Sandoval and Urias violated the Act as listed below. The Accusation consists of four counts:

Count 1: Failure to Report Campaign Activity on Pre-Election Campaign Statement

The Committee, Sandoval and Urias failed to properly report expenditures made on the pre-election statement covering the reporting period of March 18 – May 17, 2014 by the May 22, 2014 deadline, in violation of Government Code section 84211, subdivisions (b), (i), (j) and (k).

Count 2: Failure to Report Campaign Activity on Semi-Annual Campaign Statement

The Committee, Sandoval and Urias had failed to properly report contributions received and expenditures made on the semi-annual statement covering the reporting period of May 18 – June 30, 2014 by the July 31 deadline, in violation of Government Code section 84211, subdivisions (a), (b), (c), (d), (f), (j) and (k).

³ See Cal. Gov. Code Section 11512, subdivision (a).

⁴ See Cal. Gov. Code Section 11512, subdivision (b).

Count 3: Receiving Cash Contributions of \$100 or More

The Committee, Sandoval and Urias violated the Act by receiving cash contributions of \$100 or more, in violation of Government Code section 84300, subdivision (a).

Count 4: Failure to Use Campaign Bank Account for Expenditures

Sandoval made approximately \$3,945 in expenditures from accounts other than the one designated for campaign activity, in violation of Government Code section 85201, subdivision (e).

VI. CONCLUSION

If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, the matter will be scheduled for a hearing before the Commission when an ALJ is available.⁵ Otherwise, hearing of this matter will be conducted before an ALJ alone pursuant to Section 11512, subdivision (a).

⁵ Regulation 18361.5, subdivision (b).

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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

In the Matter of

JUAN SANDOVAL ELECT FOR COUNTY)
SUPERINTENDENT OF SCHOOLS 2014,)
JUAN SANDOVAL AND VANGIE URIAS,)

Respondents.)

) OAH No. _____

) FPPC No. 14/434

) ACCUSATION

) (Gov. Code §11503)

Complainant, the Enforcement Division of the Fair Political Practices Commission, after a finding of probable cause made pursuant to Government Code section 83115.5, hereby alleges the following:

JURISDICTION

1. Complainant is the Enforcement Division of the Fair Political Practices Commission and makes this Accusation in its official capacity and in the public interest.

2. The authority to bring this action is derived from California Code of Regulations, title 2, sections 18361 and 18361.4, subdivision (e), and the statutory law of the State of California, including Government Code sections 83111, 83116, and 91000.5, which assign to the Enforcement Division the duty to administer, implement, and enforce the provisions of the Political Reform Act, found at Government Code sections 81000 through 91014.

1 **B. Duty to Report Campaign Contributions and Expenditures**

2 12. Under the Act, a committee must report on its campaign statements the following
3 information: the total amount of contributions received during the reporting period, the total amount of
4 expenditure made during the reporting period, the total amount of contributions received during the
5 reporting period from persons who have given \$100 or more, the total amount of contributions received
6 during the reporting period from person who have given less than \$100, the total amount of expenditures
7 made during the period to persons who have received less than \$100, the total amount of expenditures
8 made during the period covered by the campaign statement to person who have received \$100 or more,
9 and in cases where persons have received more than \$100, the name, address, the amount of each
10 expenditure, and a brief description of the consideration shall be reported on the committee's campaign
11 statement.⁷

12 **C. Treasurer Liability**

13 13. Every committee must have a treasurer.⁸ A treasurer is liable, along with the candidate and
14 the committee, for any failure to comply with the Act's campaign reporting requirements.⁹

15 **D. Prohibited Cash Contributions**

16 14. The Act prohibits a committee from receiving cash contributions of \$100 or more.¹⁰ The
17 Act defines a "contribution" as "a payment, a forgiveness of a loan, a payment of a loan by a third party,
18 or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that
19 it is not made for political purposes...."¹¹

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25 ⁷ Section 84211, subdivisions. (a), (b), (c), (d), (f), (i), (j), and (k).

26 ⁸ Section 84100.

26 ⁹ Sections 83116.5 and 91006.

27 ¹⁰ Section 84300, subdivision (a).

27 ¹¹ Section 82015, subdivision (a).

