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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of:

FPPC Case No. 19/514

TIMOTHY MIGUEL FOR SALINAS
VALLEY MEMORIAL
HEALTHCARE SYSTEM ZONE 5
2018, TIMOTHY MIGUEL, and IVAN
IBARRA,

STIPULATION, DECISION AND ORDER

Respondents.

INTRODUCTION

Respondent, Timothy Miguel (“Miguel”), was an unsuccessful candidate in his bid for Director for Zone 5 of the Salinas Valley Memorial Healthcare System in the November 6, 2018, general election. Respondent, Timothy Miguel for Salinas Valley Memorial Healthcare System Zone 5 2018 (the “Committee”), is Miguel’s controlled committee. Ivan Ibarra (“Ibarra”) serves as the Committee’s treasurer.

The Political Reform Act (the “Act”)¹ requires candidates, committees and treasurers to file 24-hour contribution reports to disclose late contributions received. Miguel, the Committee, and Ibarra violated the Act by failing to timely file a 24-hour contribution report.

¹ The Political Reform Act – sometimes simply referred to as 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.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred
3 in 2018. For this reason, all legal references and discussions of law pertain to the Act’s provisions as
4 they existed at that time.

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

6 When enacting the Act, the people of California found and declared that previous laws regulating
7 political practices suffered from inadequate enforcement by state and local authorities.² Thus, it was
8 decreed the Act “should be liberally construed to accomplish its purposes.³ A central purpose of the Act
9 is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully
10 and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ Another
11 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously
12 enforced.”⁵

13 **24-Hour Contribution Report**

14 A “late contribution” is a contribution that totals in the aggregate \$1,000 or more and is received
15 by a candidate or a controlled committee during the 90-day period preceding the date of the election, at
16 which the candidate is to be voted on.⁶ Each candidate or committee that receives a late contribution
17 shall report the late contribution within 24 hours of the time it is made.⁷

18 **Period Covered by Campaign Statements**

19 “Period covered” by a campaign statement means the period beginning the day after the closing
20 date of the most recent campaign statement which was required to be filed and ending with the closing
21 date of the statement in question.⁸ If a person has not previously filed a campaign statement within the
22 calendar year, the period covered begins on January 1.⁹

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25 ² Section 81001, subdivision (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subdivision (a).

28 ⁵ Section 81002, subdivision (f).

⁶ Section 82036, subdivision (a).

⁷ Section 84203, subdivisions (a)-(b).

⁸ Section 82046, subdivision (b).

⁹ *Id.*

1 **Reporting Contributions and Contributor Information**

2 Each campaign statement shall contain the total amount of contributions received during the
3 period covered by the campaign statement.¹⁰

4 If the cumulative amount of contributions received from a person is \$100 or more and a
5 contribution has been received from that person during the period covered by the campaign statement,
6 then the campaign statement shall contain all of the following: full name, street address, occupation,
7 name of employer, the date and amount received.¹¹

8 “Street address” means the street name and building number, and the city, state, and zip code.¹²

9 **Semi-Annual Campaign Statement**

10 Candidates and committees shall file semi-annual campaign statements each year no later than
11 July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.¹³

12 **Joint and Several Liability of Committee and Treasurer**

13 It is the duty of a committee treasurer to ensure the committee complies with the Act.¹⁴ A
14 treasurer may be held jointly and severally liable, along with the committee and candidate, for violations
15 committed by the committee.¹⁵

16 **Liability for Violations**

17 Any person who violates any provision of the Act, who purposely or negligently causes any
18 other person to violate any provision of the Act, or who aids and abets any other person in the violation
19 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.¹⁶

20 **SUMMARY OF THE FACTS**

21 This case was opened in response to a referral from the Monterey County Elections alleging the
22 Committee failed to timely file a post-election semi-annual campaign statement. During investigation,
23 the Enforcement Division discovered additional violations of the Act including failure to timely file a
24 24-hour contribution report.

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26 ¹⁰ Section 84211, subdivisions (a) and (b).

