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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

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11 In the Matter of:

12 WE ARE CALIFORNIA, A
13 SPONSORED COMMITTEE OF
14 MOBILIZE THE IMMIGRANT VOTE
ACTION FUND AND APARNA SHAH,

15 Respondents.

FPPC Case No. 16/189

STIPULATION, DECISION AND ORDER

16 INTRODUCTION

17 Respondent We are California, A Sponsored Committee of Mobilize the Immigrant Vote Action
18 Fund (the “We are CA”) is a Sponsored General-Purpose Committee. Respondent Aparna Shah (“Shah”)
19 was at all times relevant to this matter the treasurer of the Committee. The Political Reform Act (the
20 “Act”)¹ requires committees to timely file semi-annual campaign statements. The Committee and Shah
21 violated the Act by failing to timely file semi-annual campaign statements for 2012 and 2014.

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28 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice 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.

1 **SUMMARY OF THE LAW**

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

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

6 **Semi-Annual Campaign Statements**

7 The Act requires that "...elected officers, candidates, and committees...shall file semiannual
8 statements each year no later than July 31 for the period ending June 30 and no later than January 31 for
9 the period ending December 31.⁴ The Act also requires committees to file electronic statements if they
10 are required "to file statements, reports, or other documents in connection with a state elective office or
11 measure, provided that the total cumulative reportable amount of contributions received, expenditures
12 made, loans made, or loans received is twenty-five thousand dollars or more."⁵ However, committees
13 that are required to electronically file "shall also continue to file required disclosure statements in paper
14 format. The paper copy shall continue to be the official filing for audit and other legal purposes..."⁶

15 **Treasurer Liability**

16 Under the Act, it is the duty of the treasurer to ensure that the committee complies with all of the
17 requirements of the Act concerning the receipt, expenditure, and reporting of funds.⁷ The treasurer may
18 be held jointly and severally liable, along with the committee, for violations committed by the
19 committee.⁸

20 **SUMMARY OF THE FACTS**

21 An audit by the Franchise Tax Board (FTB) showed, and the Enforcement Division confirmed,
22 that in connection with the November 6, 2012 General Election, We are CA and Shah failed to timely to
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25 ² Section 81001, subdivision (h).

26 ³ Section 81003.

27 ⁴ Section 84200.

28 ⁵ Section 84605.

⁶ Section 84605 subdivision (4) (f).

⁷ Sections 81004, 84100 84213, and Regulation 18427.

⁸ Sections 83116.5 and 91006.

1 timely file a semi-annual campaign statement covering the reporting period of October 21, 2012 –
2 December 31, 2012.

3 2012 Semi-Annual Campaign Statement

4 We are CA and Shah failed to timely file the semi-annual campaign statement covering the
5 reporting period of October 21, 2012 – December 31, 2012 by the January 31, 2013 deadline. We are
6 CA eventually reported receiving \$145,956 in contributions and making \$296,401 in expenditures
7 during this reporting period. Out of the contributions received, \$49,956 were disclosed on late
8 contribution reports. Out of the expenditures made, \$239,852 were disclosed on independent
9 expenditure reports. The semi-annual statement was eventually filed on July 31, 2013, 181 days late.

10 2014 Semi-Annual Campaign Statement

11 The Committee and Shah failed to timely file a paper semi-annual campaign statement for the
12 reporting period covering July 1, 2014 – December 31, 2014 by the February 2, 2015, deadline.
13 However, the Committee timely filed the electronic statement covering this period, but it was still
14 required to file the paper statement as it serves as the legal copy for audits.

15 **VIOLATIONS**

16 Count 1: Failure to Timely File Semi-Annual Campaign Statement

17 The Committee and Shah failed to timely file its semi-annual campaign statement for the
18 reporting period covering October 21, 2012 – December 31, 2012, due January 31, 2013, in violation of
19 Government Code section 84200.

20 Count 2: Failure to Timely File 2014 Semi-Annual Campaign Statement

21 The Committee and Shah failed to timely file its semi-annual campaign statement for the
22 reporting period covering July 1, 2014 – December 31, 2014, due February 2, 2015, in violation of
23 Government Code section 84200.

24 **PROPOSED PENALTY**

25 This matter consists of 2 Counts. A probable cause report was served on October 16, 2017,
26 effectively tolling the statute of limitations. The maximum penalty that may be imposed is \$5,000 per
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1 count. Thus, the maximum penalty that may be imposed is \$10,000.⁹

2 In determining the appropriate penalty for a particular violation of the Act, the Commission
3 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
4 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
5 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
6 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
7 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
8 record of violations.¹⁰ Additionally, the Commission considers penalties in prior cases with comparable
9 violations.

