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7
8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**
10

11 In the Matter of:

FPPC No. 13/064

12
13 **SAL TORRES; FRIENDS OF SAL
TORRES; and LESLIE TORRES**

STIPULATION, DECISION, and ORDER

14 Respondents.
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17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Sal Torres, Friends of Sal Torres, and Leslie Torres hereby agree that this Stipulation will
20 be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled
21 meeting.

22 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this
23 matter and to reach a final disposition without the necessity of holding an additional administrative
24 hearing to determine the liability of Respondents.

25 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
26 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of
27 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to
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1 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
2 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to
3 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
4 the hearing as a hearing officer, and to have the matter judicially reviewed.

5 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing
6 to timely file semi-annual campaign statements, in violation of Section 84200, subdivision (a) of the
7 Government Code (1 count) as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by
8 reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this
9 matter.

10 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
11 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
12 One Thousand Dollars (\$1,000). A cashier's check from Respondents in said amount, made payable to
13 the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
14 administrative penalty, and shall be held by the State of California until the Commission issues its
15 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to
16 accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
17 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
18 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
19 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
20 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
21 shall be disqualified because of prior consideration of this Stipulation.

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23 Dated: _____ Gary S. Winuk, on Behalf of the Enforcement Division
24 Fair Political Practices Commission

25
26 Dated: _____ Sal Torres, individually and on behalf of Friends of Sal
27 Torres, Respondents

1 Dated: _____
2 Leslie Torres, individually and on behalf of Friends of
3 Sal Torres, Respondents

4 **DECISION AND ORDER**

5 The foregoing Stipulation of the parties “In the Matter of Sal Torres, Friends of Sal Torres, and
6 Leslie Torres,” FPPC No. 13/064, including all attached exhibits, is hereby accepted as the final decision
7 and order of the Fair Political Practices Commission, effective upon execution below by the Chairman.
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9 IT IS SO ORDERED.

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11 Dated: _____
12 Ann Ravel, Chair
13 Fair Political Practices Commission
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1 **EXHIBIT 1**

2 **INTRODUCTION**

3 Respondent Sal Torres (“Respondent Torres”) is currently a member of the Daly City Council,
4 and was re-elected in the November 2012 Election. Friends of Sal Torres (“Respondent Committee”) was Respondent Torres’ candidate controlled committee, of which Leslie Torres (“Respondent
5 Treasurer”) acted as the Committee’s treasurer.

6 This matter arose from a proactive investigation by the Fair Political Practices Commission’s
7 (the “Commission”) Enforcement Division (“Enforcement Division”) into Respondent Torres. The
8 investigation by the Enforcement Division revealed that Respondent Committee had failed to file its
9 semi-annual statement for the period ending in December 31, 2012 by the January 31, 2013 deadline.
Respondent Torres later submitted the missing semi-annual report to the City Clerk’s Office in Daly
10 City on March 21, 2013.

11 For the purposes of this Stipulation, Respondents’ violations of the Political Reform Act (the
“Act”)¹ are as follows:

12 **COUNT 1:** Respondent failed to timely file a semi-annual statement for the period ending December
13 31 (Due January 31, 2013), in violation of Government Code Section 84200.

14 **SUMMARY OF THE LAW**

15 All statutory references and discussions of law pertain to the Act’s provisions as they existed at
16 the time of the violation.

17 **Liberal Construction and Vigorous Enforcement of the Political Reform Act**

18 When the Act was enacted, the people of the state of California found and declared that previous
19 laws regulating political practices suffered from inadequate enforcement by state and local authorities.
20 (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to
achieve its purposes.

21 One of the purposes of the Act is to ensure that receipts and expenditures in election campaigns
22 are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.
23 (Section 81002, subd. (a).) In order to meet that purpose, the Act requires that all elected officers,
candidates and committees file semi-annual statements disclosing their contributions and expenditures.

24 _____
25 ¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to
26 the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained
27 in Sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2,
28 Division 6 of the California Code of Regulations, unless otherwise indicated.

1 **Duty to File Semi-Annual Campaign Statements**

2 Section 84200 requires elected officers, candidates, and committees pursuant to subdivision (a)
3 of Section 82013 to file semi-annual statements each year no later than July 31 for the period ending
4 June 30, and no later than January 31 for the period ending December 31.

5 **Treasurer and Candidate Liability:**

6 Under Sections 81004, subdivision (b), 84100, and 84213, and Regulation 18427,
7 subdivisions (a), (b) and (c), it is the duty of a committee’s treasurer and candidate to ensure that the
8 committee complies with all of the requirements of the Act concerning the receipt and expenditure of
9 funds, and the reporting of such funds. A committee’s treasurer and candidate may be held jointly and
10 severally liable, along with the committee, for any reporting violations committed by the committee
11 under Sections 83116.5 and 91006.

