

1 ANGELA J. BRERETON  
Chief of Enforcement  
2 JENNA C. RINEHART  
Commission Counsel  
3 **FAIR POLITICAL PRACTICES COMMISSION**  
1102 Q Street, Suite 3000  
Sacramento, CA 95811  
4 Telephone: (916) 323-6302  
5 Email: JRinehart@fppc.ca.gov

6 Attorneys for Complainant  
7 Enforcement Division of the Fair Political Practices Commission

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

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 18/818

12 ELECT JOAQUIN ARTURO REVELO  
13 JUDGE 2016, SEAT NUMBER 34,  
14 JOAQUIN A. REVELO, and DAVID L.  
KELLY,

**STIPULATION, DECISION AND ORDER**

15 Respondents.  
16

17 **INTRODUCTION**

18 Respondent, Joaquin A. Revelo (“Revelo”), was an unsuccessful candidate for Kern County  
19 Superior Court Judge, Office 34, in the June 7, 2016 Primary Election. Respondent, Elect Joaquin  
20 Arturo Revelo Judge 2016, Seat Number 34 (ID# 1382645) (the “Committee”), was Revelo’s controlled  
21 committee. Respondent, David L. Kelly (“Kelly”), served as the Committee’s treasurer.

22 The Committee was the subject of a Franchise Tax Board (“FTB”) audit prior to September 28,  
23 2018. The FTB audit report covered the audit period of January 1, 2016 through June 30, 2016. During  
24 the audit period, the Committee reported \$18,919 in contributions and \$18,919 in expenditures.

25 The FTB audit revealed Revelo, the Committee, and Kelly violated the Political Reform Act (the  
26 “Act”).<sup>1</sup> The Act requires candidates, committees, and treasurers to maintain detailed campaign records.  
27 Revelo, the Committee, and Kelly violated this provision of the Act.

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<sup>1</sup> The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violation 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.<sup>2</sup> Thus, it was  
8 decreed the Act “should be liberally construed to accomplish its purposes.<sup>3</sup> 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.<sup>4</sup> Another  
11 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously  
12 enforced.”<sup>5</sup>

13 **Recordkeeping**

14 It shall be the duty of each candidate and treasurer to maintain detailed accounts, records, bills,  
15 and receipts necessary to prepare campaign statements and to establish that campaign statements were  
16 properly filed.<sup>6</sup> A filer shall maintain the accounts, records, bills and receipts, and original source  
17 documentation for a period of four years following the date the campaign statement to which they relate  
18 is filed.<sup>7</sup>

19 **Joint and Several Liability of Candidate, Committee and Treasurer**

20 It is the duty of a committee treasurer to ensure the committee complies with the Act.<sup>8</sup> A  
21 treasurer may be held jointly and severally liable, along with the committee and candidate, for violations  
22 committed by the committee.<sup>9</sup>

23  
24 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission are  
25 contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to  
26 this source.

27 <sup>2</sup> Section 81001, subdivision (h).

28 <sup>3</sup> Section 81003.

<sup>4</sup> Section 81002, subdivision (a).

<sup>5</sup> Section 81002, subdivision (f).

<sup>6</sup> Section 84104.

<sup>7</sup> Regulation 18401, subdivision (b)(2).

<sup>8</sup> Sections 81004, 84100, and Regulation 18427.

<sup>9</sup> Sections 83116. 5 and 91006.

1 **Liability for Violations**

2 Any person who violates any provision of the Act is liable for administrative penalties up to  
3 \$5,000 per violation.<sup>10</sup>

4 **SUMMARY OF THE FACTS**

5 According to the FTB Audit Report, the Committee received approximately \$18,919 in  
6 contributions during the audit period. Copies of contributors’ checks or credit card authorizations, and  
7 duplicate deposit slips were not maintained for contributions received totaling \$6,254, approximately  
8 33% of the Committee’s total contributions, although, the Committee’s bank statements were retained.

9 Of the \$6,254 worth of contributions received which the Committee failed to maintain detailed  
10 campaign records for, \$3,769 was reported as loans received from Revelo; however, the source of these  
11 funds could not be verified. Additionally, the lack of records precluded the determination of whether  
12 contributions of \$100 or more were received in cash and if 24-hour contribution reports were required to  
13 be filed.

14 According to the FTB Audit Report, the Committee spent approximately \$18,919 in expenditures  
15 during the audit period. Receipts and/or invoices were not maintained for expenditures made totaling  
16 \$18,629, approximately 98% of the Committee’s total expenditures, although, canceled checks and bank  
17 statements were maintained to verify the names of the payees and the amounts paid.

18 **VIOLATIONS**

19 **Count 1: Failure to Maintain Detailed Campaign Records**

20 Revelo, the Committee, and Kelly failed to maintain detailed campaign records for the  
21 Committee’s contributions and expenditures between January 1, 2016 and June 30, 2016 totaling \$6,254  
22 and \$18,629 respectively, in violation of Government Code Section 84104.

