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

10  
11 In the Matter of:

12 SAN MATEO COUNTY DEMOCRATIC  
CENTRAL COMMITTEE and XAVIER  
13 MARTINEZ

14 Respondents.

FPPC Case No. 15/79

STIPULATION, DECISION AND ORDER

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16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
18 Respondents San Mateo County Democratic Central Committee and Xavier Martinez hereby agree that  
19 this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next  
20 regularly scheduled meeting.

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

24 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural  
25 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of  
26 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to  
27 appear personally at any administrative hearing held in this matter, to be represented by an attorney at  
28 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to

1 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over  
2 the hearing as a hearing officer, and to have the matter judicially reviewed.

3 As described in Exhibit 1, it is further stipulated and agreed that Respondents committed one  
4 violation of the Political Reform Act. Exhibit 1, which is attached hereto and incorporated by reference  
5 as though fully set forth herein, is a true and accurate summary of the facts in this matter.

6 Respondents agree to the issuance of the Decision and Order, which is attached hereto. Also,  
7 Respondents agree to the Commission imposing upon them an administrative penalty in the amount of  
8 \$2,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General  
9 Fund of the State of California—is/are submitted with this Stipulation as full payment of the  
10 administrative penalty described above, and same shall be held by the State of California until the  
11 Commission issues its Decision and Order regarding this matter. The parties agree that in the event the  
12 Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen (15)  
13 business days after the Commission meeting at which the Stipulation is rejected, all payments tendered  
14 by Respondents in connection with this Stipulation shall be reimbursed to Respondents. Respondents  
15 further stipulate and agree that in the event the Commission rejects the Stipulation and a full

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1 evidentiary hearing before the Commission becomes necessary, neither any member of the Commission,  
2 nor the Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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5 Dated: \_\_\_\_\_

\_\_\_\_\_  
Galena West, Acting Chief of Enforcement  
Fair Political Practices Commission

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8 Dated: \_\_\_\_\_

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Rita Copeland, Treasurer, on behalf of San Mateo  
County Democratic Central Committee, Respondent

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11 Dated: \_\_\_\_\_

\_\_\_\_\_  
Xavier Martinez, Respondent

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13 **DECISION AND ORDER**

14 The foregoing Stipulation of the parties “In the Matter of San Mateo County Democratic Central  
15 Committee and Xavier Martinez,” FPPC No. 15/79, including all attached exhibits, is hereby accepted as  
16 the final decision and order of the Fair Political Practices Commission, effective upon execution below  
17 by the Chair.

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19 IT IS SO ORDERED.

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21 Dated: \_\_\_\_\_

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Joann Remke, Chair  
Fair Political Practices Commission

**EXHIBIT 1**

**INTRODUCTION**

This matter arose from an audit performed by the Political Reform Audit Program of the Franchise Tax Board.

The San Mateo County Democratic Central Committee is a political party committee (within the meaning of Government Code section 85205) in that it is the Democratic county central committee for San Mateo County.

In 2012, Xavier Martinez was the committee treasurer. The current committee treasurer is Rita Copeland. She is authorized to sign this stipulation on behalf of the central committee, but is not a respondent.

This case involves failure to file pre-election campaign statements in 2012 in violation of the Political Reform Act (the "Act").<sup>1</sup>

**SUMMARY OF THE LAW**

All legal references and discussions of law pertain to the Act's provisions as they existed at the time of the violations described above (in 2012).

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

When the Political Reform 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.<sup>2</sup> To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

There are many purposes of the Act. 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.<sup>3</sup> Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced."<sup>4</sup>

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<sup>1</sup> The Act is contained in Government Code sections 81000 through 91014. All statutory references are to this code. 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 this source.

<sup>2</sup> Section 81001, subd. (h).

<sup>3</sup> Section 81002, subd. (a).

<sup>4</sup> Section 81002, subd. (f).

