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

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 22/795

12 **STIPULATION, DECISION AND ORDER**

13 **COMPTON COMMUNITY COLLEGE**
14 **DISTRICT,**

Date Submitted to Commission: September
2023

15 Respondent.

16
17 **INTRODUCTION**

18 Respondent, Compton Community College District (the “District”) covers portions of Los
19 Angeles County and makes educational services available to approximately 300,000 residents within its
20 boundaries.

21 The Political Reform Act (the “Act”)¹ prohibits the sending of a mass mailing at public expense
22 by a public entity featuring the photographs of elected officials. The District violated the Act by
23 producing and distributing a newsletter at public expense which featured elected officials. The complaint
24 underlying this case was submitted anonymously.

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26
27 ¹ The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections
28 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.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred
3 in 2022. For this reason, all legal references and discussions of law pertain to the Act’s provisions as
4 they existed at that time.

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

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

9 There are many purposes of the Act. One stated purpose is to abolish laws and practices that
10 unfairly favor incumbents so that elections may be conducted more fairly.⁴ Another purpose of the Act
11 is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁵

12 **Mass Mailing at Public Expense**

13 No newsletter or other mass mailing shall be sent at public expense.⁶ Specifically, a newsletter or
14 mailing is prohibited to be sent at public expense only if all the following criteria are met:⁷

- 15 (1) An item sent is delivered, by any means, to the recipient at their residence, place of business, or
16 post office box. The item delivered to the recipient must be a tangible item, such as a written
17 document.
18 (2) The item sent features an elected officer affiliated with the agency that produces or sends the
19 mailing.
20 (3) Any of the costs of distribution are paid for with public money or the costs of design, production,
21 and printing exceeding \$50 are paid with public moneys, and is done with the intent of sending
22 the item other than as permitted by this section.
23 (4) More than 200 substantially similar items are sent in a single calendar month, excluding any item
24 sent in response to an unsolicited request.

25 Importantly, “features an elected officer” means that the item mailed:

26 ² Section 81001, subd. (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subd. (e).

⁵ Section 81002, subd. (f).

⁶ Section 89001.

⁷ Section 89002, subd. (a).

1 “includes the elected officer’s photograph or signature or singles out the elected officer by the
2 manner of display of the elected officer’s name or office in the layout of the document, such as
3 by headlines, captions, type size, typeface, or type color.”⁸

4 **SUMMARY OF THE FACTS**

5 The District produced an 8-page newsletter that provided a variety of information which was sent
6 to current and prospective students and residents of the District on or about October 19, 2022. The
7 newsletter included information on District facilities and programs and encouraged potential students to
8 enroll for Winter and Spring 2023 classes.

9 Page 2 of the 8-page newsletter featured a prominent and color photograph, including name and
10 title of Board President, Sonia Lopez, of Trustee Area 3, along with a “*Message from President Sonia*
11 *Lopez*” thanking all those that make the District great, congratulating the graduates and addressing how
12 they will all tackle challenges facing students. The message appeared in both English and Spanish.
13 Additionally, there was some use of the pronouns “I” in the message by the Board President, which,
14 coupled with the prominent color photograph, singled out this elected official.

15 Furthermore, at the bottom of page 8 of the newsletter, were included prominent and color
16 photographs of the entire Board of Trustees of the District (five total elected members). These additional
17 Board of Trustee members were Vice-President Barbara Calhoun of Trustee Area 2, Juanita Doplemore
18 of Trustee Area 4, Dr. Sharoni Little of Trustee Area 5 and Andres Ramos of Trustee Area 1.
19 Underneath the photographs of the Board were the names and titles of the Board members, three of
20 whom (Doplemore, Little and Ramos) were running for re-election in the November 8, 2022, General
21 Election, which was to be held approximately 19 days after the newsletter was distributed to current and
22 prospective students within the District. The District confirmed to the FPPC that the Board was not
23 consulted with, nor did they approve the photographs being included in the newsletter mailing. The
24 Board was only involved with approving the District’s budget, which included the newsletter in
25 question.

26 The District’s administration and staff designed, approved, and produced a total of 131,000
27 copies of the newsletter for a total cost of \$36,767 (which included all production, printing, and postage

28 _____
⁸ Section 89002, subd. (c)(2).

costs). However, only 33,276 copies were mailed. The District, when it recognized the violation, discontinued further distribution of the newsletter by mail and, through their counsel, notified the FPPC and sought advice from the Legal Division. Thus, the District, through advice from their counsel, did not mail out the additional 97,724 copies that were already printed and ready to be mailed.

