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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. 14/348
13)
14) STIPULATION, DECISION and
15 VOTERS FOR GOOD GOVERNMENT and) ORDER
16 BILLIE MARTINEZ, PRINCIPAL OFFICER,)
Respondents.)
17

18 Complainant, the Fair Political Practices Commission, and Respondents Voters for Good
19 Government and Billie Martinez agree that this stipulation will be submitted for consideration by the
20 Fair Political Practices Commission at its next 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 administrative hearing to
23 determine the liability of Respondent, 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 Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
26 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
27 the right to personally appear at any administrative hearing held in this matter, to be represented by an
28 attorney at Respondent's own expense, to confront and cross-examine all witnesses testifying at the

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 Voters for Good Government and Billie
4 Martinez violated the Political Reform Act when they failed to file a late independent expenditure report
5 within 24 hours of making an independent expenditure opposing Willie Rivera, and to disclose this
6 expenditure on a semi-annual campaign statement, in violation of Sections 82036.5, 84204 subdivision
7 (a), and 84211, subdivision (k) of the Government Code (1 count). All counts are described in Exhibit
8 1. Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1
9 is a true and accurate summary of the facts in this matter.

10 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
11 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount
12 of Two Thousand Dollars (\$2,000). A cashier's check from Respondents in said amount, made payable
13 to the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
14 administrative penalty, to be held by the State of California until the Commission issues its decision and
15 order regarding this matter. The parties agree that in the event the Commission refuses to accept this
16 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
17 meeting at which the Stipulation is rejected, all payments tendered by Respondents in connection with
18 this Stipulation shall be reimbursed to Respondent. Respondent further stipulates and agrees that in the
19 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
20 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
21 disqualified because of prior consideration of this Stipulation.

22
23 Dated: _____ Gary Winuk, Enforcement Chief,
24 on behalf of the Fair Political Practices Commission

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26 Dated: _____ Respondent Billie Martinez, individually and
27 on behalf of Voters for Good Government, Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Voters for Good Government and Billie Martinez, Principal Officer,” FPPC No. 14/348, 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 Voters for Good Government (“Respondent Committee”) was a county general purpose committee, based in Los Angeles County. Respondent Billie Martinez was, at all times relevant, principal officer of Respondent Committee. In this matter, Respondents made an independent expenditure, by sending a mass mailer opposing the election of Willie Rivera, a candidate for Bakersfield City Council in the June 4, 2013 election. Respondents violated the Political Reform Act’s (the “Act”)¹ requirements for the proper reporting of independent expenditures.

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

COUNT 1: Respondents Voters for Good Government and Billie Martinez failed to file a late independent expenditure report within 24 hours of making an independent expenditure opposing Willie Rivera, and to disclose this expenditure on a semi-annual campaign statement, in violation of Sections 82036.5, 84204 subdivision (a), and 84211, subdivision (k) of the Government Code.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures affecting election campaigns are fully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Duty to File Late Independent Expenditure Reports

Pursuant to Section 84204 when a committee makes a late independent expenditure, as defined in Section 82036.5, the committee must disclose the expenditure in a late independent expenditure report filed at each office with which the committee is required to file its next campaign statement pursuant to Section 84215, within 24 hours of making the late independent expenditure. Section 82036.5 defines a “late independent expenditure” as any independent expenditure which totals in the aggregate one thousand dollars (\$1,000) or more and is made for or against any specific candidate or measure involved in an election within 90 days before the date of the election.

¹The 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.

Duty to Disclose Independent Expenditures on Semi-Annual Campaign Statements

Section 84200, subdivision (a) requires recipient committees to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 to December 31, and must be filed by January 31 of the following year.

Section 82025 defines “expenditure” as a payment, forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure can be either a monetary or nonmonetary payment made for political purposes. (Section 82025, subdivision (a) and Regulation 18225, subdivision (a).) Section 84211, subdivision (b), requires committees to disclose the total amount of expenditures made during the period covered by the campaign statement as well as the total cumulative amount of expenditures made.

