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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

12 SAN FRANCISCO LATINO
13 DEMOCRATIC CLUB and GABRIEL
MEDINA,

14 Respondents.

FPPC Case No. 14/1135

STIPULATION, DECISION AND ORDER

15
16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
18 Respondents San Francisco Latino Democratic Club and Gabriel Medina, hereby agree that this
19 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 administrative hearing to
23 determine the liability of Respondents pursuant to Government Code section 83116.

24 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
25 rights set forth in Government Code sections 83115.5, 11503, 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 It is further stipulated and agreed that Respondents violated the Political Reform Act as set forth
4 in Exhibit 1, which is a true and accurate summary of the facts in this matter—and which is incorporated
5 by reference as though fully set forth herein.

6 Respondents agree to the issuance of the Decision and Order, which is attached hereto. Also,
7 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
8 \$9,500. One or more cashier's checks or money orders totaling this 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 business
13 days after the Commission meeting at which the Stipulation is rejected, all payments tendered by
14 Respondents in connection with this Stipulation shall be reimbursed to Respondents.

15 Respondents further stipulate and agree that in the event the Commission rejects the Stipulation
16 and a full evidentiary hearing before the Commission becomes necessary, neither any member of the

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1 Commission, nor the Executive Director, shall be disqualified because of prior consideration of this
2 Stipulation.

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5 Dated: _____
6 Galena West, Chief of Enforcement
Fair Political Practices Commission

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8 Dated: _____
9 Gabriel Medina, individually and on behalf of San
10 Francisco Latino Democratic Club, Respondents

11 **DECISION AND ORDER**

12 The foregoing Stipulation of the parties “In the Matter of San Francisco Latino Democratic Club
13 and Gabriel Medina,” FPPC Case No. 14/1135, including all attached exhibits, is hereby accepted as the
14 final decision and order of the Fair Political Practices Commission, effective upon execution below by
15 the Chair.

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17 IT IS SO ORDERED.

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19 Dated: _____
20 Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

This case arose as a referral from the San Francisco Ethics Commission.

The San Francisco Latino Democratic Club is a city general purpose committee. The purpose of the committee is to promote/encourage Latino candidates to empower the Latino community in the areas of immigration and social justice. In 2014, the committee was known as the Latino Democratic Club: San Francisco. Gabriel Medina was a principal officer of the committee. (Currently, he is Vice President of External Affairs.)

This case involves multiple violations of the Political Reform Act (the “Act”),¹ including failure to provide required slate mailer disclaimers and failure to file required slate mailer statements. This stipulation only encompasses known violations from 2014 through June 30, 2015.

SUMMARY OF THE LAW

The Act and its regulations are amended from time to time. The violations in this case occurred in 2014 and during the first half of 2015. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they existed at that time.

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

When enacting the Political Reform Act, the people of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities.² For this reason, the Act is to be construed liberally to accomplish its purposes.³

One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵ Also, the Act regulates slate mailers by requiring the senders of such mailers to include certain disclaimers, which are discussed in more detail below.⁶ An additional purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁷

¹ 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.

² Section 81001, subdivision (h).

³ Section 81003.

⁴ Section 81002, subdivision (a).

⁵ Sections 84200, et seq.

⁶ Section 84305.5, subdivisions (a)(2) and (4).

⁷ Section 81002, subdivision (f).

Definition of “Slate Mailer”

A “slate mailer” is a mass mailing (of more than 200 substantially similar pieces of mail) that supports or opposes a total of four or more candidates or ballot measures.⁸

Definition of “Slate Mailer Organization” / “SMO”

A “slate mailer organization” includes any organization that:⁹

- ❖ is involved in the production of one or more slate mailers and exercises control over the selection of the candidates and measures to be supported or opposed in the slate mailers; and
- ❖ receives or is promised payments totaling \$500 or more in a calendar year for the production of one or more slate mailers.

A general purpose committee also may qualify and be required to file as a slate mailer organization.¹⁰

For ease of reference, the term “SMO” sometimes is used to refer to a slate mailer organization in this stipulation.

Required Disclaimers for Slate Mailers

The Act provides that slate mailers may not be sent without certain disclaimers. For example, at the top or bottom of the front side or surface of at least one insert—or at the top or bottom of one side or surface of a postcard or other self-mailer—there must be a notice in at least 8-point roman boldface type, which must be easily legible and in a box that is set apart from any other printed matter. The notice must state the following:¹¹

NOTICE TO VOTERS

THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, nor does it imply endorsement of, or opposition to, any issues set forth in this mailer. Appearance is paid for and authorized by each candidate and ballot measure which is designated by an *.