27 ¹¹ Section 84211, subdivision (f).

¹² Regulation 18421.2.

¹³ Section 84200.

¹⁴ Sections 81004, 84100, and Regulation 18427.

¹⁵ Sections 83116. 5 and 91006.

¹⁶ Sections 83116 and 83116. 5.

1 On October 15, 2018, the Committee timely filed a qualifying statement of organization with the
2 Secretary of State reporting its date of qualification as October 5, 2018. According to the Committee's
3 filed campaign statements, the Committee received approximately \$8,899 in contributions and spent
4 approximately \$3,001 in expenditures. The Committee did not use the correct reporting period, January
5 1, 2018 through October 20, 2018, on its pre-election campaign statement and failed to properly report
6 contributor information for approximately \$1,100 in contributions received prior to the Committee
7 becoming qualified as a committee. However, an amended pre-election campaign statement has been
8 filed as part of this settlement agreement, and these violations will not be separately charged for
9 purposes of settlement. To date, the Committee has not been terminated.

10 **Failure to Timely File 24-Hour Contribution Report**

11 The 90-day period preceding the November 6, 2018, general election, began on August 8, 2018
12 and ended on November 6, 2018. The Committee was required to file 24-hour contribution reports
13 within 24 hours of receiving a late contribution.

14 On April 30, 2019, 89 days late, the Committee filed the post-election semi-annual campaign
15 statement for the reporting period of October 21, 2018 to December 31, 2018. On this statement, the
16 Committee reported receiving \$1,000 in contributions and spending \$1,126 in expenditures. For
17 purposes of settlement, the violation for late filing the post-election semi-annual will not be charged
18 separately but will be used as aggravating circumstances.

19 The Committee's post-election semi-annual campaign statement revealed one late contribution
20 that required a 24-hour contribution report. On October 29, 2018, the Committee reported receiving
21 \$1,000 from Engineers & Scientists of California Local 20, IFPTE Lou Lucivero Legislative Education
22 & Action Program (LEAP), Sponsored by Engineers & Scientists of California Local 20 ("E&S
23 Committee") (ID# 861160). The E&S Committee timely filed a 24-hour contribution report disclosing
24 the late contribution made to the Committee. The Committee failed to file a 24-hour contribution report
25 for the late contribution received from the E&S Committee.

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1 **VIOLATIONS**

2 **Count 1: Failure to Timely File 24-Hour Contribution Report**

3 Prior to the November 6, 2018, general election, Miguel, the Committee, and Ibarra failed to
4 timely file a 24-hour contribution report totaling \$1,000, in violation of Government Code Section
5 84203.

6 **PROPOSED PENALTY**

7 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
8 count. Thus, the maximum penalty that may be imposed here is \$5,000.¹⁷

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

16 The public harm inherent in campaign reporting violations is that the public is deprived of
17 important, time-sensitive information regarding campaign activity. Generally, these types of violations
18 are considered more serious when the public is deprived of information that was required to be disclosed
19 prior to an election because this has the potential to affect how votes are cast. Another factor that
20 influences the seriousness of the violation is whether the public harm was mitigated because some of the
21 reportable activity was disclosed, prior to the election.

22 Here, the public harm stemming from Miguel, the Committee, and Ibarra’s violations was
23 mitigated because the late contribution was reported by the E&S Committee, prior to the election, on a
24 timely filed 24-hour contribution report.

25 In this case, there was no evidence to support an intent to conceal, deceive or mislead the public
26 as to the Committee’s receipts and contributors. The violation does not appear deliberate as Miguel is
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28 ¹⁷ Section 83116, subdivision (c).

¹⁸ Regulation 18361. 5, subdivision (d).

1 not sophisticated with the Act and had no experience managing a candidate-controlled committee. The
2 violation committed here was an isolated incident as Miguel has not had prior enforcement history.