10 Although both campaign statements were due after the relevant elections, We are CA and Shah
11 have shown a pattern of not timely filing statements through two different election cycles. Neither the
12 FTB audit or the Enforcement Division investigation found any evidence that We are CA and Shah were
13 intentionally concealing their activities. Additionally, neither have a prior record of violating the Act.

14 A comparable case for failing to timely file semi-annual campaign statements recently approved
15 by the Commission is:

16 *In the Matter of Voto Latino Action Fund and Teresa Kuma , FPPC No. 16/338.* (approved March
17 16, 2017) *Voto Latino* failed to timely file a semi-annual campaign statement for the reporting period
18 covering October 21, 2012 – December 31, 2012. During this period, *Voto Latino* received \$65,771.14 in
19 contributions and made \$65,771.14 in expenditures. This committee filed its outstanding statement nearly
20 five years later on December 14, 2016 after being contacted by the Enforcement Division. The
21 Commission approved a settlement of \$2,500.

22 Regarding Count 1, in mitigation, of the \$145,956 in contributions We are CA received during
23 this period, it disclosed \$49,956 of these contributions on late contribution reports. Also, \$239,852 of the
24 \$296,401 in expenditures We are CA did not report on the semi-annual statement, was disclosed on
25 independent expenditure reports. However, a higher penalty than in *Voto Latino* is still warranted
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⁹ See Section 83116, subdivision (c).

28 ¹⁰ Regulation 18361.5, subdivision (d).

1 because when We are CA and Shah finally filed the missing statement, the disclosure still did not include
2 the payments made by sub vendors. This is not being charged as a separate count, but is being used as an
3 aggravating factor because We are CA and Shah should have reported that Stearns paid approximately
4 \$7,100 to Spotlight Printing for printing services and approximately \$3,521 to Precise Mail for mail
5 house services and the amounts unreported are significantly higher. In addition, not charged in this
6 settlement but aggravating is that We are CA and Shah also failed to disclose significant sub-vendor
7 information on the preceding pre-election campaign statement. So, expenditures may have been disclosed
8 as being made but the details were missing.

9 For the foregoing reasons, a penalty in the amount of \$3,000 is recommended for Count 1.

10 Regarding Count 2, a lesser penalty is warranted for this violation because the public harm is
11 mitigated by the fact We are CA and Shah timely filed the electronic statement and reported no activity.
12 Therefore, a penalty of \$2,000 is warranted.

13 CONCLUSION

14 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
15 Respondents We are CA and Shah hereby agree as follows:

16 1. Respondents violated the Act as described in the foregoing pages, which are a true and
17 accurate summary of the facts in this matter.

18 2. This stipulation will be submitted for consideration by the Fair Political Practices
19 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

20 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
21 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
22 liability of Respondent pursuant to Section 83116.

23 4. Respondents have consulted with their attorney Andrew Werbrock of Remcho, Johansen
24 & Purcell, and understand, and hereby knowingly and voluntarily waive, any and all procedural rights set
25 forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is
26 not limited to the right to appear personally at any administrative hearing held in this matter, to be
27 represented by an attorney at Respondent's own expense, to confront and cross-examine all witnesses
28 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial

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

3 5. Respondents agree to the issuance of the decision and order set forth below. Also,
4 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
5 \$5,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General
6 Fund of the State of California—is/are submitted with this stipulation as full payment of the
7 administrative penalty described above, and same shall be held by the State of California until the
8 Commission issues its decision and order regarding this matter.

9 6. If the Commission refuses to approve this stipulation—then this stipulation shall become
10 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
11 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to
12 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing
13 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
14 Director, shall be disqualified because of prior consideration of this Stipulation.

15 7. The parties to this agreement may execute their respective signature pages separately. A
16 copy of any party's executed signature page including a hardcopy of a signature page transmitted via fax
17 or as a PDF email attachment is as effective and binding as the original.

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19 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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23 Dated: _____

Aparna Shah, individually and o/b/o We are California,
A Sponsored Committee of Mobilize the Immigrant
Vote Action Fund

1 The foregoing stipulation of the parties “We are California, A Sponsored Committee of Mobilize
2 the Immigrant Vote Action Fund and Aparna Shah” FPPC Case No. 16/189 is hereby accepted as the
3 final decision and order of the Fair Political Practices Commission, effective upon execution below by
4 the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

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