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

11
12 In the Matter of) FPPC No. 13/1239
13)
14 RE-ELECT COUNCIL MEMBERS) STIPULATION, DECISION and
RODRIGUEZ AND BRUCE 2013,) ORDER
15 REYNALDO RODRIGUEZ, BARRY BRUCE,)
and DELIA OLIVAS, TREASURER,)
16 Respondents.)

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18 Complainant, the Fair Political Practices Commission, and respondents Re-Elect Council
19 Members Rodriguez and Bruce 2013, Reynaldo Rodriguez, Barry Bruce, and Delia Olivas (collectively
20 “Respondents”) agree that this Stipulation will be submitted for consideration by the Fair Political
21 Practices Commission at its next regularly scheduled meeting.

22 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
23 matter and to reach a final disposition without the necessity of holding an administrative hearing to
24 determine the liability of Respondents, pursuant to Section 83116 of the Government Code.

25 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
26 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
27 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
28 the right to personally appear at any administrative hearing held in this matter, to be represented by an

1 attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the
2 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
3 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

4 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing
5 to timely report receiving two late contributions to the Hawaiian Gardens City Clerk within 24 hours of
6 receiving each, in violation of Government Code section 84203, subdivisions (a) and (b) (1 count).

7 All counts are described in Exhibit 1, which is attached hereto and incorporated by reference as
8 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

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1 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
2 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount
3 of \$2,500. A cashier's check from Respondents in said amount, made payable to the "General Fund of
4 the State of California," is submitted with this Stipulation as full payment of the administrative penalty,
5 to be held by the State of California until the Commission issues its decision and order regarding this
6 matter. The parties agree that in the event the Commission refuses to accept this Stipulation, it shall
7 become null and void, and within 15 business days after the Commission meeting at which the
8 Stipulation is rejected, all payments tendered by Respondents in connection with this Stipulation shall be
9 reimbursed to Respondents. Respondents further stipulate and agree that in the event the Commission
10 rejects the Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither
11 any member of the Commission, nor the Executive Director, shall be disqualified because of prior
12 consideration of this Stipulation.

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14 Dated: _____
15 **Gary Winuk, Enforcement Chief,**
16 On behalf of the
17 Fair Political Practices Commission

18 Dated: _____
19 **Reynaldo Rodriguez, Respondent,**
20 Individually and on behalf of
21 Respondent Re-Elect Council Members
Rodriguez and Bruce 2013

22 Dated: _____
23 **Barry Bruce, Respondent,**
24 Individually and on behalf of
Respondent Re-Elect Council Members
Rodriguez and Bruce 2013

25 Dated: _____
26 **Delia Olivas, Respondent,**
27 Individually and on behalf of
Respondent Re-Elect Council Members
28 Rodriguez and Bruce 2013

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Re-Elect Council Members Rodriguez and Bruce 2013, Reynaldo Rodriguez, Barry Bruce, and Delia Olivas, Treasurer” FPPC No. 13/1239, including all attached exhibits, 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: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Re-Elect Council Members Rodriguez and Bruce 2013 (“Respondent Committee”) was at all relevant times the candidate-controlled committee of incumbent Hawaiian Gardens City Councilmembers Reynaldo Rodriguez (“Respondent Rodriguez”) and Barry Bruce’s (“Respondent Bruce”) joint re-election campaign for the November 5, 2013, election. At all relevant times, Respondent Delia Olivas (“Respondent Olivas”) was Respondent Committee’s treasurer. As a candidate-controlled committee, and its controlling candidates and treasurer, Respondents Committee, Rodriguez, Bruce, and Olivas (collectively “Respondents”) were required by Political Reform Act (the “Act”)¹ to file late contribution reports with the Hawaiian Garden’s City Clerk (“City Clerk”).

For the purposes of this Stipulation, Respondents’ violation of the Act is stated as follows:

COUNT 1: Respondents Re-Elect Council Members Rodriguez and Bruce 2013, Reynaldo Rodriguez, Barry Bruce, and Delia Oliva failed to timely report two late contributions received to the Hawaiian Gardens City Clerk within 24 hours of receiving each, in violation of Government Code section 84203, subdivisions (a) and (b).

SUMMARY OF THE LAW

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

Liberal Construction and Vigorous Enforcement of the Political Reform Act

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

One of the purposes of the Act is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited. (Section 81002, subd. (a).) Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.” (Section 81002, subd. (f).)