23 **PROPOSED PENALTY**

24 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per  
25 count. Thus, the maximum penalty that may be imposed here is \$5,000.<sup>11</sup>

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28 <sup>10</sup> Sections 83116 and 83116. 5.

<sup>11</sup> Section 83116, subdivision (c).

1 In determining the appropriate penalty for a particular violation of the Act, the Commission  
2 considers the facts of the case, the public harm involved, and the purposes of the Act. Further, the  
3 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
4 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
5 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
6 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
7 record of violations.<sup>12</sup>

8 One of the essential purposes of the recordkeeping provision is to establish that campaign  
9 statements were properly filed, and contributions and expenditures were properly reported. This  
10 violation is considered more serious when the failure to maintain campaign records inhibits audit efforts.  
11 Here, the Committee failed to maintain detailed campaign records for approximately 33% of the  
12 contributions received and approximately 98% of the expenditures. Additionally, due to the lack of  
13 records, the Enforcement Division could not determine whether additional violations of the Act were  
14 committed. However, there was no evidence to support an intent to conceal, deceive or mislead the  
15 public as to the Committee's receipts and expenditures. The violation appears to be inadvertent as  
16 Revelo and Kelly have no prior experience with the Act. Also, the violation committed here was isolated  
17 as Revelo, the Committee, and Kelly do not have prior enforcement history.

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

20 *In the Matter of Citizens for Kain – Assembly '14, Palmer Kain, Jay Mosley, and Marc Baylen;*  
21 FPPC Case No. 16/467. Respondents, a candidate for the California State Assembly, his controlled  
22 committee, and its treasurers, failed to maintain detailed campaign records for contributions totaling  
23 \$9,856 and expenditures totaling \$13,783. This amounts to approximately 60% of the committee's total  
24 contributions and 95% of the committee's total expenditures. Throughout its existence, the committee  
25 reported \$16,250 in contributions and \$14,396 in expenditures. On October 18, 2019, the Commission  
26 approved a penalty of \$1,500 for this count.

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<sup>12</sup> Regulation 18361. 5, subdivision (d).

1 A higher penalty than that approved in *Kain* is recommended. Here, Revelo, the Committee, and  
2 Kelly failed to maintain detailed campaign records for contributions received totaling \$6,254 and  
3 expenditures totaling \$18,629. This amounts to approximately 33% of the Committee's total  
4 contributions and 98% of the Committee's total expenditures.

5 In aggravation, the Committee here was seven days late to file the first pre-election campaign  
6 statement and one day late to file the second pre-election campaign statement. However, both pre-  
7 election campaign statements were filed prior to the election. Also, in aggravation, the Committee failed  
8 to timely and/or accurately report three late contributions received on 24-hour contribution reports.  
9 However, the 24-hour contribution reports were filed prior to the election and the late contributions were  
10 accurately reported on the pre-election campaign statements.

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

### 13 CONCLUSION

14 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
15 Respondents, Elect Joaquin Arturo Revelo Judge 2016, Seat Number 34, Joaquin A. Revelo, and David  
16 L. Kelly, hereby agree as follows:

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

1 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a  
2 hearing officer, and to have the matter judicially reviewed.

3 5. Respondents agree to the issuance of the decision and orders set forth below. Also,  
4 Respondents agree to the Commission imposing against them an administrative penalty in the  
5 amount of \$2,000. One or more cashier's checks or money orders totaling said amount – to be  
6 paid to the General Fund of the State of California – is/are submitted with this stipulation as full  
7 payment of the administrative penalty described above, and same shall be held by the State of  
8 California until the Commission issues its decision and order 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  
11 stipulation is rejected, all payments tendered by Respondents in connection with this stipulation  
12 shall be reimbursed to Respondents. If this stipulation is not approved by the Commission, and if  
13 a full evidentiary hearing before the Commission becomes necessary, neither any member of the  
14 Commission, nor the Executive Director, shall be disqualified because of prior consideration of  
15 this stipulation.

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

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20 Dated: \_\_\_\_\_

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Angela J. Brereton, Chief of Enforcement  
Fair Political Practices Commission

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23 Dated: \_\_\_\_\_

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Joaquin A. Revelo, individually and on behalf of  
Elect Joaquin Arturo Revelo Judge 2016, Seat Number 34,  
Respondents

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26 Dated: \_\_\_\_\_

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David L. Kelly, individually and on behalf of  
Elect Joaquin Arturo Revelo Judge 2016, Seat Number 34,  
Respondents

1           The foregoing stipulation of the parties “In the Matter of Elect Joaquin Arturo Revelo Judge  
2 2016, Seat Number 34, Joaquin A. Revelo, and David L. Kelly,” FPPC Case No. 18/818, is hereby  
3 accepted as the final decision and order of the Fair Political Practices Commission, effective upon  
4 execution by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: \_\_\_\_\_

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Richard C. Miadich, Chair  
Fair Political Practices Commission

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