The 33,276 copies of the newsletter were mailed to residents of the District on or about October 19, 2022, or approximately 19 days before the November 8, 2022, General Election. Some additional copies of the newsletter were placed in various District offices for members of the public. All three incumbent Board of Trustees featured with photographs in the newsletter and that appeared on the ballot won re-election in their respective Board of Trustee regions. The newsletter mailing reached an audience that included registered voters which would have been able to vote in the election of the Board of Trustees, and voter registration for the election had not closed.

Thus, the District prepared and designed the newsletter and used public money to have the newsletter printed and distributed to residents as follows:

Newsletter Date	Description	Total Cost	Number Mailed
October 19, 2022	District News and reminder to register for Winter/Spring	\$36,767.66	33,276

In summary, on or about October 19, 2022, the District mailed their newsletter at a total cost of \$36,767 resulting in 33,276 newsletters reaching residents. The newsletter featured photographs, names, and titles of one or more public officials, three of which were on the ballot for the November 8, 2022, General Election. The manner in which the elected officials were featured in the newsletter (prominent, colorful photographs with names and titles) violated the Act's ban on mass mailings or newsletters being sent at public expense.

VIOLATIONS

Count 1: Mass Mailing Sent at Public Expense

On or around October 19, 2022, the District produced a newsletter that featured the photographs, names, and titles of five elected public officials of the District and spent \$36,767 in public money to

1 produce, print, and mail the newsletter to 33,276 residents, in violation of Government Code Sections
2 89001 and 89002.

3 **PROPOSED PENALTY**

4 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
5 count. Thus, the maximum penalty that may be imposed here is \$5,000.⁹

6 The type of violation in this case is not included in the Streamline Program.¹⁰

7 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
8 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
9 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division
10 considers the facts and circumstances of the violation in the context of the following factors set forth in
11 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused
12 by the specific violation; (2) The level of experience of the violator with the requirements of the
13 Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The
14 presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was
15 deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the
16 Commission staff or any other governmental agency in a manner not constituting complete defense
17 under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern
18 and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
19 (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide
20 full disclosure.¹¹

21 With respect to the first factor in Regulation 18361.5, the serious public harm inherent in
22 violations concerning mass mailings sent at public expense is that the mailings may unfairly favor the
23 featured incumbent public officials and not provide for an even playing field for challengers. The
24 violation at issue here is aggravated as, not only were there large, prominent, and colorful photographs
25 featured of elected officials, but three of those featured incumbent Board members appeared on the
26 November 8, 2022, General Election ballot for re-election to the Board, and were also successful in
27

28 ⁹ Section 83116, subd. (c).

¹⁰ Regulations 18360.1, subd. (a), and 18360.3, subd. (a).

¹¹ Regulation 18361.5, subd. (e).

1 winning re-election. Having the newsletter arrive in the homes of over 33,000 residents of the District in
2 such close proximity to the election created extra publicity for the incumbent Board members.
3 Furthermore, the District’s usual newsletter does not contain photographic images of the elected Board
4 of Trustee members.

5 With respect to the second factor in Regulation 18361.5, District administration and staff were
6 not aware of the rules concerning the prohibition for mass mailings at public expense which feature
7 elected officials. Through their counsel, they have become aware of the regulations and are in the
8 process of creating a procedure to avoid this type of violation in the future.

9 With respect to the third factor in Regulation 18361.5, the Commission considers penalties in
10 prior cases with the same or similar violations and comparable facts.

11 In *In the Matter of City of Upland*, FPPC Case No. 18/228, the City of Upland produced and
12 distributed a two-page letter which highlighted the City’s achievements from the previous year, at public
13 expense, and included the name, photograph, and title of the City of Upland Mayor. Specifically,
14 14,146 copies were sent to residents for a total cost of \$2,595. There was no impending election
15 involved when the letter was sent out. On May 21, 2020, the Commission approved a penalty of \$2,000
16 for the violation.

17 In the present case, a higher penalty than that approved in *City of Upland* is recommended for
18 several reasons. Like *Upland*, the District produced a mass mailing at public expense which included the
19 names, photographs, and titles of elected officials, namely the Board of Trustees of the District.
20 However, 33,276 newsletters were mailed to residents for a total cost of \$36,767, a significantly higher
21 amount than mailed or spent in *City of Upland*. Additionally, and in aggravation, three of the Board of
22 Trustees featured in the newsletter were on the ballot for the November 8, 2022, election, which was just
23 weeks after the mailing of the newsletter. In *Upland*, there was no impending election of any featured
24 official. In further aggravation, multiple officials were featured here, instead of just one.

