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8
9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

10 STATE OF CALIFORNIA

11 In the Matter of) FPPC No.: 17/193
12)
13 FRIENDS OF JOE AGUIRRE FOR DELANO)
14 CITY COUNCIL 2014 and JOE AGUIRRE,)
15 Respondents.) (Government Code Sections 11506
16) and 11520)

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, hereby
18 submits this Default Decision and Order for consideration by the Fair Political Practices Commission at
19 its next regularly scheduled meeting.

20 Pursuant to the California Administrative Procedure Act,¹ Friends of Joe Aguirre for Delano City
21 Council 2014 (the “Committee”) and Joe Aguirre (“Aguirre”) have been served with all of the documents
22 necessary to conduct an administrative hearing regarding the above-captioned matter, including the
23 following:

- 24 1. An Order Finding Probable Cause;
25 2. An Accusation;
26 3. A Notice of Defense (Two Copies per Respondent);
27

28 ¹ The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code.

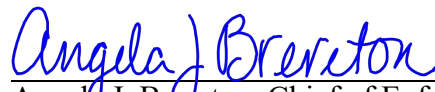
1 4. A Statement to Respondent; and

2 5. Copies of Sections 11506, 11507.5, 11507.6 and 11507.7 of the Government Code.

3 Government Code Section 11506 provides that failure of a respondent to file a Notice of Defense
4 within fifteen days after being served with an Accusation shall constitute a waiver of respondent's right
5 to a hearing on the merits of the Accusation. The Statement to Respondent, served on the Committee and
6 Aguirre, stated that a Notice of Defense must be filed in order to request a hearing. The Committee and
7 Aguirre failed to file a Notice of Defense within fifteen days of being served with an Accusation.
8 Government Code Section 11520 provides that, if the respondent fails to file a Notice of Defense, the
9 Commission may take action, by way of a default, based upon the respondent's express admissions or
10 upon other evidence, and that affidavits may be used as evidence without any notice to the respondent.

11 The Committee and Aguirre violated the Political Reform Act as described in Exhibit 1, which is
12 attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and
13 accurate summary of the law and evidence in this matter. This Default Decision and Order is submitted
14 to the Commission to obtain a final disposition of this matter.

15
16 Dated: 01/26/2022



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

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20 **ORDER**

21 The Commission issues this Default Decision and Order and imposes a total administrative
22 penalty of \$36,000 upon Friends of Joe Aguirre for Delano City Council 2014 and Joe Aguirre, payable
23 to the "General Fund of the State of California."

24 IT IS SO ORDERED, effective upon execution below by the Chair of the Fair Political Practices
25 Commission at Sacramento, California.

26
27 Dated: _____

Richard C. Miadich, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Joe Aguirre (“Aguirre”) was elected to the Delano City Council in 2010 but was unsuccessful in his re-election bid during the November 4, 2014 General Election. Aguirre was again elected to the Delano City Council in the November 8, 2016 General Election. His term expired in 2020 and he was unsuccessful in his re-election bid during the November 3, 2020 General Election. Respondent Friends of Joe Aguirre for Delano City Council 2014 (the “Committee”) was Aguirre’s candidate-controlled committee. Aguirre serves as the Committee’s treasurer.

The Political Reform Act (“Act”)¹ requires candidate-controlled committees to timely file campaign statements and reports to disclose their contributions received and expenditures made.

This case was opened in response to referrals submitted by the City Clerk of Delano regarding the Committee’s failure to timely file campaign statements and by the Secretary of State regarding the Committee’s failure to timely pay \$50 annual fees.

As a controlled committee, its candidate, and its treasurer, the Committee and Aguirre failed to timely file four pre-election campaign statements and eight semi-annual campaign statements for the reporting periods of July 1, 2014 through June 30, 2018.

DEFAULT PROCEEDINGS UNDER THE ADMINISTRATIVE PROCEDURE ACT

When the Commission determines that there is probable cause for believing that the Act has been violated, it may hold a hearing to determine if a violation has occurred.² Notice of the hearing, and the hearing itself, must be conducted in accordance with the Administrative Procedure Act (the “APA”).³ A hearing to determine whether the Act has been violated is initiated by the filing of an accusation, which shall be a concise written statement of the charges, specifying the statutes and rules which the respondent is alleged to have violated.⁴

Included among the rights afforded a respondent under the APA, is the right to file the Notice of Defense with the Commission within 15 days after service of the accusation, by which the respondent may (1) request a hearing; (2) object to the accusation on the ground it does not state acts or omissions upon which the agency may proceed; (3) object to the form of the accusation

¹ The Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission (“Commission”) are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Section 83116.

