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8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**  
9 **STATE OF CALIFORNIA**  
10

11 In the Matter of ) FPPC Case No. 16/19794  
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13 )  
14 ) **STIPULATION, DECISION AND ORDER**  
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16 )  
17 )  
FRANK ADOMITIS, JERRY MARTIN, )  
ANAELI SOLANO, ADOMITIS, )  
MARTIN, SOLANO FOR CITY )  
COUNCIL 2016, and FRIENDS OF )  
HIGHLAND, )  
Respondents. \_\_\_\_\_

18 **INTRODUCTION**

19 Parties

20 Respondent, Frank Adomitis, was an unsuccessful candidate for the City of Highland City  
21 Council in the November 8, 2016 election.

22 Respondent, Jerry Martin, was an unsuccessful candidate for the City of Highland City Council  
23 in the November 8, 2016 election.

24 Respondent, Anaeli Solano, was a successful candidate for the City of Highland City Council in  
25 the November 8, 2016 election.

26 Respondent, Adomitis, Martin, Solano For City Council 2016 (the AMS Committee) was the  
27 joint candidate-controlled committee of Adomitis, Martin and Solano.

1 Respondent Friends of Highland (the FOH Committee) was a city general purpose committee  
2 supporting and opposing candidates and measures in the City of Highland, and was controlled by  
3 Adomitis and Martin.

4 Adomitis was the named treasurer for the AMS Committee and for the FOH Committee.

5 Summary of Law and Violations

6 The Political Reform Act (Act),<sup>1</sup> prohibits candidates from controlling both a committee for  
7 election or office and a general purpose committee that makes contributions or independent expenditures  
8 to support or oppose candidates. Additionally, mass mailings must disclose the name, street address, and  
9 city of the sender of the mass mailing.

10 In this case, Adomitis and Martin violated the Act by simultaneously controlling their own  
11 candidate-controlled election committee and a general purpose committee that made contributions to  
12 support candidates, including Adomitis, Martin and Solano. Additionally, Adomitis, Martin and the  
13 FOH Committee failed to identify the FOH Committee as a candidate-controlled committee or identify  
14 Adomitis and Martin as controlling candidates of the FOH Committee. And Adomitis, Martin, Solano  
15 and the AMS Committee violated the Act by sending a mass mailing which improperly identified the  
16 FOH Committee as the sender.

17 **SUMMARY OF THE LAW**

18 All legal references and discussions of the law refer to the Act's provisions as they existed in  
19 2016.

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

21 When enacting the Political Reform Act, the people of the state of California found and declared  
22 that previous laws regulating political practices suffered from inadequate enforcement by state and local  
23 authorities.<sup>2</sup> To that end, the Act must be liberally construed to achieve its purposes.<sup>3</sup>

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26 <sup>1</sup> The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references  
27 are to this code. The regulations of the Fair Political Practices Commission are contained in §§ 18110 through 18997 of Title  
28 2 of the California Code of Regulations, and all regulatory references are to this source.

<sup>2</sup> § 81001, subd. (h).

<sup>3</sup> § 81003.

1           There are many purposes of the Act. One purpose is to ensure that receipts and expenditures in  
2 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper  
3 practices are inhibited.<sup>4</sup> To achieve this purpose, the Act requires candidates to identify the committees  
4 they control and requires senders of mass mailings to properly identify themselves on the mass mailings.  
5 Another purpose is to provide adequate enforcement mechanisms so that the Act will be “vigorously  
6 enforced.”<sup>5</sup>

7 Definition of Controlled Committee

8           A candidate includes, in relevant part, an individual who is listed on the ballot for election to any  
9 elective office.<sup>6</sup> A “committee” includes any person or combination of persons who receives  
10 contributions totaling \$2,000 or more in a calendar year,<sup>7</sup> commonly known as a “recipient committee.”  
11 A recipient committee which is controlled directly or indirectly by a candidate, or which acts jointly with  
12 a candidate in connection with the making of expenditures, is a “controlled committee.”<sup>8</sup> A candidate  
13 controls a committee if he or she, his or her agent, or any other committee he or she controls has a  
14 significant influence on the actions or decisions of the committee.<sup>9</sup> A committee may be controlled by  
15 one or more candidates.<sup>10</sup>

16 Statement of Organization Requirements

17           Every recipient committee must file a statement of organization with the Secretary of State.<sup>11</sup> The  
18 statement of organization must include the committee’s name, street address and telephone number, and  
19 the full name, street address and telephone number of the treasurer and other principal officers of the  
20 committee.<sup>12</sup> The statement of organization must also include a statement of whether the committee was  
21 independent or controlled, and if controlled, the name of each candidate by which it was controlled.<sup>13</sup>

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23           <sup>4</sup> § 81002, subd. (a).