3 The Commission considers penalties in prior cases with the same or similar violations and
4 comparable facts.

5 *In the Matter of Donna Munoz for County Supervisor 2016, Donna Munoz, and Max Hazard;*
6 FPPC Case No. 17/140. Respondents, an unsuccessful candidate for San Bernardino County Supervisor,
7 her controlled-committee and its treasurer, failed to timely file 24-hour contribution reports. In total,
8 Respondents failed to timely file two 24-hour contributions reports totaling \$3,275. However,
9 Respondents disclosed the late contributions on campaign statements timely filed prior to the election. In
10 aggravation to all counts, Respondents committed additional violations of the Act which were not
11 charged separately for purposes of settlement. From January 1, 2015 through June 30, 2016, the
12 Committee received a total of \$30,838 in contributions and made a total of \$30,836 in expenditures. On
13 April 19, 2018, the Commission approved a penalty of \$1,500 for this count.

14 A similar penalty than that approved in the *Munoz* case is recommended. Like *Munoz*, Miguel,
15 the Committee, and Ibarra failed to timely file a 24-hour contribution report. However, the Committee
16 here failed to file only one 24-hour contribution report totaling \$1,000. Unlike *Munoz*, this late
17 contribution was not reported on any of the Committee's campaign statements prior to the election.
18 Although, the late contribution was timely reported by the contributor on a 24-hour contribution report.
19 In aggravation, the Committee was 89 days late in filing its post-election semi-annual campaign
20 statement. Additionally, in aggravation, the Committee did not use the correct reporting period on its
21 pre-election campaign statement and failed to properly report approximately \$1,100 in contributions
22 received prior to the Committee becoming qualified as a committee. In mitigation, the size of the
23 Committee here is approximately 3.5 times smaller than the committee in *Munoz*. Therefore, a penalty
24 of \$1,500 is recommended.

25 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
26 in the amount of \$1,500 is justified.

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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondents, Timothy Miguel for Salinas Valley Memorial Healthcare System Zone 5 2018, Timothy
4 Miguel, and Ivan Ibarra, hereby agree as follows:

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

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

9 3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose
10 of reaching a final disposition without the necessity of holding an administrative hearing to
11 determine the liability of Respondents pursuant to Section 83116.

12 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all
13 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through
14 18361.9. This includes, but is not limited to the right to appear personally at any administrative
15 hearing held in this matter, to be represented by an attorney at Respondents’ own expense, to
16 confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to
17 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a
18 hearing officer, and to have the matter judicially reviewed.

19 5. Respondents agree to the issuance of the decision and orders set forth below. Also,
20 Respondents agree to the Commission imposing against them an administrative penalty in the
21 amount of \$1,500. One or more cashier’s checks or money orders totaling said amount – to be
22 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
23 payment of the administrative penalty described above, and same shall be held by the State of
24 California until the Commission issues its decision and order regarding this matter.

25 6. If the Commission refuses to approve this stipulation – then this stipulation shall become
26 null and void, and within fifteen business days after the Commission meeting at which the
27 stipulation is rejected, all payments tendered by Respondents in connection with this stipulation
28 shall be reimbursed to Respondents. If this stipulation is not approved by the Commission, and if

1 a full evidentiary hearing before the Commission becomes necessary, neither any member of the
2 Commission, nor the Executive Director, shall be disqualified because of prior consideration of
3 this stipulation.

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

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8 Dated: _____
9 Galena West, Chief of Enforcement
10 Fair Political Practices Commission

11 Dated: _____
12 Timothy Miguel, individually and on behalf of
13 Timothy Miguel for Salinas Valley Memorial Healthcare
14 System Zone 5 2018, Respondents

15 Dated: _____
16 Ivan Ibarra, Respondent

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19 The foregoing stipulation of the parties "In the Matter of Timothy Miguel for Salinas Valley
20 Memorial Healthcare System Zone 5 2018, Timothy Miguel, and Ivan Ibarra," FPPC Case No. 19/514,
21 is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective
22 upon execution by the Chair.

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24 IT IS SO ORDERED.

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26 Dated: _____
27 Richard C. Miadich, Chair
28 Fair Political Practices Commission