³ The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code; Section 83116.

⁴ Section 11503.

on the ground that it is so indefinite or certain that the respondent cannot identify the transaction or prepare a defense; (4) admit the accusation in whole or in part; (5) present new matter by way of a defense; or (6) object to the accusation on the ground that, under the circumstances, compliance with a Commission regulation would result in a material violation of another department's regulation affecting substantive rights.⁵

The APA provides that a respondent's failure to file a Notice of Defense within 15 days after service of an accusation constitutes a waiver of the respondent's right to a hearing.⁶ Moreover, when a respondent fails to file a Notice of Defense, the Commission may take action based on the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to the respondent.⁷

PROCEDURAL REQUIREMENTS AND HISTORY

A. Initiation of the Administrative Action

The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated the Act starts the administrative action.⁸

A finding of probable cause may not be made by the Commission unless the person alleged to have violated the Act is 1) notified of the violation by service of process or registered mail with return receipt requested; 2) provided with a summary of the evidence; and 3) informed of his or her right to be present in person and represented by counsel at any proceeding of the Commission held for the purpose of considering whether probable cause exists for believing the person violated the Act.⁹ Additionally, the required notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office.¹⁰

No administrative action pursuant to Chapter 3 of the Act alleging a violation of any of the provisions of the Act may be commenced more than five years after the date on which the violation occurred.¹¹

Documents supporting the procedural history are included in the attached Certification of Records ("Certification") filed herewith at Exhibit 1, A-1 through A-12, and incorporated herein by reference.

⁵ Section 11506, subd. (a)(1)–(6).

⁶ Section 11506, subd. (c).

⁷ Section 11520, subd. (a).

⁸ Section 91000.5, subd. (a).

⁹ Section 83115.5.

¹⁰ Section 83115.5.

¹¹ Section 91000.5.

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against the Committee and Aguirre in this matter by serving them with a Report in Support of a Finding of Probable Cause (the “Report”). (Certification, Exhibit A-1.) The Committee and Aguirre were served with the Report by certified mail, return receipt requested,¹² on or around September 11, 2018. (Certification, Exhibit A-2.) The administrative action commenced on September 11, 2018, and the five-year statute of limitations was effectively tolled on this date.

As required by Section 83115.5, the packet served on the Committee and Aguirre contained a cover letter and a memorandum describing probable cause proceedings, advising that the Committee and Aguirre had 21 days in which to request a probable cause conference, file a written response to the Report, or both. (Certification, Exhibit A-3.) The Committee and Aguirre did not request a probable cause conference or submit a written response to the Report within the statutory period, which ended on October 2, 2018.

B. Ex Parte Request for a Finding of Probable Cause

Because the Committee and Aguirre failed to request a probable cause conference or submit a written response to the Report by the statutory deadline, the Enforcement Division submitted an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served to the Hearing Officer of the Commission on October 30, 2018. (Certification, Exhibit A-4.)

On October 31, 2018, the Hearing Officer, John Feser, Jr., Legal Division, issued a Finding of Probable Cause and an Order to Prepare and Serve an Accusation on the Committee and Aguirre. (Certification, Exhibit A-5.)

C. The Issuance and Service of the Accusation

Under the Act, if the Hearing Officer makes a finding of probable cause, the Enforcement Division must prepare an accusation pursuant to Section 11503 of the APA, and have it served on the persons who are the subject of the probable cause finding.¹³

Section 11503 states:

A hearing to determine whether a right, authority, license, or privilege should be revoked, suspended, limited, or conditioned shall be initiated by filing an accusation or District Statement of Reduction in Force. The accusation or District Statement of Reduction in Force shall be a written statement of charges that shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his or her defense. It shall specify the statutes and rules that the respondent is alleged to

¹² Section 83115.5.

