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

11 In the Matter of:

12 FRIENDS OF MARICELA CRUZ FOR
13 TRUSTEE 2018, MARICELA CRUZ, and
DAISY S. MARTINEZ,

14 Respondents.

FPPC Case No. 19/764

STIPULATION, DECISION AND ORDER

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16 **INTRODUCTION**

17 Respondent Maricela Cruz (“Cruz”) was a candidate for Alisal Union School District Governing
18 Board Trustee, Area 2 in the November 6, 2018 General Election. Respondent “Friends of Maricela Cruz
19 for Trustee 2018” (“Committee”) was Cruz’s candidate-controlled committee. Daisy S. Martinez
20 (“Martinez”) is the treasurer. The Committee, Cruz, and Martinez violated the Political Reform Act¹
21 (“Act”) by failing to timely file a semiannual campaign statement.

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

3 When enacting the Political Reform Act, the people of California found and declared that previous
4 laws regulating political practices suffered from inadequate enforcement by state and local authorities.²
5 Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”³

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

11 **Duty to File Campaign Statements**

12 The Act requires candidates and their controlled committees to file campaign statements at specific
13 times disclosing information regarding contributions received and expenditures made by the campaign
14 committees.⁷

15 **Duty to File Semiannual Campaign Statements**

16 Candidates and recipient committees shall file semiannual campaign statements each year no later
17 than July 31, for the period ending June 30, and no later than January 31 for the period ending December
18 31.⁸

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

20 It is the duty of a committee treasurer and the candidate to ensure that the committee complies with
21 the Act’s campaign reporting.⁹ A treasurer and candidate may be held jointly and severally liable with the
22 committee for violations committed by the committee.¹⁰

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25 ² Section 81001, subdivision (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subdivision (a).

28 ⁵ Sections 84200, *et seq.*

⁶ Section 81002, subdivision (f).

⁷ Section 84200, *et seq.*

⁸ Section 84200.

⁹ Sections 81004, 84100, 84104, and Regulation 18427.

¹⁰ Sections 83116.5 and 91006.

1 **SUMMARY OF THE FACTS**

2 Cruz was first elected in 2013 to the Alisal Union School District Board of Trustees for Area 2.
3 She was a candidate for re-election but was ultimately unsuccessful in the November 6, 2018 General
4 Election. Cruz filed a statement of organization with local county election officials on or around September
5 20, 2018, indicating that the committee had not yet qualified. A statement of organization was filed with
6 the Secretary of State on October 1, 2018.

7 The Committee was referred by the local filing officer for failure to timely file its first and second
8 pre-election statements, due September 27, 2018 and October 25, 2018, respectively. After being contacted
9 by the Enforcement Division, the Committee filed a campaign statement for the period of January 1, 2018
10 through October 20, 2018 on October 30, 2018. A prior Enforcement matter involving those late statements
11 was approved by the Commission on January 17, 2019 by means of a stipulated agreement, FPPC No.
12 18/1200.

13 Following the election, the Committee, Cruz, and Martinez were required to file the semiannual
14 campaign statement on or before January 31, 2019, to disclose activity for the last sixteen days of the
15 election cycle and the post-election reporting period. This statement would have disclosed activity from
16 October 21, 2018 through December 31, 2018. Respondents failed to file this campaign statement. By
17 failing to timely file this campaign statement by the due date of January 31, 2019, the Respondents violated
18 the Act.

19 After contact from the Enforcement Division, Respondents filed the outstanding campaign
20 statement and terminated the committee on March 30, 2020. The statement reported that the Committee
21 raised \$5,506 in contributions and made \$5,732 in expenditures during the reporting period. Many of the
22 expenditures were reported in previous reporting periods as accrued expenditures. During the life of the
23 Committee, the Committee reported receiving and spending \$7,040.

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1 **VIOLATIONS**

2 **Count 1**

3 Failure to Timely File a Semiannual Campaign Statement

4 The Committee, Cruz, and Martinez failed to timely file a semiannual campaign statement for the
5 period of October 21, 2018 through December 31, 2018 by the deadline of January 31, 2019, in violation
6 of Government Code section 84200.