12 **SUMMARY OF THE FACTS**

13 In 2012 Respondent Torres ran for re-election to the Daly City Council and won. During the
14 election, Respondent committee, which was partially self-funded by an \$11,825.00 loan from
15 Respondent Torres, raised money for Respondent Torres and made expenditures on his behalf.

16 Following the 2012 Election, Respondents failed to timely file the semi-annual statement
17 required of all elected officers, candidates, and committees. Respondent filed the missing semi-annual
18 report on March 21, 2013, with the Clerk Clerk’s Office of Daly City.

19 During the non-reported period, Respondent Committee received \$156 in contributions and did
20 not make any expenditures. The contributions received during the non-reporting period constituted less
21 than one percent of the total contributions received by Respondent Committee.

22 Respondents have a prior violation for failing to timely file semi-annual statements. The
23 violation was prosecuted as a streamline campaign violation by the Commission at the August 2012
24 meeting.

25 COUNT 1

26 **Failure to Timely File Required Semi-Annual Statement**

27 Respondent failed to timely file a semi-annual statement for the period ending December 31,
28 2012 (Due January 31, 2013), in violation of Government Code Section 84200.

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative
penalty of five thousand dollars (\$ 5,000) per count.

1 In determining the appropriate penalty for a particular violation of the Act, the Commission
2 considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
3 emphasis on serving the purposes and intent of the Act. Additionally, the Commission considers the
4 facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5,
5 subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the
6 voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent
7 demonstrated good faith in consulting with Commission staff; and whether there was a pattern of
8 violations.

9 The Enforcement Division considers failure to file required semi-annual statements to be a
10 serious violation of the Act as it undermines one of its central purposes – transparency. Without timely
11 disclosure of semi-annual statements the public is deprived of important information concerning the
12 campaign’s contributors and financial activities.

13 Recent mainline stipulations show that violations arising from a failure to timely file a semi-
14 annual report generally settle within the range of \$1,000 to 2,000 per count, depending upon various
15 factors, including: (a) whether the statement was filed late or not filed at all; (b) whether the
16 Respondent had a prior history of violating the Act; and (c) the relative number and size of the
17 contributions and expenditures made during the period covered by the statement.

18 **AGGRAVATING FACTORS**

19 In aggravation, Respondents had a demonstrated pattern of violating the Act. Also, given that
20 Respondents were fined for the same offense only five months earlier, it is clear that they were well
21 aware of their filing requirements and simply disregarded them.

22 **MITIGATING FACTORS**

23 In mitigation, the negligible amount in contributions that Respondents failed to timely report
24 (\$156) is not indicative of a serious violation. Additionally, even if Respondents timely filed the report,
25 the public would not have had access to it until after the election.

26 Other similar cases regarding a violation of Section 84200 that have been recently approved by
27 the Commission include:

- 28 - *In the Matter of Ronald Smith and Friends of Ron Smith*, FPPC Case No. 11/1053 (Approved
December 13, 2012). Respondent Ronald Smith, as a candidate for re-election to the West
Basin Municipal Water District Board in the November 2, 2010 election, and his candidate
controlled committee, Friends of Ron Smith, failed to timely file two semi-annual campaign
statements, in violation of Government Code Sections 84200, subdivision (a). Respondent
had prior violations for failing to file campaign reports. **The Commission approved a
\$1,500 fine for the violation.**

- 1 - *In the Matter of Marco Robles, Committee to Elect Marco A. Robles, and Rosa Lira,*
2 *Treasurer, FPPC No. 08/329 (Approved February 11, 2010).* Respondent Marco Robles, as a
3 candidate for re-election to the Pomona City Council in the November 7, 2006 election, and
4 his candidate controlled committee, Committee to Elect Marco A. Robles, failed to timely
5 file two semi-annual campaign statements, in violation of Government Code Sections 84200,
6 subdivision (a). The committee cooperated fully with filing obligations and terminated. **The
Commission approved a \$1,000 fine for the violation.**

7 Similar to the cases above, the Respondents here failed to timely file their semi-annual campaign
8 statements. However, in specific similarity to *In the Matter of Ronald Smith and Friends of Ron Smith,*
9 here Respondents demonstrated a pattern of violating the Act and were well aware of their duty to file
since they were fined for failing to file their last required semi-annual statement.

10 For these reasons an administrative penalty in the amount of one thousand dollars (\$1,000) for
Count 1 is recommended.

11 **PROPOSED PENALTY**

12 After consideration of the factors of Regulation 18361.5, including whether the behavior in
13 question was inadvertent, negligent or deliberate and the presence or absence of good faith, as well as
14 consideration of penalties in prior enforcement actions, the imposition of a penalty of one thousand
15 dollars (\$1,000) is recommended.