

1 GALENA WEST
Chief of Enforcement
2 CHRISTOPHER BURTON
Senior Commission Counsel
3 Fair Political Practices Commission
1102 Q Street, Suite 3000
4 Sacramento, CA 95811
Telephone: (916) 322-5660

5 Attorneys for Complainant
6 Fair Political Practices Commission, Enforcement Division

7
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

12 ROSSANA MITCHELL-ARRIETA FOR
CHINO HILLS CITY COUNCIL 2016,
13 ROSSANA MITCHELL-ARRIETA, AND
FRANK ARRIETA,

14 Respondents.

FPPC Case No. 17/462

STIPULATION, DECISION AND ORDER

15
16 INTRODUCTION

17 Rossana Mitchell-Arrieta (“Mitchell-Arrieta”) was an unsuccessful candidate for the Chino Hills
18 City Council in the November 8, 2016 General Election. Rossana Mitchell-Arrieta for Chino Hills City
19 Council 2016 (the “Committee”) was Mitchell-Arrieta’s controlled committee in conjunction with her
20 campaign. Frank Arrieta (“Arrieta”) was the treasurer of the Committee.

21 Respondents committed numerous violations of the Political Reform Act (the “Act”)¹ in
22 conjunction with Mitchell-Arrieta’s 2016 campaign, including violations of the one bank account rule;
23 and violations of the Act’s recordkeeping requirements.

24 ///

25 ///

26
27
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 §§ 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 The Act and its regulations are amended from time to time. The violations in this case occurred in
3 2016. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
4 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 To that end, the
8 Act is to be construed liberally to accomplish its purposes.³

9 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
10 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
11 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵
12 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
13 “vigorously enforced.”⁶

14 One Bank Account Rule

15 To ensure full disclosure of campaign activity and to guard against improper use of campaign
16 funds, a candidate must establish a single, designated campaign bank account upon filing a statement of
17 intention to be a candidate.⁷ All campaign contributions and loans must be deposited into the campaign
18 account.⁸ Personal funds of the candidate that will be used for the campaign must be deposited in the
19 campaign account prior to expenditure.⁹ All campaign expenditures must be made from the campaign
20 account.¹⁰

21 ///

22
23 _____
24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (a).

27 ⁵ Sections 84200, *et seq.*

28 ⁶ Section 81002, subd. (f).

⁷ Section 85201, subd. (a).

⁸ Section 85201, subd. (c).

⁹ Section 85201, subd. (d).

¹⁰ Section 85201, subd. (e).

1 Recordkeeping Requirements

2 Candidates and treasurers have a duty to maintain detailed accounts, records, bills, and receipts
3 necessary to prepare campaign statements and establish campaign statements were properly filed.¹¹ This
4 duty includes maintenance of detailed information and original source documentation for a period of
5 four years following the date the campaign statement to which they relate is filed.¹² Examples of
6 original source documentation that must be maintained include copies of bills, receipts, and invoices for
7 expenditures of \$25 or more.¹³

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

9 Every committee must have a treasurer.¹⁴ It is the duty of a committee treasurer to ensure that the
10 committee complies with the campaign reporting provisions of the Act.¹⁵ A treasurer may be held jointly
11 and severally liable, along with the candidate and the committee, for violations committed by the
12 committee.¹⁶

13 **SUMMARY OF THE FACTS**

14 The Committee qualified as a committee on July 1, 2016, and terminated as of December 2,
15 2016. During its lifetime, the Committee reported receiving \$41,673 in contributions and making
16 \$36,143 in expenditures. Mitchell-Arrieta was unsuccessful in the November 8, 2016 General Election,
17 receiving approximately 19.9 percent of the vote.

18 According to the Enforcement Division’s investigation, the Committee made a total of \$41,257 in
19 expenditures during 2016. Of that amount, \$26,004 in expenditures were made using funds outside of the
20 designated campaign bank account, amounting to 63 percent of all expenditures. Specifically, \$14,759 in
21 expenditures during the reporting period of July 1, 2016 to September 24, 2016; \$8,154 in expenditures
22 during the reporting period of September 25, 2016 to October 22, 2016; and \$3,090 in expenditures
23 during the reporting period of October 23, 2016 to December 31, 2016, were made outside of the
24

25

¹¹ Section 84104.

26 ¹² Regulation 18401.

27 ¹³ Regulation 18401, subd. (a)(4).

28 ¹⁴ Section 84100.

¹⁵ Sections 81004, 84100, 84104, and 84213; Regulation 18427.

¹⁶ Sections 83116.5 and 91006.

1 campaign bank account. The Committee made these payments out of two different accounts associated
2 with Mitchell-Arrieta's law firm, Law Offices of Rossana Mitchell. The pertinent expenditures consisted
3 of payments for mailers and other advertisements paid for by the Committee.

4 The Committee reported the subject expenditures on its campaign statements for the reporting
5 periods of July 1, 2016 to September 24, 2016, and September 25, 2016 to October 22, 2016. However,
6 the Committee failed to report any of the subject expenditures on its campaign statement for the period of
7 October 23, 2016 to December 31, 2016.