1 **E. Campaign Bank Account**

2 15. The Act requires all committees to establish a campaign bank account.¹² It further states
3 that "(a)ny personal funds which will be utilized to promote the election of the candidate shall be deposited
4 in the account prior to expenditure."¹³ All campaign expenditures must be made from this account.¹⁴

5 **F. Factors for the Commission to Consider**

6 16. In framing a proposed order following a finding of a violation pursuant to section 83116,
7 the Fair Political Practices Commission ("Commission"), and the administrative law judge, shall consider
8 all the surrounding circumstances, including: (1) the seriousness of the violation; (2) the presence or
9 absence of any intention to conceal, deceive or mislead; (3) whether the violation was deliberate, negligent
10 or inadvertent; (4) whether the violator demonstrated good faith by consulting the Commission staff or
11 any other government agency in a manner not constituting a complete defense under section 83114(b); (5)
12 whether the violation was isolated or part of a pattern and whether the violator has a prior record of
13 violations of the Act or similar laws; and (6) whether the violator, upon learning of a reporting violation,
14 voluntarily filed amendments to provide full disclosure.¹⁵

15 **GENERAL FACTS**

16 17. On June 3, 2014, Fresno County held an election between Sandoval and two other
17 candidates to determine the next County Superintendent of Schools. Sandoval came in second after
18 receiving approximately 33% of the vote. The victor received approximately 66% of the vote. The
19 violations of the Act set forth below occurred during Sandoval's campaign in the run-up to this election.

20 **Pre-Election Campaign Statement**

21 18. In the pre-election reporting period covering March 18, 2014 through May 17, 2014,
22 Sandoval and Urias reported that the Committee received \$2,020 in contributions and made \$1,380 in
23 expenditures. The reported campaign activity is less than the activity that occurred.

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25
26 ¹² Section 85201, subdivision (b).

27 ¹³ Section 85201, subdivision (d).

¹⁴ Section 85201, subdivision (e).

¹⁵ Regulation 18361.5, subdivision (d).

1 19. Sandoval and the Urias also failed to report some of the Committee's campaign
2 expenditures.

3 20. On April 30, 2014, a company named Stars and Stripes Silk Screening, Inc. invoiced
4 Sandoval \$3,580 for 100 campaign signs. Sandoval's personal bank account statement shows that he made
5 a payment of \$3,300 to Stars and Stripes on April 18, 2014 and a payment of \$280 to Stars and Stripes on
6 April 24, 2014.

7 21. In an email Special Investigator Jay Martin of the Enforcement Division, dated May 29,
8 2015, Sandoval confirmed that these charges were expenditures for the campaign signs. Sandoval also
9 disclosed in the same email that a payment of \$207.79 from his personal bank account that was made on
10 April 22, 2014 to A1 Signs and Banners was related to the campaign signs. These three payments did not
11 go through the Committee's bank account and were not reported on the Committee's pre-election
12 statement as expenditures.

13 22. Sandoval also used his Parlier Unified School District credit card ("school credit card") to
14 make campaign expenditures. The school credit card statement shows that Sandoval purchased a six-
15 month subscription to Campaign Engage, which is a campaign mobile application offered by
16 Signsite.com. The school credit card was charged \$79 per month for six months by Signsite.com.

17 23. In a letter to the Parlier Unified School District Accounts Payable/Receivable ("Accounts
18 Payable"), dated July 17, 2014, Sandoval explained that he became aware he had used the school's card
19 to make this purchase when he was attempting to close his campaign account and noticed that it was \$79
20 under the total expenditures for the campaign. Sandoval failed to report the \$79 payment as an un-itemized
21 expenditure on his campaign statement covering the reporting period of March 18, 2014 through May 17,
22 2014, due May 22, 2014.

23 Semi-Annual Campaign Statement

24 24. In the semi-annual reporting period covering May 18 – June 30, 2014, Sandoval and Urias
25 reported that the Committee received \$6,614 in contributions and made \$6,489 in expenditures. Sandoval
26 and Urias erroneously reported the source of the contributions and failed to report expenditures made by
27 the Committee.

