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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of:

FPPC Case No. 19/384

ANGELA M. UNTALON,
COMMITTEE TO ELECT ANGELA
MARTINEZ UNTALON FOR CITY
COUNCIL IN THE CITY OF
GREENFIELD IN 2018, and LETICIA
V. URIBE,

Respondents.

STIPULATION, DECISION AND ORDER

INTRODUCTION

Respondent, Angela M. Untalon (“Untalon”), was a successful candidate for City Council for the City of Greenfield in the November 6, 2018 General Election. Respondent, Committee to Elect Angela Martinez Untalon for City Council in the City of Greenfield in 2018 (ID# 1412137) (the “Committee”), is Untalon’s controlled committee. Respondent, Leticia V. Uribe (“Uribe”), serves as the Committee’s treasurer.

The Political Reform Act (the “Act”)¹ requires candidates, committees, and treasurers to timely file certain campaign statements and reports. Untalon, the Committee, and Uribe violated the Act by failing to timely file certain campaign statements and reports.

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

1 **SUMMARY OF THE LAW**

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

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

5 When enacting the Act, the people of California found and declared that previous laws regulating
6 political practices suffered from inadequate enforcement by state and local authorities.² Thus, it was
7 decreed the Act “should be liberally construed to accomplish its purposes.³ A central purpose of the Act
8 is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁴

9 **Controlled Committee**

10 A controlled committee means a committee that is controlled directly or indirectly by a
11 candidate.⁵ A candidate controls a committee if she has a significant influence on the actions or
12 decisions of the committee.⁶

13 **Pre-Election Campaign Statements**

14 All candidates appearing on the ballot to be voted on at the next election and their controlled
15 committees shall file the applicable pre-election campaign statements.⁷ The first pre-election campaign
16 statement, for the period ending 45 days before the election, shall be filed no later than 40 days before
17 the election.⁸ The second pre-election campaign statement, for the period ending 17 days before the
18 election, shall be filed no later than 12 days before the election.⁹ If a candidate intends to spend or
19 receive less than \$2,000, they have the option of filing a short form campaign statement, Form 470.¹⁰

20 **24-Hour Contribution Reports**

21 A “late contribution” is a contribution that totals in the aggregate \$1,000 or more and is made to
22 or received by a candidate, a controlled committee, or a committee formed or existing primarily to
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24 this source.

25 ² Section 81001, subdivision (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subdivision (f).

28 ⁵ Section 82016.

⁶ *Id.*

⁷ Section 84200.5, subdivision (a).

⁸ Section 84200.8, subdivision (a).

⁹ Section 84200.8, subdivision (b).

¹⁰ Section 84206.

1 support or oppose a candidate or measure during the 90-day period preceding the date of the election, or
2 on the date of the election, at which the candidate or measure is to be voted on.¹¹ Each candidate or
3 committee that makes or receives a late contribution shall report the late contribution within 24 hours of
4 the time it is made or received.¹²

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

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

9 **Liability for Violations**

10 Any person who violates any provision of the Act, who purposely or negligently causes any
11 other person to violate any provision of the Act, or who aids and abets any other person in the violation
12 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.¹⁵

13 **SUMMARY OF THE FACTS**

14 Untalon was successful in her bid for City Council for the City of Greenfield in the November 6,
15 2018 General Election. According to the Committee's campaign statements, the Committee qualified as
16 a committee on or around October 8, 2018. Throughout 2018 the Committee reported approximately
17 \$6,502 in contributions and \$2,665 in expenditures. To date, the Committee remains open.

18 **Failure to Timely File Pre-Election Campaign Statements**

19 Prior to the November 6, 2018 General Election, pre-election campaign statements were due as
20 follows:

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STATEMENT	REPORTING PERIOD	DUE DATE
First Pre-Election	July 1, 2018 to September 22, 2018	September 27, 2018
Second Pre-Election	September 23, 2018 to October 20, 2018	October 25, 2018

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27 ¹¹ Section 82036, subdivision (a).

¹² Section 84203, subdivisions (a)-(b).

¹³ Sections 81004, 84100, and Regulation 18427.

¹⁴ Sections 83116. 5 and 91006.

¹⁵ Sections 83116 and 83116. 5.

1 As a candidate on the November 6, 2018 election ballot, Untalon was required to file applicable
2 pre-election campaign statements or, if she intended to raise and spend less than \$2,000, a short form
3 campaign statement, Form 470. Untalon, the Committee, and Uribe failed to timely file either statement
4 by the September 27, 2018 due date.

5 On October 29, 2018, four days late, Untalon, the Committee, and Uribe filed the second pre-
6 election campaign statement. This statement reported \$4,402 in contributions and \$2,093.98 in
7 expenditures.

