

1 GARY S. WINUK
Chief of Enforcement
2 MILAD DALJU
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
Sacramento, CA 95814
Telephone: (916) 322-5660

5 Attorneys for Complainant

6
7 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
8 **STATE OF CALIFORNIA**
9

10
11 In the Matter of) FPPC No. 13/1229
12)
13 PRIYA MATHUR AND PRIYA MATHUR) STIPULATION, DECISION and
FOR CALPERS BOARD 2014,) ORDER
14 Respondents.)
15)

16 Complainant, the Fair Political Practices Commission, and respondents Priya Mathur and Priya
17 Mathur for CALPERS Board 2014 (collectively “Respondents”) agree that this Stipulation will be
18 submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled
19 meeting.

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

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

3 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing
4 to timely file a semiannual statement with the Secretary of State by July 31, 2012, for the January 1
5 through June 30, 2012, reporting period, by January 31, 2013, for the July 1 through December 31,
6 2012, reporting period, by July 31, 2013, for the January 1 through June 30, reporting period, and by
7 January 31, 2014, for the July 1 through December 31, 2013, reporting period, in violation of
8 Government Code section 84200 (4 counts).

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

11 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
12 Respondents also agree to the Commission imposing upon them a total administrative penalty in the
13 amount of \$4,000. A cashier's check from Respondents in said amount, made payable to the "General
14 Fund of the State of California," is submitted with this Stipulation as full payment of the administrative
15 penalty, to be held by the State of California until the Commission issues its decision and order
16 regarding this matter. The parties agree that in the event the Commission refuses to accept this
17 Stipulation, it shall become null and void, and within 15 business days after the Commission meeting at
18 which the Stipulation is rejected, all payments tendered by Respondents in connection with this
19 Stipulation shall be reimbursed to Respondents. Respondents further stipulate and agree that in the
20 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
21 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
22 disqualified because of prior consideration of this Stipulation.

23 Dated: _____
24 Gary Winuk, Enforcement Chief,
25 On behalf of the
26 Fair Political Practices Commission

27 Dated: _____
28 Priya Mathur, Respondent
On behalf of herself and
Priya Mathur for CALPERS Board 2014, Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Priya Mathur and Priya Mathur for
3 CALPERS Board 2014” FPPC No. 13/1229, including all attached exhibits, is hereby accepted as the
4 final decision and order of the Fair Political Practices Commission, effective upon execution below by
5 the Chair.

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7 **IT IS SO ORDERED.**

8 Dated: _____

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10 Joann Remke, Chair
11 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent Priya Mathur (“Respondent Mathur”) has been a member of the Board of Administration of the California Public Employees’ Retirement System (“CalPERS Board”) since 2003, and is a candidate for the same office in the September 29, 2014, election. Respondent Priya Mathur for the CalPERS Board 2014 (“Respondent Committee”) is, and has been at all times relevant, Respondent Mathur’s controlled committee for her campaign to be reelected on September 29, 2014. As a candidate for elective state office and her controlled committee, Respondent Mathur and Respondent Committee (collectively “Respondents”) are required to file periodic campaign statements under the Political Reform Act (the “Act”). In this matter, Respondents failed to file four required campaign statements.

For the purposes of this Stipulation, Respondents’ violations of the Act are stated as follows:

- COUNT 1:** Respondent Priya Mathur and her candidate-controlled committee Respondent Priya Mathur for CALPERS Board 2014 failed to timely file a semiannual statement for the January 1 through June 30, 2012, reporting period with the Secretary of State by July 31, 2012, in violation of Government Code section 84200.
- COUNT 2:** Respondent Priya Mathur and her candidate-controlled committee Respondent Priya Mathur for CALPERS Board 2014 failed to timely file a semiannual statement for the July 1 through December 31, 2012, reporting period with the Secretary of State by January 31, 2013, in violation of Government Code section 84200.
- COUNT 3:** Respondent Priya Mathur and her candidate-controlled committee Respondent Priya Mathur for CALPERS Board 2014 failed to timely file a semiannual statement for the January 1 through June 31, 2013, reporting period with the Secretary of State by July 31, 2013, in violation of Government Code section 84200.
- COUNT 4:** Respondent Priya Mathur and her candidate-controlled committee Respondent Priya Mathur for CALPERS Board 2014 failed to timely file a semiannual statement for the July 1 through December 31, 2013, reporting period with the Secretary of State by January 31, 2014, in violation of Government Code section 84200.

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 violation.

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 File Campaign Statements

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 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).)

Under the Act's campaign reporting system, candidates and committees are required to file periodic campaign statements and reports disclosing their financial activities. Candidates for state office and their controlled committees are required to file a semiannual statement with the Secretary of State no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31. (Sections 84200, subd. (a), and 84215, subd. (a).)

Joint and Several Liability of the Candidate

Under Section 81004, subdivision (b), Section 84100 and Regulation 18427, subdivision (a), it is the duty of a candidate to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A candidate may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

Respondent Mathur was elected to the CalPERS Board on November 29, 2002, and has been a member since. On April 13, 2006, the Fair Political Practices Commission (the “Commission”) fined Respondent Mathur and Friends of Priya Mathur, her candidate-controlled committee for the November 29, 2002, election, \$3,250 for failing to timely file a preelection statement, \$2,500 for failing to timely file a semiannual statement, and \$250 for failing to timely file an annual statement of economic interests. (*In the Matter of Priya Mathur and Friends of Priya Mathur*, FPPC No. 03/296.)