25 In *In the Matter of the City of El Monte*, FPPC Case No. 20/1040, the City of El Monte produced
26 and sent five separate and unique newsletters featuring community news and updates and included
27 photographs of their elected councilmembers and mayor (in two of the newsletters), the names and titles
28 of the councilmembers and mayor (in all five newsletters), and an inspirational message from the mayor

1 above his name and office (in all five newsletters). The total cost of \$65,034 (or a cost of \$13,006 per
2 each unique newsletter rendition sent) was paid by the City. A total of 140,980 copies of the five
3 newsletters were sent. No evidence was discovered that the Mayor authorized the inspirational message
4 to be printed. There was also no impending election involved when the mailings were sent. On July 21,
5 2022, the Commission approved a penalty of \$3,000 per count (five counts were included, one for each
6 separate mailing) for a total penalty of \$15,000.

7 In the present case, the District spent more than three times the amount of any single newsletter
8 which was produced and sent in *El Monte* and over 130,000 copies of the newsletter were produced and
9 ready to be mailed to residents before the violation was discovered and mailing was halted on the
10 remaining portion. Again, here, the newsletter mailed here featured three elected officials that were
11 seeking re-election in the weeks after the mailing of the newsletter. Neither *Upland* or *El Monte* also
12 included this aggravating and serious factor.

13 With respect to factors four through seven in Regulation 18361.5, there was no evidence to
14 support an intent to conceal, deceive or mislead the public as the newsletter clearly showed it was from
15 the District and the newsletter was intended to be an informational mailing. The violation appears to be
16 due to negligence, as the District should have reached out to their counsel for advice, which would have
17 led to a request for advice prior to any of the mailings being sent out featuring elected officials. While
18 there is no evidence that the District consulted with Commission staff or any other governmental agency
19 prior to producing and mailing the newsletters at issue here, the District made a good faith effort to
20 contact the Commission after it had discovered the violation, including halting further distribution of the
21 newsletter, and further cooperated with the Enforcement Division throughout its investigation and
22 provided all necessary information and supporting records required to complete the investigation. The
23 evidence does not show a pattern of violations as the District discontinued distribution of the newsletter
24 upon discovering that there was a violation of the prohibition against mass mailings sent at public
25 expense. The District does not have a prior record of violating the Act. Factor eight of the Regulation is
26 not applicable to this case as there is no filing required to be made.

1 After carefully considering the factors listed in Regulation 18361.5 and the assessed penalties in
2 prior applicable cases, and due to multiple elected officials with impending elections being featured in
3 the newsletter, with a significant amount of the newsletters being mailed out, a penalty of \$4,000 is
4 recommended for Count 1, for a total penalty of \$4,000.
5

6 CONCLUSION

7 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
8 Respondent, Compton Community College District, hereby agree as follows:

- 9 1. Respondent violated the Act as described in the foregoing pages, which are a true and accurate
10 summary of the facts in this matter.
- 11 2. This stipulation will be submitted for consideration by the Fair Political Practices Commission at
12 its next regularly scheduled meeting – or as soon thereafter as the matter may be heard.
- 13 3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose
14 of reaching a final disposition without the necessity of holding an administrative hearing to
15 determine the liability of Respondents pursuant to Section 83116.
- 16 4. Respondent has consulted with its attorney, Joshua Morrison, of Atkinson, Andelson,
17 Loya, Ruud and Romo, and understands, and hereby knowingly and voluntarily waives, all
18 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through
19 18361.9. This includes but is not limited to the right to appear personally at any administrative
20 hearing held in this matter, to be represented by an attorney at Respondent’s own expense, to
21 confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to
22 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a
23 hearing officer, and to have the matter judicially reviewed.
- 24 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
25 Respondent agrees to the Commission imposing against them an administrative penalty in the
26 amount of \$4,000. One or more cashier’s checks or money orders totaling said amount – to be
27 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
28 payment of the administrative penalty described above, and same shall be held by the State of

1 California until the Commission issues its decision and order regarding this matter. Payment may
2 also be made via the Commission’s online payment portal, with an added 3% processing fee
3 applied at the time of payment by a third-party processor.

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

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

14 8. The stipulation is not effective if one or more signatures are missing, or payment of the
15 proposed penalty has not been made in full.

16 9. The party signing on behalf of the Respondent is authorized to enter this stipulation.

17
18 Dated: _____

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

19
20
21 Dated: _____

_____, on behalf of the
Compton Community College District
Respondent