⁸ Sections 82041.5 and 82048.3.

⁹ Sections 82047 and 82048.4.

¹⁰ See Campaign Disclosure Manual 7 – Information for Slate Mailer Organizations, Chapter 1.2, (an official publication of the Fair Political Practices Commission, which may be found at www.fppc.ca.gov).

¹¹ See Section 84305.5, subdivision (a)(2).

Also, no slate mailer may be sent unless each candidate and ballot measure that paid to appear in the slate mailer is designated by an asterisk. Any candidate or ballot measure that has not paid to appear in the slate mailer must not be designated by an asterisk.¹²

Required Filing of SMO Statements and Reports

At the core of the Act's campaign reporting system is the requirement that committees and SMO's must file statements and reports for certain reporting periods and by certain deadlines.¹³

For example, an entity must file a SMO statement of organization (Form 400) within 10 days after the entity first qualifies as a SMO. However, if the entity first qualifies as a SMO before an election—but after the closing date of the last campaign statement to be filed before the election—then the 10-day deadline is shortened to 24 hours.¹⁴ An entity qualifies as a SMO when it receives or is promised \$500 or more for producing one or more slate mailers.¹⁵

Additionally, SMO's must file semiannual campaign statements (Form 401's) no later than July 31 for the period ending June 30, and no later than January 31, for the period ending December 31.¹⁶ These filings provide important public disclosure regarding payments that are made and received by the organization for the production and distribution of slate mailers. For each payment of \$100 or more that is made or received by the organization, additional information must be disclosed regarding the source/payee. Also, certain information must be disclosed regarding candidates and measures that were supported or opposed in a slate mailer for which the organization did not receive a payment of \$100 or more.¹⁷

Joint and Several Liability

The principal officer of a committee is responsible for approval of the political activity of the committee.¹⁸ The principal officer may be held jointly and severally liable—along with the committee or SMO—for violations of the Act.¹⁹

SUMMARY OF THE FACTS

As a principal officer, Medina was responsible for the political activity of the Latino Democratic Club: San Francisco with respect to slate mailer activity.

¹² See Section 84305.5, subdivision (a)(4).

¹³ Sections 84200, et seq.

¹⁴ See Section 84108.

¹⁵ Section 84108, subdivision (c).

¹⁶ Section 84218, subdivision (a).

¹⁷ Section 84219.

¹⁸ Section 82047.6 and Regulation 18402.1.

¹⁹ Sections 83116.5 and 91006.

On July 31, 2014, the Club filed a pre-election campaign statement (Form 460)—as a general purpose committee—for the reporting period of May 18, 2014 to June 30, 2014. For this reporting period, the committee reported:

- a beginning cash balance of approximately \$8,562;
- receipt of contributions totaling \$160;
- receipt of miscellaneous increases to cash totaling \$17,100; and
- expenditures totaling approximately \$17,218.

The miscellaneous increases to cash were itemized on Schedule I as payments received for a June 2014 slate card from the following donors:

Donor	Amount
John Perez Ballot Measure Committee	\$2,500
Daniel Flores for Judge	\$700
No Wall on the Waterfront	\$900
Padilla for Secretary of State 2014	\$2,500
SEIU Local 1000	\$9,500
David Campos for Assembly 2014	\$1,000
Total: \$17,100	

Schedule E noted that the committee spent approximately \$7,547 on a slate card. Another expenditure—in the approximate amount of \$9,310—was reported as being for a “10x12’ postcard,” but this expenditure actually was for the slate card as well.

Approximately 27,000 copies of the slate card were printed, but not all of these were mailed. (Extra copies were printed to hand out.) On or about May 21 and 28, 2014, the slate card was mailed to 19,824 recipients. The total cost for printing, postage, and mailing was approximately \$16,857.

The slate mailer supported/featured the following candidates and measures—all of which were on the ballot for the primary election that was held on June 3, 2014:

- ❖ David Campos for Assembly
- ❖ Senator Alex Padilla for Secretary of State
- ❖ Speaker John Perez for Controller
- ❖ Daniel Flores for Judge
- ❖ Tom Torlakson for Superintendent
- ❖ Re-Elect Jackie Speier for Congress
- ❖ Yes on Proposition 41 – State Bond for Veteran Housing
- ❖ Yes on B – Let the Voters Protect the Waterfront
- ❖ Yes on Proposition 42 – Preserves Open Government

The slate mailer clearly indicated that it was paid for by the San Francisco Latino Democratic Club, but the required notice to voters box was omitted. Also, the candidates and ballot measures that helped pay for the slate mailer were not designated with asterisks.