8 The Committee also failed to maintain adequate source documentation for contributions totaling
9 \$5,380 and expenditures totaling \$32,258 during 2016. In total, the Committee failed to maintain
10 sufficient records for approximately 13 percent of all contributions and 78 percent of all expenditures
11 during 2016.

12 VIOLATIONS

13 Count 1: Failure to Pay Expenditures from Campaign Bank Account

14 The Committee, Mitchell-Arrieta, and Arrieta failed to pay \$26,004 in expenditures from the
15 designated campaign bank account, in violation of Section 85201, subdivisions (d) and (e).

16 Count 2: Failure to Maintain Campaign Records

17 The Committee, Mitchell-Arrieta, and Arrieta failed to maintain adequate source documentation
18 for contributions totaling \$5,380 and expenditures totaling \$32,258, in violation of Section 84104 and
19 Regulation 18401.

20 PROPOSED PENALTY

21 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
22 count. Thus, the maximum penalty that may be imposed is \$10,000.¹⁷

23 In determining the appropriate penalty for a particular violation of the Act, the Commission
24 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
25 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
26 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
27

28 ¹⁷ Section 83116, subd. (c).

1 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
2 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
3 record of violations.¹⁸

4 Here, the Enforcement Division found no evidence that Respondents intended to conceal,
5 deceive, or mislead the public. Further, Respondents do not have a prior history of violating the Act
6 within the past five years.

7 Additionally, the Commission considers penalties in prior cases involving similar violations.
8 Recent similar cases involving a failure to comply with the Act's one bank account rule and
9 recordkeeping requirements include the following:

10 • *In the Matter of Jose Esteves, Esteves for Mayor 2012, and Arsenio Iloreta*; FPPC No. 15/147.
11 Respondents, a candidate, his controlled committee, and its treasurer, failed to pay \$19,749.82 in
12 expenditures from the designated campaign bank account, in violation of Section 85201, subdivision (e);
13 and failed to maintain adequate source documentation for 79 of 98 expenditures, in violation of Section
14 84104 and Regulation 18401, subdivision (a)(4). In March 2017, the Commission approved fines of
15 \$3,500 on one count for the one bank account rule violation, and \$2,500 on one count for the
16 recordkeeping violation.

17 As to Count 1, a penalty higher than that approved in *Esteves* is warranted since certain of the
18 subject expenditures were not reported on the corresponding campaign statements.

19 As to Count 2, a penalty similar to that approved in *Esteves* is justified. Although the amount of
20 subject financial activity is higher here, in *Esteves*, there were underlying concerns of personal use,
21 which do not exist here.

22 In aggravation of all counts, Respondents committed additional violations of the Act, including
23 violations in conjunction with Mitchell-Arrieta's controlled committee Rossana Mitchell-Arrieta for
24 Chino Hills City Council 2018. In particular, Respondents failed to timely file campaign statements and
25 24-hour reports; made a prohibited cash expenditure; and failed to include the proper disclosures on mass
26 mailings. However, given the lower level of public harm associated with these violations, and
27

28 ¹⁸ Regulation 18361.5, subd. (d).

1 considering that much of Mitchell-Arrieta’s campaign was self-funded, and she was unsuccessful, both in
2 2016 and 2018, these violations are not charged herein.

3 In mitigation, Respondents were cooperative with the Enforcement Division during its
4 investigation.

5 Based on the foregoing, the following penalties are recommended:

Count	Violation	Proposed Penalty
1	Failure to Pay Expenses From Campaign Bank Account	\$4,000
2	Failure to Maintain Campaign Records	\$2,500
	TOTAL:	\$6,500

11 CONCLUSION

12 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
13 Respondents, Rossana Mitchell-Arrieta for Chino Hills City Council 2016, Rossana Mitchell-Arrieta, and
14 Frank Arrieta, hereby agree as follows:

- 15 1. Respondents violated the Act as described in the foregoing pages, which are a true and
16 accurate summary of the facts in this matter.
- 17 2. This stipulation will be submitted for consideration by the Fair Political Practices
18 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 19 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
20 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
21 liability of Respondents pursuant to Section 83116.
- 22 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all
23 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
24 This includes, but is not limited to, the right to appear personally at any administrative hearing held in
25 this matter, to be represented by an attorney at Respondents’ own expense, to confront and cross-examine
26 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
27 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
28 reviewed.

1 The foregoing stipulation of the parties “In the Matter of Rossana Mitchell-Arrieta for Chino Hills City
2 Council 2016, Rossana Mitchell-Arrieta, and Frank Arrieta,” FPPC Case No. 17/462 is hereby accepted
3 as the final decision and order of the Fair Political Practices Commission, effective upon execution below
4 by the Chair.

5
6 IT IS SO ORDERED.

7
8 Dated: _____

9 _____
10 Richard C. Miadich, Chair
11 Fair Political Practices Commission
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28