			Bank Stmt.	460 Campaign Stat.
1				
2	5/23/14	Israel Lara	\$100	\$1,964 received on 5/23/14
3	5/23/14	Frank Apecechea	\$100	
4	5/23/14	Katie Sullivan	\$25	
5	5/23/14	Anne Richards	\$25	
6	5/23/14	Jean and Joe Kulbeth	\$50	
7	5/23/14	Angelica Cazares	\$100	
8	5/23/14	Elida Padron	\$100	
9	5/23/14	Elida Padron #2	\$100	
10	5/23/14	Jose Sanchez	\$100	
11	5/23/14	Clarence Alvarez	\$100	
12	5/23/14	Felix Juarez III	\$200	
13	5/23/14	Mary Hernandez	\$642	
14	5/23/14	Unknown	\$322 cash	
15		Total:	\$1,964	

29. The contribution of \$500 that the Committee reported receiving on May 27, 2014 appears to correlate with a check from a law firm, Garcia, Hernandez, Sawhney & Bermudez LLP. The Committee failed to timely report on its campaign statement covering the reporting period of May 18 – June 30, 2014 the name of the contributor and the amount of its individual contribution.

30. The contribution of \$400 that the Committee reported receiving on May 28, 2014 appears to correlate with a \$400 cash deposit made on the same day. There is no evidence available to establish the source of this contribution.

31. The contribution of \$1,480 that the Committee reported receiving on May 29, 2014 can be attributed to approximately two contributors and the source or sources of the third contribution is unknown. The Committee's bank records show that on May 29, 2014 it received a \$980 contribution from Artax Tax Services, a \$100 contribution from Frank Apecechea, and a \$400 cash deposit from an unknown source or sources. The Committee failed to timely report on its campaign statement covering the reporting period of May 18 – June 30, 2014 the name of the contributors and the amount of their individual contributions.

32. The contribution of \$500 that the Committee reported receiving on June 6, 2014 can be attributed to one contributor. The Committee's bank statement shows that on June 4, 2014 it received a

1 check from R. Estrada. The Committee failed to timely report on its campaign statement covering the
2 reporting period of May 18 – June 30, 2014 the name of the contributor and the amount of its individual
3 contribution.

4 33. Last, the Committee reported it received a total of \$6,614 in contributions reporting period
5 covering May 18 – June 30, 2014, however, the bank statement reveals that only \$4,994 in contributions
6 were deposited into the Committee’s campaign bank account during that reporting period.

7 34. Sandoval also failed to report the Campaign Engage subscription as an expenditure. The
8 payment to Campaign engage was \$79 so it would have been reported as an un-itemized expenditure.
9 During this period, Sandoval and Urias did not report any un-itemized expenditures.

10 Cash Contributions

11 35. The Committee received approximately \$1,732 in cash contributions during the pre-
12 election reporting period of March 18 – May 17, 2014 and the semi-annual reporting period of May 18 –
13 June 30, 2014.

14 **PROCEDURAL HISTORY**

15 36. The Enforcement Division initiated this administrative action against the Committee,
16 Sandoval and Urias by serving them with a Report in Support of a Finding of Probable Cause (the
17 “Report”). Sandoval was served by certified mail on June 16, 2017.¹⁶ Urias was personally served on June
18 20, 2017.

19 37. Sandoval requested a probable cause hearing within 21 days of being served with the
20 Report. Urias did not request a probable cause hearing within 21 days of being served with the Report
21 thereby waiving her right to a probable cause hearing.¹⁷

22 38. On August 29, 2017, the Commission’s Hearing Officer issued a Finding of Probable
23 Cause and Order to Prepare and Serve an Accusation. A copy of that order was served on Sandoval by
24 U.S. mail on August 29, 2017.

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26 _____
27 ¹⁶ Sections 83115.5 and 91000.5.

¹⁷ Section 83115 and Regulation 18361.4

1 **VIOLATIONS**

2 39. The Committee, Sandoval and Urias committed three violations of the Act and Sandoval
3 was individually responsible for another violation of the Act, as follows:

4 **Count 1**

5 **Failure to Report Campaign Activity on Pre-Election Campaign Statement**

6 40. Complainant incorporates paragraphs 1 – 39 of this Accusation, as though completely set
7 forth herein.

8 41. The Committee, Sandoval and Urias had a duty to properly report expenditures made on
9 the pre-election statement covering the period of March 18 – May 17, 2014 by the May 22, 2014 deadline.

10 42. The Committee, Sandoval and Urias failed to properly report contributions received and
11 expenditures made on the pre-election statement covering the period of March 18 – May 17, 2014 by the
12 May 22, 2014 deadline.

