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8
9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 19/870

12 PANDYA FOR MAYOR 2018 and
13 AMIT PANDYA,

STIPULATION, DECISION AND ORDER

14 Respondents.
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17 **INTRODUCTION**

18 Respondent, Amit Pandya (“Pandya”), was an unsuccessful candidate for Mayor for the City of
19 Salinas in the November 6, 2018 General Election. Respondent, Pandya for Mayor 2018 (the
20 “Committee”) (ID# 1384125) was Pandya’s controlled committee. Pandya served as the Committee’s
21 treasurer.

22 The Political Reform Act (the “Act”)¹ requires committees and treasurers to timely file semi-
23 annual campaign statements. Pandya and the Committee violated the Act by failing to timely file two
24 semi-annual campaign statements following the November 6, 2018 General Election.

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28 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 2019. 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 **Committee**

14 “Committee” means any person or combination of persons who directly or indirectly receives
15 contributions totaling \$2,000 or more in a calendar year,⁶ commonly known as a “recipient committee.”

16 **Controlled Committee**

17 A recipient committee which is controlled directly or indirectly by a candidate, or that acts
18 jointly with a candidate in connection with the making of expenditures, is a “controlled committee.”⁷

19 **Semi-Annual Campaign Statements**

20 Candidates and committees shall file semiannual campaign statements each year no later than
21 July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.⁸

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26 ² Section 81001, subdivision (h).
27 ³ Section 81003.
28 ⁴ Section 81002, subdivision (a).
⁵ Section 81002, subdivision (f).
⁶ Section 82013, subdivision (a).
⁷ Section 82016, subdivision (a).
⁸ Section 84200.

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

2 It is the duty of a committee treasurer to ensure the committee complies with the Act.⁹ A
3 treasurer may be held jointly and severally liable, along with the committee and candidate, for violations
4 committed by the committee.¹⁰

5 **Liability for Violations**

6 Any person who violates any provision of the Act, who purposely or negligently causes any
7 other person to violate any provision of the Act, or who aids and abets any other person in the violation
8 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.¹¹

9 **SUMMARY OF THE FACTS**

10 This case was opened in response to a referral from the City of Salinas for Pandya and the
11 Committee’s failure to timely file a semi-annual campaign statement. After receiving contact from the
12 Enforcement Division, Pandya and the Committee filed all outstanding campaign statements and
13 terminated the Committee with the City of Salinas as of December 23, 2019. As of the date of this
14 Stipulation, Decision and Order, Pandya is in the process of terminating the Committee with the
15 Secretary of State.

16 Following the November 6, 2018 General Election, the Committee was required to file semi-
17 annual campaign statements as follows:

REPORTING PERIOD	DUE DATE
October 21, 2018 to December 31, 2018	January 31, 2019
January 1, 2019 to June 30, 2019	July 31, 2019
July 1, 2019 to December 31, 2019	January 31, 2020

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21 On December 23, 2019, the Committee filed a combined post-election semi-annual campaign
22 statement for the reporting period of October 21, 2018 to December 23, 2019. This statement reported
23 \$0 in contributions and \$6,070.11 in expenditures for partial repayment of a loan from Pandya. Thus, the
24 Committee was 326 days late in reporting the campaign activity occurring during the reporting period of
25 October 21, 2018 to December 31, 2018. Also, the Committee was 145 days late in reporting the
26 campaign activity occurring during the reporting period of January 1, 2019 to June 30, 2019. The
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28 ⁹ Sections 81004, 84100, and Regulation 18427.

¹⁰ Sections 83116. 5 and 91006.

¹¹ Sections 83116 and 83116. 5.

1 Committee timely reported the campaign activity occurring during the reporting period of July 1, 2019
2 to December 31, 2019.

3 VIOLATIONS

4 **Count 1: Failure to Timely File Semi-Annual Campaign Statements**

5 Pandya and the Committee failed to timely file semi-annual campaign statements for the
6 reporting periods ending on December 31, 2018 and June 30, 2019, by the January 31, 2019 and July 31,
7 2019 respective due dates, in violation of Government Code Section 84200.