8 **Failure to Timely File 24-Hour Contribution Reports**

9 The 90-day period preceding the November 6, 2018 General Election began on August 8, 2018.
10 The Committee was required to file 24-hour contribution reports within 24 hours of receiving a late
11 contribution. The Committee's second pre-election campaign statement revealed late contributions that
12 required 24-hour contribution reports as follows:

DUE DATE	CONTRIBUTOR	AMOUNT	DATE FILED
August 26, 2018	Gleanomic, LLC	\$1,000	Not Filed
October 9, 2018	Monterey County Business PAC	\$2,500	Not Filed
November 6, 2018	Charles Brumbaugh	\$1,000	November 8, 2018 (2 days late)
November 6, 2018	Jacob Lingo	\$1,000	November 8, 2018 (2 days late)
TOTAL:		\$5,500	

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19 Untalon, the Committee, and Uribe failed to timely file three 24-hour contribution reports for
20 four late contributions received totaling \$5,500.

21 **VIOLATIONS**

22 **Count 1: Failure to Timely File Pre-Election Campaign Statements**

23 Untalon, the Committee, and Uribe failed to timely file pre-election campaign statements for the
24 reporting periods ending September 22, 2018, due September 27, 2018, and October 20, 2018, due
25 October 25, 2018, in violation of Government Code Section 84200.5 and 84200.8.

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

2 Prior to the November 6, 2018 General Election, Untalon, the Committee, and Uribe failed to
3 timely file three 24-hour contribution reports for four late contributions received totaling \$5,500, in
4 violation of Government Code Section 84203.

5 **PROPOSED PENALTY**

6 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
7 count. Thus, the maximum penalty that may be imposed here is \$10,000.¹⁶

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

15 The public harm inherent in campaign reporting violations is that the public is deprived of
16 important, time-sensitive information regarding campaign activity. A central purpose of the Act is to
17 promote transparency by ensuring that receipts and expenditures in election campaigns are fully and
18 truthfully disclosed so that voters are fully informed and improper practices are inhibited.¹⁸ Aside from
19 two late contributions received the day of the election totaling \$2,000, Untalon, the Committee and
20 Uribe provided full disclosure of its campaign activities prior to the election.

21 In this case, there was no evidence to support an intent to conceal, deceive or mislead the public
22 as to the Committee's receipts and expenditures. The violations here do not appear to be deliberate as
23 Untalon was a first-time candidate and Uribe does not appear to be a professional treasurer. Also,
24 Untalon, the Committee, and Uribe have not had prior enforcement history.

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

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28 ¹⁶ Section 83116, subdivision (c).

¹⁷ Regulation 18361. 5, subdivision (d).

¹⁸ Section 81002, subdivision (a).

1 **Count 1: Failure to Timely File Pre-Election Campaign Statements**

2 *In the Matter of Friends of Maricela Cruz for Trustee 2018, Maricela Cruz, and Daisy S.*
3 *Martinez*; FPPC Case No. 18/1200. Respondents, an unsuccessful candidate for reelection to the Alisal
4 Union School District Board of Trustees for Area 2, her controlled-committee, and its treasurer, failed to
5 timely file two pre-election campaign statements prior to the November 6, 2018 General Election. Since
6 the Committee did not qualify as a committee until the second pre-election reporting period, Cruz was
7 required to file either the first pre-election campaign statement or, if she intended to raise and spend less
8 than \$2,000, a short form campaign statement, Form 470, by the first pre-election due date. Cruz failed
9 to file either forms by the first pre-election due date. Additionally, Respondents failed to timely file the
10 second pre-election campaign statement until after they received contact from the Enforcement Division.
11 The Respondent committee reported \$2,450 in contributions and \$7,343 in expenditures. In aggravation,
12 Respondents had prior enforcement history for failing to timely file campaign statements. On January
13 17, 2019, the Commission approved a penalty of \$1,500.

14 A lesser penalty than that approved in the *Cruz* case is recommended. Like *Cruz*, the Committee,
15 Untalon, and Uribe failed to timely file two pre-election campaign statements prior to the November 6,
16 2018 General Election. Also, like *Cruz*, the Committee did not qualify as a committee until the second
17 pre-election reporting period and failed to file either the first pre-election campaign statement or a Form
18 470 by the first pre-election due date. Next, the Committee, Untalon, and Uribe also failed to timely file
19 the second pre-election campaign statement. Although, unlike *Cruz*, the Committee filed this statement
20 prior to receiving contact from the Enforcement Division. In mitigation, the Committee, Untalon, and
21 Uribe do not have prior enforcement history. Also, in mitigation, the amount of expenditures made by
22 the Committee, Untalon, and Uribe is approximately 36% of the amount of expenditures made in *Cruz*.
23 In aggravation, the Committee, Untalon, and Uribe failed to timely file an amended statement of
24 organization to report the date the Committee qualified as a committee. Therefore, a penalty of \$1,000 is
25 recommended.