13 43. By failing to properly report expenditures made on the pre-election statement covering the
14 period of March 18 – May 17, 2014 by the May 22, 2014 deadline the Committee, Sandoval, and Urias
15 violated Government Code section 84211, subdivisions (b), (i), (j) and (k).

16 **Count 2**

17 **Failure to Report Campaign Activity on Semi-Annual Campaign Statement**

18 44. Complainant incorporates paragraphs 1 – 43 of this Accusation, as though completely set
19 forth herein.

20 45. The Committee, Sandoval and Urias had a duty to properly report contributions received
21 and expenditures made on the semi-annual statement covering the period of May 18 – June 30, 2014 by
22 the July 31, 2014 deadline.

23 46. The Committee, Sandoval and Urias had failed to properly report contributions received
24 and expenditures made on the semi-annual statement covering the period of May 18 – June 30, 2014 by
25 the July 31, 2014 deadline.

1 47. By failing to properly report contributions received and expenditures made on the semi-
2 annual statement covering the period of May 18 – June 30, 2014 by the July 31, 2014 deadline, the
3 Committee, Sandoval and Urias violated Government Code section 84211, subdivisions (a), (b), (c), (d),
4 (f), (j) and (k).

5 **Count 3**

6 **Receiving Cash Contributions of \$100 or More**

7 48. Complainant incorporates paragraphs 1 – 47 of this Accusation, as though completely set
8 forth herein.

9 49. The Committee, Sandoval and Urias are prohibited from receiving cash contributions of
10 \$100 or more.

11 50. The Committee, Sandoval and Urias receiving cash contributions of \$100 or more.

12 51. By receiving cash contributions of \$100 or more, the Committee, Sandoval and Urias
13 violated Government Code section 84300, subdivision (a).

14 **Count 4**

15 **Failure to Use Campaign Bank Account for Expenditures**

16 52. Complainant incorporates paragraphs 1 – 51 of this Accusation, as though completely set
17 forth herein.

18 53. Sandoval was prohibited by the Act from making campaign expenditures out of any
19 account other than the one he designated for campaign activity on his statement of organization.

20 54. Sandoval made approximately \$3,945 in expenditures from accounts other than the one
21 designated for campaign activity.

22 55. By making expenditures from bank accounts other than the one designed for campaign
23 activity, Sandoval violated Government Code section 85201, subdivision (e).

24 **MITIGATING FACTORS**

25 56. Sandoval's campaign was unsuccessful.

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PRAYER

WHEREFORE, Complainant prays as follows:

1. That the Fair Political Practices Commission hold a hearing pursuant to section 83116 and regulation 18361.5, and at such hearing find that the Committee, Sandoval and Urias violated the Act as alleged herein;

2. That the Fair Political Practices Commission, pursuant to section 83116, subdivision (c), order the Committee, Sandoval and Urias to pay a monetary penalty of up to Five Thousand Dollars (\$5,000) for the violation of the Act alleged in **Count 1**;

3. That the Fair Political Practices Commission, pursuant to section 83116, subdivision (c), order the Committee, Sandoval and Urias to pay a monetary penalty of up to Five Thousand Dollars (\$5,000) for the violation of the Act alleged in **Count 2**;

4. That the Fair Political Practices Commission, pursuant to section 83116, subdivision (c), order the Committee, Sandoval and Urias to pay a monetary penalty of up to Five Thousand Dollars (\$5,000) for the violation of the Act alleged in **Count 3**;

5. That the Fair Political Practices Commission, pursuant to section 83116, subdivision (c), order Sandoval to pay a monetary penalty of up to Five Thousand Dollars (\$5,000) for the violation of the Act alleged in **Count 4**;

6. That the Fair Political Practices Commission, pursuant to regulation 18361.5, subdivision (d), consider the following factors in framing a proposed order following a finding of a violation pursuant to Section 83116: (1) the seriousness of the violation; (2) the presence or absence of any intention to conceal, deceive or mislead; (3) whether the violation was deliberate, negligent or inadvertent; (4) whether the violator demonstrated good faith by consulting the Commission staff or any other government agency in a manner not constituting a complete defense under section 83114(b); (5) 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 (6) whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

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8. That the Fair Political Practices Commission grant such other and further relief as it deems just and proper.

Dated: 24 Oct 17

Respectfully Submitted,

FAIR POLITICAL PRACTICES COMMISSION



Galena West
Enforcement Chief
Enforcement Division