24           <sup>5</sup> § 81002, subd. (f).

25           <sup>6</sup> § 82007.

26           <sup>7</sup> § 82013, subd. (a).

27           <sup>8</sup> § 82016, subd. (a).

28           <sup>9</sup> § 82016, subd. (a).

<sup>10</sup> § 84102, subd. (e); Reg. §§ 18402 subd. (c), and 18430.

<sup>11</sup> § 84101

<sup>12</sup> § 84102, subd. (a) and (c).

<sup>13</sup> § 84102, subd. (e).

1 Prohibition Against Candidate Controlled General Purpose Committees

2 Under the one committee/one bank account provisions, the Act prohibits a candidate or  
3 officeholder who controls a committee for his or her election or office from controlling a general purpose  
4 committee that makes contributions or independent expenditures to support or oppose candidates.<sup>14</sup>

5 Mass Mailing Sender Identification

6 Candidates and committees are prohibited from sending a mass mailing unless the name, street  
7 address, and city of the candidate or committee are shown on the outside of each piece of mail in the  
8 mass mailing.<sup>15</sup>

9 A “mass mailing” is defined as over two hundred substantially similar pieces of mail sent in a  
10 single calendar month, but not including a form letter or other mail which is sent in response to an  
11 unsolicited request, letter or other inquiry.<sup>16</sup> The “sender” is the committee who pays for the largest  
12 portion of expenditures attributable to the designing, printing or posting of the mailing.<sup>17</sup>

13 Joint and Several Liability of Candidate, Committee, and Treasurer

14 Every committee must have a treasurer.<sup>18</sup> It is the duty of a committee’s treasurer to ensure that  
15 the committee complies with all of the requirements of the Act concerning the receipt and expenditure  
16 of funds and the reporting of such funds.<sup>19</sup> A committee’s treasurer may be held jointly and severally  
17 liable with the candidate and the committee for violations committed by the committee.<sup>20</sup>

18 **SUMMARY OF THE FACTS**

19 In 2016, the FOH Committee received contributions totaling approximately \$9,691 and made  
20 expenditures totaling approximately \$8,664. And in 2016, the AMS Committee received contributions  
21 totaling approximately \$11,326 and made expenditures totaling approximately \$11,326.

22 The City of Highland, located in San Bernardino County, did not have a local campaign  
23 ordinance and did not have any local campaign contribution limits.

24 <sup>14</sup> § 85201, and Reg. 18521. See also §§ 85301, 85303, 85304, 85305 and 85316, and Reg. 18521.5.

25 <sup>15</sup> § 84305, subd. (b).

26 <sup>16</sup> § 82041.5, and Reg. 18435, subd. (a).

27 <sup>17</sup> Reg. 18435, subd. (a).

28 <sup>18</sup> § 84100.

<sup>19</sup> § 84104 and Reg. 18427, subd. (a).

<sup>20</sup> §§ 83116.5 and 91006.

1 Committee Qualification

2 On or about January 1, 2016, Adomitis established Friends of Highland as a Federal tax-exempt  
3 non-profit political organization “[t]o organize a campaign to defeat any city initiative to increase taxes  
4 on the citizens of the City of Highland, CA.” The FOH Committee and the AMS Committee qualified  
5 as recipient committees under the Act on August 31, 2016.

6 Prohibited Candidate-Controlled General Purpose Committee

7 The FOH Committee statement of organization did not identify the FOH Committee as a  
8 candidate-controlled committee, or identify Adomitis and Martin as controlling candidates of the FOH  
9 Committee. But the evidence shows that Adomitis and Martin controlled the FOH Committee. Adomitis  
10 admitted that he controlled the FOH Committee, and that he created FOH as a general purpose  
11 committee intended to advocate various issues in local politics along with his candidacy for city council.  
12 Martin admitted being very familiar with the FOH Committee’s operations. Additionally, the bank  
13 account identified in the FOH Committee’s statement of organization is the number for a bank account  
14 in Martin’s name, which was opened with a \$100 deposit from Martin on September 8, 2016.

15 Improper Sender Identification on a Mass Mailing

16 The AMS Committee produced and paid for one mailer during the relevant reporting periods,  
17 which supported the election of Martin. An invoice from MJV Graphics, a local printing company showed  
18 that 1,000 4.25” x 6” flyers/postcards were produced. And a check, dated September 30, 2016, made out  
19 to Mike Volpone of MJV Graphics and signed by Jerry Martin for \$2,440.00, was written from the AMS  
20 Committee campaign bank account. The AMS Committee disclosed the payment in its first preelection  
21 campaign statement. But, even though the evidence shows that the AMS Committee paid for the mailer,  
22 the mailer incorrectly stated “Paid for by Friends of Highland.”