Required Filing of Pre-Election Campaign Statements

At the core of the Act’s campaign reporting system is the requirement that committees must file campaign statements and reports.<sup>5</sup> For example, a central committee is required to file pre-election statements in connection with a state election if the committee receives contributions totaling \$1,000 or more, or if it makes contributions or independent expenditures totaling \$500 or more, during the reporting period. For the Presidential Primary Election of June 5, 2012 the two pre-election reporting periods were January 1 through March 17 and March 18 through May 19. The filing deadlines were March 22 and May 24, respectively.<sup>6</sup>

Joint and Several Liability of Committee and Treasurer

Under Sections 81004, 84100, and Regulation 18427, it is the duty of a committee treasurer to ensure that the committee complies with the Act. A treasurer may be held jointly and severally liable, along with the committee, for violations committed by the committee.<sup>7</sup>

**SUMMARY OF THE FACTS**

During the reporting period from January 1, 2012 through March 17, 2012, the San Mateo County Democratic Central Committee received contributions totaling approximately \$3,940, and the committee made expenditures totaling approximately \$8,670. Because of this activity, the committee and its treasurer were required to file a pre-election campaign statement by the deadline of March 22, 2012.

During the reporting period from March 18, 2012 through May 19, 2012, the central committee received contributions totaling approximately \$68,225, and the committee made expenditures totaling approximately \$4,249. Because of this activity, the committee and its treasurer were required to file a pre-election campaign statement by the deadline of May 24, 2012. During both reporting periods, the committee treasurer was Xavier Martinez.

Additional facts are set forth below with information about the violation to which they relate. For settlement purposes, the San Mateo County Democratic Central Committee and Xavier Martinez are being charged as follows:

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<sup>5</sup> See Sections 84200, et seq.  
<sup>6</sup> See Sections 84200.5, subd. (h), and 84200.7, subd. (a).  
<sup>7</sup> See Sections 83116.5 and 91006.

## VIOLATION

### Count 1: Late Filing of Pre-Election Campaign Statements

The San Mateo County Democratic Central Committee and Xavier Martinez failed to file the above-described pre-election campaign statements by the required deadlines. Instead, the activity for these periods was reported after the election on a statement filed July 30, 2012.

In this way, the San Mateo County Democratic Central Committee and Xavier Martinez violated Sections 84200.5, subdivision (h), and 84200.7, subdivision (a).

## PROPOSED PENALTY

This matter consists of one count. The maximum penalty that may be imposed is \$5,000.<sup>8</sup>

In determining the appropriate penalty for a particular violation of the Act, the Commission 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 Commission considers the facts and circumstances of the violation in the context of the following factors set forth in Regulation 18361.5, subdivision (d): (1) the seriousness of the violation; (2) the presence or lack of intent to conceal, deceive or mislead; (3) whether the violation was deliberate, negligent, or inadvertent; (4) whether the violator demonstrated good faith by consulting Commission staff or any other government agency in a manner not constituting a complete defense; (5) whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations; and (6) whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure. Also, the Commission considers penalties in prior cases with similar violations.

Regarding Count 1, the failure to file pre-election campaign statements deprives the public of important information prior to an election. One of the purposes of the Act is to ensure that the public has access to such information before the election. Recently, the Commission imposed a penalty in the mid-range for this type of violation. See *In the Matter of the United Food and Commercial Workers Active Ballot Club Yes on Prop. 30, No on Prop. 32 Committee, and Anthony Perrone*, FPPC No. 14/605 (approved Jan. 15, 2015), where a penalty in the amount of \$2,000 was imposed for failure to timely file a pre-election campaign statement (that should have disclosed receipts totaling approximately \$202,441).

In the current case, a higher penalty is justified. The San Mateo central committee is a sophisticated political party committee that should be familiar with the Act's filing requirements. This violation was more than an inadvertent oversight. At the very least, it was the result of gross negligence. Also, in 2013, the committee and its treasurer, Mr. Martinez, were fined \$2,400 for late contribution reporting violations (that occurred in 2009 and 2010).<sup>10</sup>

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<sup>8</sup> See Section 83116, subd. (c).

<sup>10</sup> See *In the Matter of San Mateo County Democratic Central Committee and Xavier R. Martinez*, FPPC No. 13/82, approved May 16, 2013.

Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty in the amount of \$2,500 is justified. A higher penalty is not being sought because the central committee and Mr. Martinez cooperated with the Enforcement Division by agreeing to an early settlement of this matter well in advance of the Probable Cause Conference that otherwise would have been held.

### **CONCLUSION**

For the foregoing reasons, an agreed upon penalty of \$2,500 is recommended.