8 PROPOSED PENALTY

9 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
10 count. Thus, the maximum penalty that may be imposed here is \$5,000.¹²

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

18 The public harm inherent in campaign reporting violations is that the public is deprived of
19 important, time-sensitive information regarding campaign activity. The seriousness of the violation
20 committed here is mitigated because the campaign activity was not required to be disclosed prior to the
21 election. Further, the late-filed campaign statements had minimal information to report including the
22 partial repayment of a loan received by the Committee from Pandya.

23 In this case, the evidence supports there was no intent to conceal, deceive or mislead the public
24 as to the Committee's campaign activity. However, the violation appears to be negligent as Pandya is
25 sophisticated with the Act, having been a controlling candidate and treasurer of an open election
26 committee since March 21, 2016. The violation here is part of a pattern of late-filing campaign
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28 ¹² Section 83116, subdivision (c).

¹³ Regulation 18361. 5, subdivision (d).

1 statements and late-reporting campaign activities as Pandya and the Committee have prior enforcement
2 history. On October 19, 2017, Pandya and the Committee entered into a streamline settlement
3 agreement, FPPC Case No. 16/19811, for failure to report contributions and expenditures on two
4 statements filed in connection with Pandya’s 2016 campaign. On January 17, 2019, Pandya and the
5 Committee entered into a mainline settlement agreement, FPPC Case No. 18/982, for failing to timely
6 file two pre-election campaign statements prior to the November 6, 2018 General Election.

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

9 *In the Matter of Committee to Improve Gonzales Schools – Yes on N and Rutilia Baltazar*; FPPC
10 Case No. 18/1307. Respondents, a primarily formed ballot measure committee and its treasurer, failed to
11 timely file three, post-election, semi-annual campaign statements. The late-filed campaign statements
12 had minimal campaign activity to report for bank fees, annual fees, and penalties. Respondents had prior
13 enforcement history in 2014-2016 for six late filed semi-annual campaign statements and two late filed
14 24-hour contributions reports. On September 19, 2019, the Commission approved a penalty of \$2,000.

15 A similar penalty than that approved in the *Yes on N* case is recommended. Similar to *Yes on N*,
16 Pandya and the Committee failed to timely file post-election semi-annual campaign statements.
17 Although, Pandya and the Committee failed to timely file only two post-election semi-annual campaign
18 statements. Like *Yes on N*, Pandya and the Committee had minimal campaign activity to report for
19 partial repayment of a loan. Also, similar to *Yes on N*, Pandya and the Committee have prior
20 enforcement history in 2016 for failing to timely report contributions and expenditures. Also, in 2018,
21 Pandya and the Committee late filed two pre-election campaign statements. Therefore, a penalty of
22 \$2,000 is recommended.

23 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
24 in the amount of \$2,000 is justified.

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1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondents, Pandya for Mayor 2018 and Amit Pandya, hereby agree as follows:

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

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

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

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

18 5. Respondents agree to the issuance of the decision and orders set forth below. Also,
19 Respondents agree to the Commission imposing against them an administrative penalty in the
20 amount of \$2,000. One or more cashier’s checks or money orders totaling said amount – to be
21 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
22 payment of the administrative penalty described above, and same shall be held by the State of
23 California until the Commission issues its decision and order regarding this matter.

24 6. If the Commission refuses to approve this stipulation – then this stipulation shall become
25 null and void, and within fifteen business days after the Commission meeting at which the
26 stipulation is rejected, all payments tendered by Respondents in connection with this stipulation
27 shall be reimbursed to Respondents. If this stipulation is not approved by the Commission, and if
28 a full evidentiary hearing before the Commission becomes necessary, neither any member of the

1 Commission, nor the Executive Director, shall be disqualified because of prior consideration of
2 this stipulation.

3 7. The parties to this agreement may execute their respective signature pages separately. A
4 copy of any party's executed signature page, including a hardcopy of a signature page
5 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
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12 Dated: _____
13 Amit Pandya, individually and on behalf of
14 Pandya for Mayor 2018,
15 Respondents
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17 The foregoing stipulation of the parties "In the Matter of Pandya for Mayor 2018 and Amit
18 Pandya," FPPC Case No. 19/870, is hereby accepted as the final decision and order of the Fair Political
19 Practices Commission, effective upon execution by the Chair.
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21 IT IS SO ORDERED.
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23 Dated: _____
24 Richard C. Miadich, Chair
25 Fair Political Practices Commission
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