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1 **VIOLATIONS**

2 Adomitis, Martin and the FOH Committee

3 Count 1: Prohibited Candidate Controlled General Purpose Committee and Mandatory Disclosure of  
4 Controlling Candidate

5 Adomitis and Martin controlled the FOH Committee, a general purpose committee that made  
6 expenditures to support or oppose candidates, at a time when they controlled the AMS Committee, a  
7 committee for their election, and Adomitis, Martin and the FOH Committee failed to identify the FOH  
8 Committee as a candidate-controlled committee or identify Adomitis and Martin as controlling  
9 candidates of the FOH Committee, violating Government Code sections 84102, subdivision (e), and  
10 85201 and Regulations 18402, subdivision (c) and 18521.

11 Adomitis, Martin, Solano and the AMS Committee

12 Count 2: Failure to Disclose Required Sender Information on a Mass Mailing

13 In or about September 2016, Adomitis, Martin, Solano and the AMS Committee paid for and  
14 caused to be sent a mass mailing supporting Adomitis, Martin, Solano’s election campaign which failed  
15 to display required sender identification, violating Government Code section 84305, subdivision (a).

16 **PROPOSED PENALTY**

17 This matter consists of two counts of violating the Act, which carries a maximum administrative  
18 penalty of \$5,000 per count, totaling \$10,000.<sup>21</sup>

19 In determining the appropriate penalty for a particular violation of the Act, the Commission  
20 considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis  
21 on serving the purposes and intent of the Act. Additionally, the Commission considers the facts and  
22 circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d):  
23 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3)  
24 whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated  
25 good faith in consulting with Commission staff; 5) whether there was a pattern of violations and whether  
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27 <sup>21</sup> § 83116, subd. (c).

1 the violator has a prior record of violations of the Act or similar laws; and 6) whether, upon learning of  
2 the violation, the violator voluntarily provided amendments to provide full disclosure.<sup>22</sup>

3 Applying the factors to this case, the Act prohibits candidates from simultaneously controlling  
4 election committees and general purpose committees which support/oppose candidates in order to prevent  
5 candidates from making expenditures outside of the candidates' election bank accounts and  
6 circumventing campaign contribution limits. In this case, the FOH Committee made contributions  
7 supporting Adomitis, Martin and Solano, but none of these contributions exceeded contribution limits.  
8 Though both the FOH and AMS Committees raised and spent relatively small amounts, the full nature  
9 and extent of the campaign activity was not available to the public before the election since the FOH  
10 Committee's filings did not identify Adomitis and Martin as its controlling candidates, and a mass  
11 mailing paid for by the AMS Committee improperly identified the FOH Committee as the sender. But  
12 the Enforcement Division did not obtain any evidence indicating an intent to deceive the voting public  
13 or any evidence of intentional concealment. Adomitis, Martin and Solano were all first-time candidates  
14 who had no experience running a political campaign. Adomitis, Martin and Solano made some attempts  
15 to follow the campaign filing and disclosure rules, as evidenced by their filing of required campaign  
16 statements. Adomitis, Martin, Solano, the AMS Committee and the FOH Committee do not have a prior  
17 record of violations of the Act, and all required campaign statements and reports have been filed and/or  
18 amended as part of this settlement. The violations in this matter, taken as a whole, resulted in incomplete  
19 disclosure before the election regarding Adomitis', Martin's, Solano's, the AMS Committee's and the  
20 FOH Committee's campaign activity.

21 The Commission also considers penalties in prior cases involving similar violations. Recent cases  
22 with similar violations include:

23 Count 1: Prohibited Candidate Controlled General Purpose Committee and Mandatory Disclosure of  
24 Controlling Candidate

25 *In the Matter of Antonio "Tony" Mendoza, Yes We Can, Educating Voters, Freddie Scott, Alfred*  
26 *Mendoza, Mendoza for Assembly 2010, and Central Basin Municipal Water District 2012; FPPC No.*

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27 <sup>22</sup> Reg. 18361.5, subd. (d).

