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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 SAMPAYAN 4 VALLEJO MAYOR 2016
13 AND RUPERTO “BOB” SAMPAYAN,

14 Respondents.

FPPC Case No. 16/20122

STIPULATION, DECISION AND ORDER

15 **INTRODUCTION**

16 Ruperto “Bob” Sampayan (“Bob Sampayan”) is the current mayor of the City of Vallejo. In 2015,
17 Sampayan created the controlled committee Sampayan 4 Vallejo Mayor 2016 (the “Committee”) in
18 conjunction with his successful mayoral campaign in the November 8, 2016 General Election. In 2016,
19 Respondents violated the Political Reform Act (the “Act”)¹ by failing to include the necessary
20 disclosures on two mass mailings paid for by the Committee.

21 **SUMMARY OF THE LAW**

22 The Act and its regulations are amended from time to time. The violations in this case occurred in
23 2016. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
24 existed at that time.

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27 ¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the
28 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.

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

2 When enacting the Act, the people of California found and declared that previous laws regulating
3 political practices suffered from inadequate enforcement by state and local authorities.² To that end, the
4 Act is to be construed liberally to accomplish its purposes.³ Further, the Act provides adequate
5 enforcement mechanisms so that the Act will be “vigorously enforced.”⁴

6 Requirements for Mass Mailings

7 The Act requires that a mass mailing disclose the name, street address, and city of the controlled
8 committee that sent the mailing, as well as the name of the person controlling the committee.⁵ Further,
9 the words “Paid for by” must precede the identifying information on the mass mailing.⁶ A mass mailing
10 has been made when more than 200 substantially similar pieces of mail are sent in a calendar month, and
11 includes electronic mail.⁷ The committee that pays for the largest portion of expenditures related to a
12 mass mailing—including design, printing, and postage—is considered the sender.⁸

13 **SUMMARY OF THE FACTS**

14 The Committee filed its initial statement of organization on August 17, 2015 and qualified on
15 September 7, 2015. Bob Sampayan was successful in his bid for Mayor of Vallejo, receiving
16 approximately 40.53 percent of the vote in the November 8, 2016 General Election. From September 1,
17 2015 to June 1, 2017, the Committee received a total of \$63,463.56 in contributions and made
18 expenditures totaling \$63,583.56. The Committee terminated as of June 1, 2017.

19 The Committee failed to include the required disclosures on two different mass mailings. On or
20 about October 7, 2016, the Committee sent out approximately 30,000 copies of a mailer that failed to
21 include any disclosure, including the committee name, street address and city, or required “Paid for by”
22 phrase. On October 10, 2016, after discovering the error, the Committee self-reported the violation to the
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25 ² Section 81001, subd. (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subd. (f).

28 ⁵ Section 84305, subds. (a) and (c).

⁶ Regulation 18435, subd. (d).

⁷ Section 82041.5; Regulation 18435, subds. (a) and (e).

⁸ Regulation 18435, subds. (b) and (c).

1 Enforcement Division, resulting in the opening of this case.

2 The Committee sent out approximately 30,000 copies of another mailer on or about October 24,
3 2016. Although the second mailer included a disclosure, the disclosure was deficient in that it did not
4 state the correct name of the Committee. Although the accurate committee name was Sampayan 4
5 Vallejo Mayor 2016, the name printed on the mailer was Committee to Elect Bob Sampayan.

6 Although the Committee failed to include the necessary disclosures on the aforementioned mass
7 mailings, the respective expenditures were timely reported on the Committee's campaign statements.

8 VIOLATIONS

9 Count 1: Failure to Include Proper Disclosures on Mass Mailings

10 The Committee and Bob Sampayan failed to include the proper disclosures on two mass mailings,
11 in violation of Section 84305 and Regulation 18435.

12 PROPOSED PENALTY

13 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
14 count. Thus, the maximum penalty that may be imposed is \$5,000.⁹

15 In determining the appropriate penalty for a particular violation of the Act, the Commission
16 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
17 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
18 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
19 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
20 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
21 record of violations.¹⁰

22 Here, it appears the violations resulted from negligence on the part of Respondents. Respondents
23 do not have a prior history of violating the Act, and the violations contained herein do not appear to be
24 part of a pattern of disregard for the Act. Further, there is no evidence of an intent to conceal, deceive, or
25 mislead the public. In fact, upon discovery of the first non-compliant mailer, Respondents self-reported
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⁹ Section 83116, subd. (c).

28 ¹⁰ Regulation 18361.5, subd. (d).

1 the violations to the Enforcement Division. In addition, the Committee reported the expenditures related
2 to the mailers on timely-filed campaign statements; therefore, the public had some information regarding
3 the mailers. However, in contrast, the seriousness of the violations is high since the first mailer
4 distributed by Respondents itself contained no disclosure whatsoever, thereby completely depriving the
5 viewer of the identity of the mailer's sender.

6 Additionally, the Commission considers penalties in prior cases involving similar violations.
7 Recent similar cases involving a failure to comply with the mass mailing disclosure requirements of the
8 Act include the following:

9 • *In the Matter of Al Bairos and Committee to Re-Elect Al D. Bairos OID Director District #4*
10 *2015*; FPPC No. 15/1876. Respondents, a candidate and his controlled committee, failed to include the
11 committee's name, street address and city, or requisite "Paid for by" phrase on a mass mailing, in
12 violation of Section 84305 and Regulation 18435. In July 2018, the Commission approved a penalty of
13 \$1,500 on one count.

14 As to Count 1, Respondents are deserving of a penalty similar to that approved in the *Bairos* case,
15 given the similar nature of the violations. Although multiple mailers paid for by the Committee resulted
16 in violations here, the violations are significantly mitigated by the fact that Respondents self-reported
17 their errors to the Enforcement Division.

18 Based on the foregoing, a penalty in the amount of \$1,500 is recommended.

19 CONCLUSION

20 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
21 Respondents, Sampayan 4 Vallejo Mayor 2016 and Ruperto "Bob" Sampayan, hereby agree as follows:

- 22 1. Respondents violated the Act as described in the foregoing pages, which are a true and
23 accurate summary of the facts in this matter.
- 24 2. This stipulation will be submitted for consideration by the Fair Political Practices
25 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 26 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
27 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
28 liability of Respondents pursuant to Section 83116.

1 The foregoing stipulation of the parties “In the Matter of Sampayan 4 Vallejo Mayor 2016 and Ruperto
2 ‘Bob’ Sampayan,” FPPC Case No. 16/20122 is hereby accepted as the final decision and order of the Fair
3 Political Practices Commission, effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: _____

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9 Richard C. Miadich, Chair
10 Fair Political Practices Commission
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