26 **Count 2: Failure to Timely File 24-Hour Contribution Reports**

27 *In the Matter of Donna Munoz for County Supervisor 2016, Donna Munoz, and Max Hazard*;
28 FPPC Case No. 17/140. Respondents, an unsuccessful candidate for San Bernardino County Supervisor,

1 her controlled-committee and its treasurer, failed to timely file 24-hour contribution reports. In total,
2 Respondents failed to timely file two 24-hour contributions reports totaling \$3,275. However,
3 Respondents disclosed the late contributions on campaign statements timely filed prior to the election. In
4 aggravation to all counts, Respondents committed additional violations of the Act which were not
5 charged separately for purposes of settlement. From January 1, 2015 through June 30, 2016, the
6 Committee received a total of \$30,838 in contributions and made a total of \$30,836 in expenditures. On
7 April 19, 2018, the Commission approved a penalty of \$1,500 for this count.

8 A higher penalty than that approved in the *Munoz* case is recommended. Similar to *Munoz*, the
9 Committee, Untalon, and Uribe failed to timely file three 24-hour contribution reports for four late
10 contributions received totaling \$5,500. However, two of the late contributions, totaling \$3,500, were
11 disclosed on campaign statements late-filed prior to the election. The remaining two late contributions
12 were disclosed on a late-filed 24-hour contribution report and the Committee's post-election semi-
13 annual campaign statement, so there was no disclosure prior to the election for these contributions. In
14 mitigation, the size of the Committee here is approximately 4.7 times smaller than the committee in
15 *Munoz*. Therefore, a penalty of \$2,000 is recommended.

16 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
17 in the amount of \$3,000 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Failure to Timely File Pre-Election Campaign Statements	\$1,000
2	Failure to Timely File 24-Hour Contribution Reports	\$2,000
	TOTAL:	\$3,000

22 **CONCLUSION**

23 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
24 Respondents, Angela M. Untalon, Committee to Elect Angela Martinez Untalon for City Council in the
25 City of Greenfield in 2018, and Leticia V. Uribe, hereby agree as follows:

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

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

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

6 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all
7 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through
8 18361.9. This includes, but is not limited to the right to appear personally at any administrative
9 hearing held in this matter, to be represented by an attorney at Respondents’ own expense, to
10 confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to
11 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a
12 hearing officer, and to have the matter judicially reviewed.

13 5. Respondents agree to the issuance of the decision and orders set forth below. Also,
14 Respondents agree to the Commission imposing against them an administrative penalty in the
15 amount of \$3,000. One or more cashier’s checks or money orders totaling said amount – to be
16 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
17 payment of the administrative penalty described above, and same shall be held by the State of
18 California until the Commission issues its decision and order regarding this matter.

19 6. If the Commission refuses to approve this stipulation – then this stipulation shall become
20 null and void, and within fifteen business days after the Commission meeting at which the
21 stipulation is rejected, all payments tendered by Respondents in connection with this stipulation
22 shall be reimbursed to Respondents. If this stipulation is not approved by the Commission, and if
23 a full evidentiary hearing before the Commission becomes necessary, neither any member of the
24 Commission, nor the Executive Director, shall be disqualified because of prior consideration of
25 this stipulation.

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1 7. The parties to this agreement may execute their respective signature pages separately. A
2 copy of any party's executed signature page, including a hardcopy of a signature page
3 transmitted via fax or as a PDF email attachment, is as effective and binding as the original.
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5 Dated: _____
6 Galena West, Chief of Enforcement
7 Fair Political Practices Commission
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9 Dated: _____
10 Angela M. Untalon, individually and on behalf of
11 Committee to Elect Angela Martinez Untalon for City
12 Council in the City of Greenfield in 2018, Respondents
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14 Dated: _____
15 Leticia V. Uribe, Treasurer, Respondent
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18 The foregoing stipulation of the parties "In the Matter of Angela M. Untalon, Committee to Elect
19 Angela Martinez Untalon for City Council in the City of Greenfield in 2018, and Leticia V. Uribe,"
20 FPPC Case No. 19/384, is hereby accepted as the final decision and order of the Fair Political Practices
21 Commission, effective upon execution by the Chair.
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23 IT IS SO ORDERED.
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25 Dated: _____
26 Richard C. Miadich, Chair
27 Fair Political Practices Commission
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