In October 2014, the club printed 23,000 copies of another slate card. On or about October 30, 2014, the club mailed this slate card to approximately 16,366 recipients. The total cost for printing, postage, and mailing was approximately \$12,987. This amount was paid by the club over approximately six months (\$10,000 by way of a check dated 12/16/14; \$1,000 by way of a check dated 1/28/15; and \$1,987 by way of a check dated 6/24/15).

The slate mailer supported/featured the following candidates and measures—all of which were on the ballot for the general election that was held on November 4, 2014:

- ❖ David Campos for Assembly
- ❖ Senator Alex Padilla for Secretary of State
- ❖ Yes on Propositions 1, 2, 45, 46, and 47
- ❖ Juan Antonio Caballo for San Francisco County Board of Supervisors
- ❖ Jane Kim for San Francisco County Board of Supervisors
- ❖ Ed Donaldson for San Francisco County Board of Supervisors
- ❖ Tony Kelly for San Francisco County Board of Supervisors
- ❖ Shawn Richard for San Francisco County Board of Supervisors
- ❖ Steven Cook for San Francisco Board of Education
- ❖ Hydra Mendoza for San Francisco Board of Education
- ❖ Shamann Walton for San Francisco Board of Education
- ❖ Wendy Aragon for San Francisco Community College Board
- ❖ Dan Choi for San Francisco Community College Board
- ❖ Brigitte Davila for San Francisco Community College Board
- ❖ William Walker for San Francisco Community College Board
- ❖ Yes on A, B, C, D, F, G, H, J, and K
- ❖ No on I
- ❖ Daniel Flores for Superior Court Judge

The slate mailer clearly indicated that it was paid for by the San Francisco Latino Democratic Club, but the required notice to voters box was omitted. A reconciliation of the club's bank records and committee filings reflects that the club did not receive any contributions or payments from a candidate or ballot measure committee for appearance in the general election slate mailer—but as noted above, the Club did make disbursements totaling approximately \$12,987 in connection with this slate mailer (in December 2014, January 2015, and June 2015).

Although the club did file campaign statements as if it were a committee, the club never filed as a SMO.

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VIOLATIONS

Counts 1-2: Sending Slate Mailers without Required Disclaimers

As described above, the San Francisco Latino Democratic Club sent two slate mailers in 2014. (The first mailer was in connection with the primary election, and the second was in connection with the general election.) However, the slate mailers were sent without the required notice to voters box. Also, the candidates and ballot measures that helped pay for the first slate mailer were not designated with asterisks.

In this way, the San Francisco Latino Democratic Club and Medina, a principal officer of the committee, committed two violations of the slate mailer disclaimer requirements that are set forth in Section 84305.5, subdivision (a).

Count 3: Failure to File SMO Statement of Organization

Regarding the above-noted payment in the amount of \$9,500 by SEIU Local 1000 to the San Francisco Latino Democratic Club, this payment was solicited by the Club specifically for the purpose of raising funds to pay for the primary election slate mailer. At the time of solicitation, SEIU Local 1000 was informed regarding the nine candidates/measures that would be endorsed in the mailer—and on or about May 15, 2014, SEIU Local 1000 agreed in an email to sponsor the mailer by paying the Club's requested amount of \$9,500. The Club was required to file a SMO statement of organization (Form 400) within 10 days of this May 15 sponsorship, but it failed to do so.

In this way, the San Francisco Latino Democratic Club and Medina, a principal officer of the committee, violated Section 84108, subdivision (c).

Count 4: Failure to File SMO Semi-Annual Campaign Statement

For the reporting period ending June 30, 2014, the San Francisco Latino Democratic Club was required to file a SMO semi-annual campaign statement (Form 401) by the deadline of July 31, 2014. However, the Club failed to do so. (Reportable activity included slate-related receipts totaling approximately \$17,100. Also, reportable activity included slate-related spending in the approximate amount of \$16,857—which was for the primary election slate mailer.)

In this way, the San Francisco Latino Democratic Club and Medina, a principal officer of the committee, violated Section 84218, subdivision (a).

Count 5: Failure to File SMO Semi-Annual Campaign Statement

For the reporting period ending December 31, 2014, the San Francisco Latino Democratic Club was required to file a SMO semi-annual campaign statement by the deadline of February 2, 2015. However, the Club failed to do so. (Reportable activity included slate-related spending in the amount of \$10,000—which comprised partial payment for the general election slate mailer.)

For the reporting period ending June 30, 2015, the San Francisco Latino Democratic Club was required to file another SMO semi-annual campaign statement by the deadline of July 31, 2015. However, the Club failed to do so. (Reportable activity included slate-related spending in the amount of \$2,987—which comprised the balance of the payment that was due for the general election slate mailer.)