¹³ Regulation 18361.4, subd. (e).

have violated, but shall not consist merely of charges phrased in the language of those statutes and rules. The accusation or District Statement of Reduction in Force shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

Upon the filing of the accusation, the agency must 1) serve a copy thereof on the respondent as provided in Section 11505, subdivision (c); 2) include a post card or other form entitled Notice of Defense that, when signed by or on behalf of the respondent and returned to the agency, will acknowledge service of the accusation and constitute a notice of defense under Section 11506; 3) include (i) a statement that respondent may request a hearing by filing a notice of defense as provided in Section 11506 within 15 days after service upon the respondent of the accusation, and that failure to do so will constitute a waiver of the respondent's right to a hearing, and (ii) copies of Sections 11507.5, 11507.6, and 11507.7.¹⁴ The APA also sets forth the language required in the accompanying statement to the respondent.¹⁵

The Accusation and accompanying information may be sent to the respondent by any means selected by the agency, but no order adversely affecting the rights of the respondent may be made by the agency in any case unless the respondent has been served personally or by registered mail as set forth in the APA.¹⁶

On April 25, 2019, the Commission's Chief of Enforcement, Galena West, issued an Accusation against the Committee and Aguirre. (Certification, Exhibit A-6.) In accordance with Section 11505, the Accusation and accompanying information, consisting of a Statement to Respondent, two copies of a Notice of Defense Form for each respondent, copies of Government Code Sections 11506, 11507.5, 11507.6, and 11507.7, were served upon the Committee and Aguirre by personal service on May 7, 2019. (Certification, Exhibit A-7.)

Along with the Accusation, the Enforcement Division served the Committee and Aguirre with a "Statement to Respondent," which notified them that they could request a hearing on the merits and warned that, unless a Notice of Defense was filed within 15 days of service of the Accusation, they would be deemed to have waived the right to a hearing. (Certification, Exhibit A-8.) The Committee and Aguirre did not file a Notice of Defense within the statutory time period, which ended on May 22, 2019.

As a result, on March 9, 2021, the Enforcement Division sent a letter to the Committee and Aguirre advising that this matter would be submitted for a pre-noticed Default Decision and Order at the Commission's public meeting scheduled for April 15, 2021. (Certification, Exhibit A-11.)

The Committee and Aguirre, through their attorney, Brandon Martin, contacted the Enforcement Division regarding settlement. On or around April 29, 2021, the Committee and

¹⁴ Section 11505, subd. (a).

¹⁵ Section 11505, subd. (b).

¹⁶ Section 11505, subd. (c).

Aguirre filed the outstanding disclosure statements. However, further settlement negotiations were unsuccessful.

The Enforcement Division sent a letter to the Committee and Aguirre, advising that this matter would again be submitted for a pre-noticed Default Decision and Order at the Commission's public meeting scheduled for December 16, 2021. (Certification, Exhibit A-12.)

On January 25, 2022, the Enforcement Division sent another letter to the Committee and Aguirre advising that this matter would be submitted for a Default Decision and Order at the Commission's public meeting scheduled for March 17, 2022 (Certification, Exhibit A-12.) A copy of the Default Decision and Order, and this accompanying Exhibit 1 with attachments, was included with the letter.

SUMMARY OF THE LAW

The Act and its regulations are amended from time to time. The violations in this case occurred in 2014 through 2018. For this reason, all legal references and discussions of law pertain to the Act's provisions as they existed at that time.

An express purpose of the Act is to ensure voters are fully informed and improper practices are inhibited by requiring all candidates, as well as the committees controlled by them, to disclose all contributions received and expenditures made throughout a campaign.¹⁷ In furtherance of this purpose, the Act requires candidate-controlled committees to file campaign statements at specific times disclosing information regarding contributions received and expenditures made.¹⁸

A candidate-controlled committee must file semi-annual campaign statements each year no later than July 31 for the reporting period ending on June 30, and no later than January 31 of the following year for the reporting period ending December 31.¹⁹ Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a statement shall be extended to the next regular business day.²⁰

In addition to semi-annual campaign statements, a candidate-controlled committee must file two pre-election campaign statements before an election in which the candidate is listed on the ballot.²¹ For the November 4, 2014 election, a committee was required to file the first pre-election campaign statement for the period ending September 30 no later than October 5.²² For the period ending 17 days before the election, a committee was required to file the second pre-election campaign statement no later than 12 days before the election.²³ For the November 8, 2016 election,

¹⁷ Section 81002, subd. (a).

¹⁸ Sections 84200 through 84225.

¹⁹ Section 84200, subd. (a).

²⁰ Regulation 18116, subd. (a).

²¹ Section 84200.5.

²² Former Section 84200.7, subd. (b) (2014).

