

1 GALENA WEST
Chief of Enforcement
2 TANYA SMITH
Commission Counsel
3 Fair Political Practices Commission
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5021
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant
7

8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

9 STATE OF CALIFORNIA
10

11 In the Matter of:

12 HUGO M. ROJAS,

13 Respondent.
14
15
16

FPPC No. 15/1572

STIPULATION, DECISION, AND ORDER

17 **STIPULATION**

18 Complainant, the Fair Political Practices Commission (“Commission”), and Respondent Hugo
19 M. Rojas (“Rojas”) hereby agree that this Stipulation will be submitted for consideration by the Fair
20 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 Rojas.

24 Rojas 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 Rojas’ 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 Rojas violated the Political Reform Act by failing to file a
4 officeholder short form campaign statement (Form 470) covering the reporting period of January 1,
5 2015 through December 31, 2015, due by July 31, 2015, in violation of Government Code section 84206
6 and Regulation 18406, as described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by
7 reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this
8 matter.

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

20
21 Dated: _____
22 Galena West, Chief of Enforcement Division
23 Fair Political Practices Commission

24 Dated: _____
25 Hugo M. Rojas

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties "In the Matter of Hugo M. Rojas," FPPC No. 15/1572,
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.

5
6 IT IS SO ORDERED.

7
8 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Hugo M. Rojas is on the governing board of the Centinela Valley Union High School District. Under the Political Reform Act (the "Act")¹ an officeholder who did not anticipate spending or receiving \$1,000 or more in 2015 was required to timely file an Officeholder and Candidate Campaign Statement – Short Form (Form 470) by July 31, 2015. Rojas violated the Act by failing to timely file his Form 470.

SUMMARY OF THE LAW

The Act required officeholders who received or spent less than \$1,000 in 2015 to file a Form 470 by July 31, 2015.² This form states that the officeholder did not anticipate receiving contributions or making expenditures of \$1,000 or more. 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.³

SUMMARY OF THE FACTS AND VIOLATION

Rojas has been a member of the governing board since 2007. He has filed a Form 470 each year he has been in office. Rojas failed to file a Form 470 for 2015 by the July 31, 2015 deadline.

The Los Angeles County Registrar sent Rojas two written notices regarding his unfiled Form 470, dated August 7, 2015 and August 24, 2015. The registrar also telephoned Rojas twice to notify him of the unfiled Form 470, calling on September 9 and 10, 2015. The registrar referred Rojas to Enforcement Division on September 10, 2015 for his failure to file his Form 470. Enforcement Division notified Rojas of the referral for the unfiled Form 470 by letter dated November 23, 2015. Rojas filed his Form 470 on November 30, 2015, nearly four months late.

Rojas was previously referred to the Enforcement Division after he failed to timely file a Form 470 in 2011. On March 15, 2012, the Commission approved a streamlined stipulation which fined Rojas \$200 for his failure to timely file his Form 470.

Count 1: Failure to Timely File a Short Form Campaign Statement (Form 470)

Rojas failed to timely file a Form 470, due by July 31, 2015, in violation of Section 84206 and Regulation 18406.

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 (b)(1).

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, 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 recent similar case is:

- *In the Matter of Christopher Robles*, FPPC No. 07/040. (Commission approved a default decision on January 28, 2011.) The respondent was elected to a county political central committee in 2006. During that election year, he failed to file a Form 470, disregarding numerous notifications from his county filing officer and the Enforcement Division. The Commission imposed a default penalty of \$2,000 for his failure to file his Form 470.

A central purpose of the Act is to ensure receipts and expenditures in election campaigns are fully and truthfully disclosed.⁴ Rojas failed to timely file his Form 470. When he did file four months later, he disclosed that he had no contributions and no expenditures in 2015. Unlike the *Robles* case, Rojas complied by filing his Form 470 after the first contact from Enforcement Division. Also unlike the *Robles* case, Rojas filed his Form 470 before receiving more than one notification from Enforcement regarding his outstanding filing. In the *Robles* case, the Robles ignored numerous notifications from Enforcement to file his Form 470, which was an aggravating factor in the \$2,000 penalty. Had Rojas not previously failed to timely file his Form 470, his violation would have qualified for a streamlined fine or warning letter. Thus, Rojas' fine should be less than the penalty in the *Robles* case for Robles' failure to file a Form 470.

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 for Centinela Valley Union High School District board member Hugo M. Rojas' failure to timely file his Form 470.

⁴ Section 81002, subdivision (a).