Duty to Report Late Contributions

The Act includes within the definition of “committee” any person or combination of persons who receives contributions of \$1,000 or more during a calendar year. (Section 82013, subd. (a).) A controlled committee is a committee that is controlled directly or indirectly by a candidate. A candidate

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions of the committee. (Section 82016, subd. (a).)

A late contribution is a contribution of \$1,000 or more made to a candidate, a controlled committee of a candidate, or a committee formed or existing primarily to support or oppose a candidate or measure within 90 days of the election at which the candidate or measure is to be voted on. (Sections 82036, subd. (a).) A committee controlled by a candidate is required to report within 24 hours any late contribution it receives. (Section 84203, subdivisions (a) and (b).)

Where to File

A committee controlled by a candidate for city office must file all required reports with the clerk of the city in which the candidate is seeking office. (Section 84215, subd. (d).)

Joint and Several Liability

Under Sections 81004, subdivision (b), and 84100, and Regulation 18427, subdivisions (a), a committee's treasurer has the duty to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Pursuant to Sections 83116.5 and 91006, the treasurer and controlling candidate of a committee may be held jointly and severally liable, along with the committee, for the committee's violations.

SUMMARY OF THE FACTS

Respondent Committee qualified as a candidate-controlled committee on September 30, 2013, the day it received a contribution of \$5,000 from Hawaiian Gardens Casino, but did not report receiving the late contribution to the City Clerk within 24 hours. On October 15, 2013, Respondents filed a campaign statement with the City Clerk for the period ending on October 15, 2013. The campaign statement reported, among other contributions received and expenditures made by Respondent Committee, the late contribution Respondent Committee received on September 30, 2013.

On November 4, 2013, Respondent Committee received a \$1,000 contribution, but did not report receiving the late contribution to the City Clerk within 24 hours. On January 29, 2014, after Respondents Rodriguez and Bruce were both reelected, Respondents filed a termination statement with the City Clerk for the October 16, 2013, through January 31, 2014, period. The statement reported, among other contributions received and expenditures made, the late contribution Respondent Committee received on November 4, 2013.

In total, Respondent Committee received and spent approximately \$8,100.

COUNT 1

Failure to Timely Report Late Contributions Received

As a committee controlled by candidates for Hawaiian Gardens City Council in the November 5, 2013, election, the controlling candidates, and the treasurer, Respondents had a duty to report with the City Clerk within 24 hours any contribution of \$1,000 or more received between August 7 and November 4, 2013.

Respondents failed to timely report to the City Clerk a late contribution of \$5,000 received by Respondent Committee on September 30, 2013, in violation of Section 84203, subdivisions (a) and (b).

Respondents also failed to timely report to the City Clerk a late contribution of \$1,000 received by Respondent Committee on November 4, 2013, in violation Section 84203, subdivisions (a) and (b).

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of \$5,000.

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 context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the respondent(s) demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether upon learning of the violation the respondent voluntarily filed amendments to provide full disclosure. The facts are required to be considered by the Commission under Regulation 18361.5.

Count 1: Failing to timely report receiving a late contribution is a serious violation of the Act as it deprives the public of important information about Respondent Committee's financial activities. Recent fines approved by the Commission for failing to timely report receiving a late contribution include:

In the Matter of Supporters for a Better San Clemente and Jeanne O'Grady, Treasurer, FPPC No. 10/1047. In February 2014, the Commission approved a fine of \$2,500 for the respondents' failure to report a single late contribution in the amount of \$2,111. The respondents had no prior enforcement actions, cooperated with the investigation, and agreed to an early resolution of the matter.

In the Matter of Arturo Chacon and Art Chacon for Water Board 2010, FPPC No. 08/652. In February 2011, the Commission approved a fine of \$3,000 for the respondents' failure to timely file five late contributions totaling \$13,000. The respondents had no prior enforcement actions, cooperated with the investigation, and agreed to an early resolution of the matter.

In this matter, Respondents received approximately \$8,100 in contribution, and therefore the two late contributions, totaling \$6,000, represented a very large part of their total financial activity. Also, Respondents Rodriguez and Bruce were experienced elected officials, and therefore were aware of their filing requirements. However, Respondents do not have any prior enforcement actions, cooperated with the investigation, and agreed to an early resolution to this matter. Also, Respondents reported both late contributions on their campaign statements. Therefore a \$2,500 fine for Count 1 is recommended.

PROPOSED PENALTY

Accordingly, the imposition of a total administrative penalty of \$2,500 is recommended.

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