²³ Id.

a committee was required to file the first pre-election campaign statement for the period ending 45 days before the election (September 24, 2016) no later than 40 days before the election (September 29, 2016).²⁴ For the period ending 17 days before the election (October 22, 2016), a committee was required to file the second pre-election campaign statement no later than 12 days before the election (October 27, 2016).²⁵

SUMMARY OF THE EVIDENCE

Aguirre was elected to the Delano City Council in 2010 but was unsuccessful in his re-election bid during the November 4, 2014 General Election. The Committee was Aguirre's candidate-controlled committee for the 2014 election. Aguirre was again a successful candidate for the Delano City Council in the November 8, 2016 General Election, and his term expired in 2020.

The Committee filed an initial statement of organization with the Secretary of State on July 30, 2014 and indicated that it had qualified as a recipient committee on July 18, 2014. (Certification, Exhibit A-9.) On August 18, 2014, the Committee filed a 24-hour contribution report (Form 497) to report receiving a contribution from the committee Rudy Salas for Assembly 2014 in the amount of \$5,000. (Certification, Exhibit A-10.)

Aguirre was listed on the November 4, 2014 General Election ballot. Therefore, Aguirre and the Committee were required to file the first pre-election campaign statement for the reporting period of July 1, 2014 through September 30, 2014 by the deadline of October 6, 2014. According to records of the filing officer, the City of Delano, this statement was not filed.

The Committee and Aguirre were also required to file the second pre-election campaign statement for the reporting period of October 1, 2014 through October 18, 2014 by the deadline of October 23, 2014. According to the records of the City of Delano, this statement was not filed.

Since the Committee was not terminated after the 2014 election, the Committee and Aguirre were required to continue to report the activity of the Committee. The Committee and Aguirre were required to file semi-annual campaign statements for the reporting periods of October 19, 2014 through December 31, 2014 by the deadline of February 2, 2015; January 1, 2015 through June 30, 2015 by the deadline of July 31, 2015; July 1, 2015 through December 31, 2015 by the deadline of February 1, 2016; and January 1, 2016 through June 30, 2016 by the deadline of August 1, 2016. According to the records of the City of Delano, these statements were not filed.

Aguirre was listed on the November 8, 2016 General Election ballot. Therefore, Aguirre and the Committee were required to file the first pre-election campaign statement for the reporting

²⁴ Section 84200.8, subd. (a).

²⁵ Section 84200.8, subd. (b).

period of July 1, 2016 through September 24, 2016 by the deadline of September 29, 2016. According to the records of the City of Delano, this statement was not filed.

The Committee and Aguirre were also required to file the second pre-election campaign statement for the reporting period of September 25, 2016 through October 22, 2016 by the deadline of October 27, 2016. According to the records of the City of Delano, this statement was not filed. As a result, the Committee and Aguirre failed to disclose any campaign activity before the 2016 election.

Since the Committee was not terminated after the 2016 election, the Committee and Aguirre were required to continue to report the activity of the Committee. The Committee and Aguirre were required to file semi-annual campaign statements for the reporting periods of October 23, 2016 through December 31, 2016 by the deadline of January 31, 2017; January 1, 2017 through June 30, 2017 by the deadline of July 31, 2017, July 1, 2017 through December 31, 2017 by the deadline of January 31, 2018; and January 1, 2018 through June 30, 2018 by the deadline of July 31, 2018. According to the records of the City of Delano, these statements were not filed.

The Enforcement Division has contacted Aguirre and his counsel several times since December 2017. To date, the Committee and Aguirre have failed to file the outstanding pre-election and semi-annual campaign statements for the reporting periods of July 1, 2014 through June 30, 2018.

Aguirre was unsuccessful in his re-election bid during the November 3, 2020 General Election. Aguirre and the Committee filed two pre-election campaign statements before the 2020 election; however, Aguirre and the Committee failed to file an amended statement of organization to redesignate the Committee for the 2020 election.

Summary of Contacts

Overall, the Committee, Aguirre, and Aguirre's counsel were contacted at least thirty-three times regarding the outstanding campaign statements and the Committee's activity, as follows:

- December 11, 2017: email from the Enforcement Division
- April 25, 2018: letter from the Enforcement Division
- May 30, 2018: letter from the Enforcement Division
- June 27, 2018: voicemail from the Enforcement Division
- August 8, 2018: email from the Enforcement Division
- August 9, 2018: email and phone call from the Enforcement Division
- September 11, 2018: Report in Support of a Finding of Probable Cause served on the Committee and Aguirre
- November 1, 2018: copy of Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served mailed to the Committee and Aguirre
- November 29, 2018: email from the Enforcement Division
- May 7, 2019: Accusation served upon the Committee and Aguirre