1 14/606. Respondent Antonio “Tony” Mendoza was a former state assembly member and state senator,  
2 who, among other violations, improperly simultaneously controlled his committees for election or office  
3 and two general purpose committees that made expenditures – totaling \$50,000 – to support or oppose  
4 state candidates, in violation of Government Code section 85201 and Regulation 18521 (2 counts). In  
5 November 2016, the Commission imposed a penalty of \$5,000 for each of these violations. Additionally,  
6 Respondent Mendoza and others failed to identify Senator Mendoza as the controlling candidate in  
7 Educating Voters’ statement of organization and failed to add Senator Mendoza’s name as the controlling  
8 candidate to the committee name, violating Government Code sections 84102, subdivisions (e) and (g),  
9 and Regulation 18402, subdivision (c). In November 2016, the Commission imposed a penalty of \$2,500  
10 for this violation.

11 In this case, Adomitis, Martin and the FOH Committee raised and spent a much lower amount of  
12 money than in the comparable case. And the violations in the comparable case were more serious than in  
13 this case because the conduct in the comparable case resulted in prohibited over-the-limit contributions  
14 to state candidates. Additionally, Respondent Mendoza was an experienced and politically savvy  
15 incumbent candidate, having held several state and local offices, and hiring professional treasurers,  
16 consultants and advisors to help run his campaigns. By contrast, Adomitis, Martin and Solano were first-  
17 time local candidates with no professional campaign staff. Additionally, included in this settlement  
18 agreement, all campaign statements and reports have been filed and/or amended to provide complete  
19 disclosure. For the foregoing reasons, it is recommended that these violations be combined into one count  
20 with a penalty of \$3,000.

21 Count 2: Failure to Disclose Required Sender Information on a Mass Mailing

22 *In the Matter of Michael Horner*, FPPC No. 15/1275. Michael Horner qualified as an independent  
23 expenditure committee in October 2014 when he paid approximately \$1,456 to print and send  
24 approximately 3,100 copies of a mass mailing opposing a candidate for Lake County Board of  
25 Supervisors in the November 4, 2014 General Election. Horner did not identify himself as the sender of  
26 the mass mailing, instead using the name “Anyone But Jim Steele,” and failed to display other required  
27 sender identification, in violation of Government Code Section 84305, subd. (a) (1 count). As an  
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1 aggravating factor, Horner did not file any campaign statements before the election disclosing  
2 expenditures related to the mass mailing. In February 2017, the Commission approved a penalty of \$2,500  
3 for this violation.

4 In this case, Adomitis, Martin, Solano and the AMS Committee failed to include proper sender  
5 identification on the mass mailing, and instead identified the FOH Committee as the sender. And  
6 aggravating the situation, the FOH Committee was not identified as being controlled by Adomitis and  
7 Martin. Adomitis, Martin, Solano and the AMS Committee have no prior history of violating the Act,  
8 and sent about one third fewer copies of the mass mailing than was sent in the *Horner* case. For the  
9 foregoing reasons, a penalty of \$2,500 for Count 2 is recommended.

10 For the foregoing reasons, a total administrative penalty in the amount of \$5,500 is recommended:  
11 \$3,000 for Count 1, and \$2,500 for Count 2.

## 12 CONCLUSION

13 Complainant, the Enforcement Division of the Fair Political Practices Commission, Respondents,  
14 Frank Adomitis, Jerry Martin, Anaeli Solano, Adomitis, Martin, Solano For City Council 2016, and  
15 Friends of Highland, 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  
22 the liability of Respondents pursuant to Section 83116.

23 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all  
24 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.  
25 This includes, but is not limited to the right to appear personally at any administrative hearing held in  
26 this matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine  
27 all witnesses 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 \$5,500. One or more payments totaling this amount, to be paid to the General Fund of the State of  
6 California, is/are submitted with this Stipulation as full payment of the administrative penalty described  
7 above, and they will be held by the State of California until the Commission issues its decision and order  
8 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  
12 to 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: \_\_\_\_\_  
20 Galena West, Chief, on Behalf of the Enforcement Division  
21 Fair Political Practices Commission

22 Dated: \_\_\_\_\_  
23 Frank Adomitis, Respondent, individually and on behalf of  
24 Adomitis, Martin, Solano For City Council 2016, Respondent,  
25 and Friends of Highland, Respondent

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Dated: \_\_\_\_\_  
Jerry Martin, Respondent, individually and on behalf of  
Adomitis, Martin, Solano For City Council 2016, Respondent,  
and Friends of Highland, Respondent

Dated: \_\_\_\_\_  
Anaeli Solano, Respondent, individually and on behalf of  
Adomitis, Martin, Solano For City Council 2016, Respondent

The foregoing Stipulation of the parties “In the Matter of Frank Adomitis, Jerry Martin, Anaeli Solano, Adomitis, Martin, Solano For City Council 2016, and Friends of Highland,” FPPC Case No. 16/19794 is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: \_\_\_\_\_  
Richard C. Miadich, Chair  
Fair Political Practices Commission