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

10
11 In the Matter of:

12 ROBERTO E. CRUZ,

13 Respondent.

FPPC No. 14/1273

14 STIPULATION, DECISION, AND ORDER

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17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondent Roberto E. Cruz ("Cruz") hereby agree that this Stipulation will be submitted for
20 consideration by the 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 by this
22 matter and to reach a final disposition without the necessity of holding an additional administrative
23 hearing to determine the liability of Cruz.

24 Cruz understands, and hereby knowingly and voluntarily waives, any and all procedural rights
25 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 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
28 Cruz's own expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena

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

3 It is further stipulated and agreed that Cruz violated the Political Reform Act by failing to timely
4 file officeholder short form campaign statements (Form 470s) due by July 31, 2014 and due by July 31,
5 2015, in violation of Government Code section 84206 and Regulation 18406, as described in Exhibit 1.
6 Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a
7 true and accurate summary of the facts in this matter.

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

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22 Dated: _____
23 Galena West, Chief of Enforcement Division
24 Fair Political Practices Commission

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26 Dated: _____
27 Roberto E. Cruz

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties "In the Matter of Roberto E. Cruz," FPPC No. 14/1273,
3 including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political
4 Practices Commission, effective upon execution below by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

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

INTRODUCTION

Roberto E. Cruz is on the governing board of the El Monte City School District. Under the Political Reform Act (the "Act")¹ an officeholder who did not anticipate spending or receiving \$1,000 or more in 2014 or 2015 was required to timely file an Officeholder and Candidate Campaign Statement – Short Form (Form 470) by July 31. Cruz violated the Act by failing to timely file his Form 470 in 2014 and 2015.

SUMMARY OF THE LAW

The Act required officeholders who received or spent less than \$1,000 in 2014 and 2015 to file a Form 470 by July 31.² This form states that the officeholder did not anticipate receiving contributions or making expenditures of \$1,000 or more. No other campaign statements are required in that year if the officeholder files a Form 470.³ If, after filing the Form 470, an officeholder received contributions or made expenditures totaling \$1,000 or more, the officeholder was required to disclose the contributions or expenditures within 48 hours.⁴

SUMMARY OF THE FACTS

Cruz has been a member of the governing board since being elected on November 3, 2009. Cruz failed to file a Form 470 for 2014 and for 2015 by the July 31 deadline of each year. Cruz subsequently filed the Form 470s on March 30, 2016 after contact by the Enforcement Division. His 2014 Form 470 was 20 months late. His 2015 Form 470 was eight months late. Neither statement showed any financial activity during the year.

The Los Angeles County Registrar attempted to contact Cruz a total of twelve times by mail and by telephone regarding his unfiled Form 470s during 2014 and 2015. The Registrar referred Cruz to the Enforcement Division in 2014 and again in 2015 after Cruz failed to file his Form 470 each year.

Cruz was previously referred to the Enforcement Division after he failed to timely file a Form 470 in 2010. On September 22, 2011, the Commission approved a streamlined stipulation which fined Cruz \$200 for his failure to timely file his Form 470 in 2010. (FPPC Case 10/1051.)

Cruz was also fined after he failed to timely file a Form 470 in 2012. On December 13, 2012, the Commission approved a streamlined stipulation which fined Cruz \$400 for his failure to timely file his Form 470 in 2012. (FPPC Case 12/650.)

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and 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, and all regulatory references are to this source. All references to the Political Reform Act refer to its 2015 provisions.

² Section 84206 and Regulation 18406.

³ Regulation 18406, subdivision (a).

⁴ Regulation 18406, subdivision (b)(1).

VIOLATIONS

Count 1: Failure to Timely File Short Form Campaign Statements (Form 470) in 2014 and 2015

Cruz failed to timely file a Form 470 for 2014 and 2015, in violation of Section 84206 and Regulation 18406.

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 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 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 conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the Respondents demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether the violator, upon learning of the violations, voluntarily filed amendments.

The Commission also considers penalties in prior cases involving similar violations. A similar case is:

In the Matter of Joe Moreno and the Committee to Re-elect Joe Moreno, FPPC No. 11/1054. (Commission approved a stipulation on July 12, 2012.) After Joe Moreno was re-elected to his school board seat, his candidate-controlled committee failed to file two semi-annual campaign statements due by July 31, 2011 and by January 31, 2012. After he filed both statements, the Commission imposed a total penalty of \$1,500 for Moreno's failure to file both semi-annual campaign statements.

A central purpose of the Act is to ensure receipts and expenditures in election campaigns are fully and truthfully disclosed.⁵ Cruz failed to timely file his Form 470 in 2014 and 2015. A week after Enforcement corresponded with Cruz regarding his outstanding Form 470s, Cruz filed both statements with his local filing officer. Although Cruz filed his statements 15 months late and nine months late, respectively, he disclosed that he had no contributions and no expenditures in 2014 or 2015. Unlike the *Moreno* case, Cruz had no committee and no campaign activity to report. Additionally, Cruz complied quickly after receiving his first written contact from Enforcement Division. Thus, Cruz's fine for his untimely filed 470s should be less than the penalty in the *Moreno* case since Cruz has come into compliance.

⁵ Section 81002, subdivision (a).

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, the penalties imposed in prior cases, and other relevant information, we propose a penalty of \$1,000.