In this way, the San Francisco Latino Democratic Club and Medina, a principal officer of the committee, violated Section 84218, subdivision (a).

PROPOSED PENALTY

This matter consists of five counts. The maximum penalty that may be imposed is \$5,000 per count—for a total of \$25,000.²⁰

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of violations.²¹ Additionally, the Commission considers penalties in prior cases with comparable violations.

Regarding Counts 1 and 2, sending slate mailers without the required disclaimers (and asterisks), deprives the public of important information. For example, the slate mailers in question clearly indicated that they were paid for by the San Francisco Latino Democratic Club. Whereas recipients of the slate mailers might think this name sounds like an official political party organization, the required disclaimer would have made it clear that this was not the case—with the following mandatory language: “THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION.”²² Also, this type of violation deprives the public of important information regarding which candidates/measures authorized/paid for their appearance in the slate mailer—and which appeared for free.

In the Matter of Parent Teacher Action Voter Guide, Patrick Furey Jr. and Gary Crummitt; FPPC Case No. 14/37 (approved April 17, 2014), the Commission imposed a penalty in the amount of \$1,750 against a SMO and its principal officer for failure to include the required notice to voters disclaimer on a slate mailer that was sent to approximately 6,000 recipients.

The current case involves greater public harm because the slate mailers were sent to a greater number of recipients. (In the current case, the primary election slate mailer and the

²⁰ See Section 83116, subdivision (c).

²¹ Regulation 18361.5, subdivision (d).

²² See Section 84305.5, subdivision (a)(2). Capitalization is from the statute.

general election slate mailer were sent to approximately 19,824 and 16,366 recipients, respectively—compared to only 6,000 recipients in the *Parent Teacher Action Voter Guide* case.) Under these circumstances, a penalty in the amount of \$2,000 per count is recommended for Counts 1 and 2.

Regarding Count 3, failure to file a SMO statement of organization deprives the public of important information about the organization, including the identities of officers and individuals who are responsible for authorizing the contents of slate mailers. In terms of public harm, this type of violation is similar to the violation that occurs when a political committee fails to file a statement of organization.

In the Matter of Save Our Forest and Ranchlands Opposed to Measure B Sponsored by California Local Energy Advancing Renewables, Jana Clark Sanders and Duncan McFetridge, Treasurer; FPPC Case No. 16/19753 (approved Nov. 17, 2016), the Commission imposed a penalty in the amount of \$1,500 against a ballot measure committee for failure to timely file a statement of organization. In the current case, a similar penalty in the amount of \$1,500 for Count 3 is recommended.

Regarding Counts 4 and 5, failure to file SMO semi-annual campaign statements deprives the public of important information, including information about slate-related receipts and spending—as well as information about which candidates/measures appeared in the organization’s slate mailers without being required to pay \$100 or more. A factor that may influence the amount of the penalty is whether the public harm was mitigated because some of the reportable activity was disclosed to the public on another campaign filing.

In the Matter of California Asian Families Network and Ron Jin; FPPC Case No. 07/167 (approved April 8, 2010), the Commission imposed a penalty in the amount of \$2,000 against a slate mailer organization for failure to file a semi-annual campaign statement that was due after the election. Reportable activity included receipts totaling approximately \$72,500. In mitigation, this reportable activity was partially disclosed to the public on other filings. Also, it was noted that the SMO did file the required SMO statement of organization.

The current case involves less reportable activity (slate-related receipts and spending are approximately \$17,100 and \$29,844, respectively—compared with receipts of approximately \$72,500 in the *Asian Families* case). Also, in the current case, there was partial disclosure of some of the reportable activity on statements that the Club filed as a city general purpose committee.

However, these considerations are overshadowed by the repeated nature of the non-filing violations in the current case. Whereas the *Asian Families* case involved a single election and a single reporting period—the non-filing in the current case spanned two elections and three reporting periods. Under these circumstances, a penalty in the amount of \$2,000 per count is recommended for Counts 4 and 5.

A higher penalty is not being sought in this case because the parties cooperated with the Enforcement Division by agreeing to an early settlement. Also, they do not have a history of prior violations of the Act regarding campaign disclosure.

CONCLUSION

For the foregoing reasons, the following agreed upon penalty is recommended:

Count	Description	Penalty
1	Slate Mailer Disclaimer Violation	\$2,000
2	Slate Mailer Disclaimer Violation	\$2,000
3	Failure to File SMO Statement of Organization	\$1,500
4	Failure to File SMO Semi-Annual Campaign Statement	\$2,000
5	Failure to File SMO Semi-Annual Campaign Statement	\$2,000
		Total: \$9,500