In addition, for each person to whom the committee makes an expenditure of \$100 or more during the period covered by the campaign statement, a committee must disclose information that includes the payee’s name and address, the amount of each expenditure, and a brief description of the consideration for which each expenditure is made. (84211, subdivision (k)(1-4).) In the case of an expenditure which is a contribution to a candidate, elected officer, or committee or an independent expenditure to support or oppose a candidate or measure, in addition to the information required in paragraphs (1) to (4) above, the date of the contribution or independent expenditure, the cumulative amount of contributions made to a candidate, elected officer, or committee, or the cumulative amount of independent expenditures made relative to a candidate or measure; the full name of the candidate, and the office and district for which he or she seeks nomination or election, or the number or letter of the measure; and the jurisdiction in which the measure or candidate is voted upon. (84211, subdivision (k) (5).

Liability of Principal Officers

Under Section 82047.6, and Regulation 18402.1, subdivision (b), it is the duty of the committee’s principal officer to authorize the content of communications made by the committee, authorize expenditures made by the committee, and determine the committee’s campaign strategy. The principal officer of a committee may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5, 84213 and 91006.)

SUMMARY OF THE FACTS

Respondent Voters for Good Government was a county general purpose committee. Respondent Billie Martinez was, at all times relevant, principal officer of Respondent Committee. In this matter, Respondents sent a mass mailer, on or about June 1, 2013, opposing

the election of Willie Rivera, a candidate for Bakersfield City Council in the June 4, 2013 election.

The committee did file a semi-annual campaign statement with Los Angeles County covering the reporting period February 17, 2013 through June 30, 2013. However, this late independent expenditure was not reported. Subsequently, on September 30, 2013, the committee filed an amendment, disclosing an independent expenditure opposing Willie Rivera in the amount of \$1,081, made on May 30, 2012. The committee also failed to file a 24 hour independent expenditure report with the City of Bakersfield.

COUNT 1

Failure to File Campaign Statements and Reports

Respondents paid over \$1,000 for the first mailer on or about May 21, 2008. The mailer contained language expressly advocating for the defeat of Willie Rivera for Bakersfield City Council, and was not sent at the behest of a candidate. Consequently, the mailer qualified as a late independent expenditure as defined by Section 82031. This late independent expenditure occurred during the ninety day period preceding the June 4, 2013 election. Pursuant to Section 84204, subdivision (a), Respondents were obligated to file a late independent expenditure report within 24 hours of making the late independent expenditure. Respondents failed to file a late independent expenditure report for the mailer. In addition, Respondent were required to report this independent expenditure on the Committee's semi-annual campaign statement, covering the reporting period February 17, 2013 through June 30, 2013.

By failing to file a late independent expenditure report in connection with the mailer, and failing to timely disclose this expenditure on a semi-annual campaign statement, Respondents violated Sections 84204, subdivision (a) and 84211, subdivision (k) of the Government Code.

CONCLUSION

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

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, liability under the Act is governed in significant part by the provisions of Section 91001, subdivision (c), which requires the Commission to consider whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith, in applying remedies and sanctions.

The typical stipulated administrative penalty for failing to file a late independent expenditure report and reporting the expenditure on a semi-annual campaign statement has been in the middle level of the penalty range, depending on the circumstances.

In the Matter of Concerned Citizens for a Better West Covina and Dana Sykes, FPPC No. 09/832, had a similar fact pattern involving the failure to file campaign statements. In this matter, Respondents failed to file a late independent expenditure report by the October 29, 2009 for an expenditure made of \$2,285.81 on October 28, 2009, in support of Measure D in the City of West Covina, in connection with the November 2009 election. The Commission approved settlement of this case in September 17, 2010, and the agreed upon penalty for the campaign statement filing violation was \$2,000.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the Respondent's pattern of behavior, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of Two Thousand Dollars (\$2,000) is recommended.