On April 10, 2010, the Commission fined Respondent Mathur, in a default decision, \$4,000 for failing to file her 2007 Annual Statement of Economic Interests. (*In the Matter of Priya Mathur*, FPPC No. 09/032.) On May 13, 2010, the Commission fined Respondent Mathur, in another default decision, \$3000 for failing to file her 2008 Annual Statement of Economic Interests. (*In the Matter of Priya Mathur*, FPPC No. 09/750.)

On or about April 16, 2010, Respondent Mathur became a candidate for reelection to the CalPERS Board in the September 29, 2014, election. On or about July 16, 2010, Respondent Committee qualified as Respondent Mathur’s candidate-controlled committee for her reelection

campaign. Respondents timely filed a semiannual statement with the Secretary of State for the four reporting periods in 2010 and 2011.

On October 1, 2013, and January 17, 2014, the Commission's Enforcement Division (the "Enforcement Division") received referrals from the Secretary of State for Respondents' failure to file semiannual statements for the 2012 and 2013 reporting periods. The ensuing investigation by the Enforcement Division revealed that Respondents failed to file any of the four required semiannual statement for the 2012 and 2013 reporting periods.

After numerous requests from the Enforcement Division, Respondent's filed, on March 19, 2014, the four missing semiannual statements with the Secretary of State. The statements revealed that Respondents did not have any reportable financial activity during those four reporting periods.

COUNT 1

Failure to Timely File a Semiannual Statement

As a candidate for the CalPERS Board in the September 29, 2014, election, and her candidate-controlled committee, Respondent Mathur and Respondent Committee were required to file a semiannual statement with the Secretary of State by July 31, 2012, for the January 1 through June 30, 2012, reporting period. By failing to file a semiannual statement with the Secretary of State by July 31, 2012, for the January 1 through June 30, 2012, reporting period, Respondents violated Section 84200.

COUNT 2

Failure to Timely File a Semiannual Statement

As a candidate for the CalPERS Board in the September 29, 2014, election, and her candidate-controlled committee, Respondent Mathur and Respondent Committee were required to file a semiannual statement with the Secretary of State by January 31, 2013, for the July 1 through December 31, 2012, reporting period. By failing to file a semiannual statement with the Secretary of State by January 31, 2013, for the July 1 through December 31, 2012, reporting period, Respondents violated Section 84200.

COUNT 3

Failure to Timely File a Semiannual Statement

As a candidate for the CalPERS Board in the September 29, 2014, election, and her candidate-controlled committee, Respondent Mathur and Respondent Committee were required to file a semiannual statement with the Secretary of State by July 31, 2013, for the January 1 through June 30, 2013, reporting period. By failing to file a semiannual statement with the Secretary of State by July 31, 2013, for the January 1 through June 30, 2013, reporting period, Respondents violated Section 84200.

COUNT 4

Failure to Timely File a Semiannual Statement

As a candidate for the CalPERS Board in the September 29, 2014, election, and her candidate-controlled committee, Respondent Mathur and Respondent Committee were required to file a semiannual statement with the Secretary of State by January 31, 2014, for the July 1 through December 31, 2013, reporting period. By failing to file a semiannual statement with the Secretary of State by

January 31, 2014, for the July 1 through December 31, 2013, reporting period, Respondents violated Section 84200.

CONCLUSION

This matter consists of four counts of violating the Act, which carries a maximum administrative penalty of \$20,000.

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.

Failing to file a campaign statement is a serious violation of the Act because it deprives the public of important information about a candidate's financial activities. Recent fines approved by the Commission for failing to timely file a semiannual statement include:

In the Matter of Ronald Smith and Friends of Ronald Smith, FPPC No. 13/208. On February 20, 2014, the Commission approved a fine of \$2,000 against a member of a local water board and his candidate-controlled committee for failing to timely file a semiannual statement. Respondents did not have any financial activity to report during the pertinent reporting period, but had been prosecuted twice before by the Enforcement Division for failing to timely file campaign statements.

In the Matter of Sal Torres, Friends of Sal Torres, and Leslie Torres, FPPC No. 13/064. On August 22, 2013, the Commission approved a \$1,000 fine for the respondents' failure to timely file a semiannual statement. The respondents had received \$156 in contributions and made no expenditures during the pertinent reporting period, and had been prosecuted once before by the Enforcement Division for failing to timely file campaign statements.

In this matter, Respondent Mathur has been prosecuted once before by the Enforcement Division for failing to file campaign statements and twice for other violations of the Act. However, during the pertinent reporting periods in this matter, Respondents had no reportable financial activity. Additionally, Respondents have agreed to an early resolution to this matter. Therefore a \$1,000 fine per count for Counts 1 through 4 is recommended.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5 and the penalties imposed in prior cases, a total penalty of \$4,000 is recommended.

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