7 **PROPOSED PENALTY**

8 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per count.¹¹

9 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
10 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
11 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers
12 the facts and circumstances of the violation in the context of the following factors set forth in Regulation
13 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the specific
14 violation; (2) The level of experience of the violator with the requirements of the Political Reform Act;
15 (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence or absence of
16 any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate, negligent or
17 inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission staff or any
18 other governmental agency in a manner not constituting complete defense under Government Code Section
19 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the violator has a prior
20 record of violations of the Political Reform Act or similar laws; and (8) Whether the violator, upon learning
21 of a reporting violation, voluntarily filed amendments to provide full disclosure.

22 The failure to timely file campaign statements and reports causes public harm where the public is
23 denied the disclosure and transparency required by the Act. In this case, the activity that was not reported
24 timely was related to the last 16 days before the election and post-election activity. Cruz was an incumbent
25 during the election and knew or should have known of the filing obligations both before and after the
26 election. Additionally, Cruz and the Committee have prior Enforcement matters for failing to timely file
27 campaign statements and reports and have generally demonstrated a pattern of failing to timely file
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¹¹ See Section 83116, subdivision (c).

1 campaign statements. For the first prior case, on January 18, 2018, the Commission approved a streamline
2 stipulation in FPPC No. 16/220, for Cruz, committee treasurer Omar Perez, and Cruz’s candidate-
3 controlled committee, “Friends of Maricela Cruz for Trustee 2013”, for failure to timely file two 24-Hour
4 Contribution Reports and one semiannual campaign statement for the second half of 2013. These reports
5 and statement were filed in connection with Cruz’s initial successful campaign for Trustee. The
6 respondents filed all missing statements and paid a total penalty of \$1,324. This was Cruz’s first violation,
7 with all parties found to have a low level of experience with the Act. As discussed above, Cruz, the
8 Committee and Martinez previously entered into a stipulated agreement to resolve late filed pre-election
9 campaign statements related to the 2018 election. In that matter, FPPC No. 18/1200, the Respondents
10 admitted to failing to timely file two pre-election campaign statements and paid a \$1,500 penalty. The
11 Commission approved the Stipulation at the January 17, 2019 meeting. Here, the Respondents failed to
12 timely file the semiannual campaign statement which was due two weeks after the Stipulation in FPPC No.
13 18/1200 was approved. Respondents filed the outstanding campaign statement after contact with the
14 Enforcement Division and terminated the Committee, so no further filing obligations have accrued.

15 Additionally, the Commission considers penalties in prior cases with comparable violations. *In the*
16 *Matter of Ford Greene, Committee to Re-Elect Ford Greene San Anselmo Town Council 2015, and Laurie*
17 *Berger*, FPPC Case No. 18/1546. The Commission approved a stipulation in this matter on October 15,
18 2020. The committee, candidate, and treasurer failed to timely file a semiannual campaign statement for
19 the reporting period on October 18, 2015 through December 31, 2015 by the deadline of February 1, 2016.
20 The Commission imposed a penalty of \$2,000 for this violation. The Committee raised \$12,995 and spent
21 \$14,998 with respect to the 2015 election. Ford Greene was an incumbent and was successful in the 2015
22 election.

23 Similar to the comparable case, this matter involves the semiannual campaign statement due
24 immediately after the election owed by an incumbent candidate. In contrast, Cruz was unsuccessful in the
25 election and the total activity of the Committee was half compared to the comparable case. However, Cruz,
26 the Committee and Martinez have paid penalties in prior Enforcement matters for late-filed campaign
27 statements.

1 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases, a
2 penalty of \$2,000 is recommended.

3 CONCLUSION

4 Complainant, the Enforcement Division of the Fair Political Practices Commission, and Friends of
5 Maricela Cruz for Trustee 2018, Maricela Cruz, and Daisy S. Martinez hereby agree as follows:

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

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

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

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

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

26 6. If the Commission declines to approve this stipulation—then this stipulation shall become
27 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
28 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to

1 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before
2 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
3 shall be disqualified because of prior consideration of this Stipulation.

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

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8 Dated: _____

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

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11 Dated: _____

Maricela Cruz, individually and on behalf of Friends of
Maricela Cruz for Trustee 2018

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14 Dated: _____

Daisy S. Martinez, individually and on behalf of Friends of
Maricela Cruz for Trustee 2018

1 The foregoing stipulation of the parties “Friends of Maricela Cruz for Trustee 2018, Maricela
2 Cruz, And Daisy S. Martinez,” FPPC Case No. 19/764 is hereby accepted as the final decision and order
3 of the Fair Political Practices Commission, effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: _____

_____ Richard C. Miadich, Chair
Fair Political Practices Commission