- July 29, 2019: email from the Enforcement Division
- August 14, 2019: email from the Enforcement Division
- September 9, 2019: email from the Enforcement Division
- September 12, 2019: voicemail from the Enforcement Division
- September 12, 2019: the Enforcement Division contacted the City Manager of Delano requesting assistance in contacting Aguirre. The same day, the City Manager responded and indicated she would pass on the message at the next City Council meeting. Aguirre did not respond.
- December 23, 2019: email from the Enforcement Division
- January 6, 2020: email from the Enforcement Division
- January 24, 2020: email from the Enforcement Division
- January 31, 2020: the Enforcement Division contacted the City Attorney of Delano requesting assistance in contacting Aguirre. On February 3 and Feb 19, 2020, the City Attorney responded that she had attempted to contact Aguirre by phone, text message, and in person. Aguirre did not respond.
- August 5, 2020: email from the Enforcement Division
- August 17, 2020: email from the Enforcement Division to Aguirre's counsel
- August 18, 2020: email from the Enforcement Division to Aguirre's counsel
- August 31, 2020: email from the Enforcement Division to Aguirre's counsel
- September 3, 2020: email from the Enforcement Division to Aguirre's counsel
- September 14, 2020: email from the Enforcement Division to Aguirre's counsel
- September 21, 2020: email from the Enforcement Division to Aguirre's counsel
- September 25, 2020: email from the Enforcement Division to Aguirre's counsel
- October 1, 2020: emails from the Enforcement Division to Aguirre's counsel
- October 5, 2020: email from the Enforcement Division to Aguirre's counsel
- October 6, 2020: emails from the Enforcement Division to Aguirre's counsel
- November 2, 2020: email from the Enforcement Division to Aguirre's counsel
- November 18, 2020: emails from the Enforcement Division to Aguirre's counsel
- March 9, 2021: letter regarding pre-notice of default from Enforcement Division to Aguirre's counsel and copy by email
- March 11, 2021: email from Aguirre's counsel
- April 5, 2021: email from the Enforcement Division to Aguirre's counsel and response
- April 29, 2021: email from Aguirre's counsel
- July 23, 2021: email from Aguirre's counsel
- August 16, 2021: email from the Enforcement Division to Aguirre's counsel and response
- August 17, 2021: email from the Enforcement Division to Aguirre's counsel
- August 23, 2021: email from the Enforcement Division to Aguirre's counsel and response from counsel and from Aguirre
- September 9, 2021: email from the Enforcement Division to Aguirre's counsel and response
- September 17, 2021: email from the Enforcement Division to Aguirre's counsel and response

- September 20, 2021: email from the Enforcement Division to Aguirre’s counsel and response
- September 22, 2021: email from the Enforcement Division to Aguirre’s counsel and telephone call response from counsel
- November 10, 2021: letter regarding prenotice of default judgment from Enforcement Division to Aguirre’s counsel
- January 25, 2021: letter regarding notice of intent to enter default judgment from Enforcement Division to Aguirre’s counsel

VIOLATIONS

The Committee and Aguirre committed eight violations of the Act, as follows:

COUNT 1

Failure to Timely File a Pre-Election Campaign Statement

The Committee and Aguirre had a duty to timely file a pre-election campaign statement for the reporting period of July 1, 2014 through September 30, 2014, due on October 6, 2014. By failing to timely file this statement, the Committee and Aguirre violated Government Code Sections 84200.5 and 84200.7.

COUNT 2

Failure to Timely File a Pre-Election Campaign Statement

The Committee and Aguirre had a duty to timely file a pre-election campaign statement for the reporting period of October 1, 2014 through October 18, 2014, due on October 23, 2014. By failing to timely file this statement, the Committee and Aguirre violated Government Code Sections 84200.5 and 84200.7.

COUNT 3

Failure to Timely File Semi-Annual Campaign Statements

The Committee and Aguirre had a duty to timely file semi-annual campaign statements for the reporting periods of October 19, 2014 through December 31, 2014, due on February 2, 2015 and for January 1, 2015 through June 30, 2015, due on July 31, 2015. By failing to timely file these statements, the Committee and Aguirre violated Government Code Section 84200.

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COUNT 4

Failure to Timely File Semi-Annual Campaign Statements

The Committee and Aguirre had a duty to timely file semi-annual campaign statements for the reporting periods of July 1, 2015 through December 31, 2015, due on February 1, 2016 and for January 1, 2016 through June 30, 2016, due on August 1, 2016. By failing to timely file these statements, the Committee and Aguirre violated Government Code Section 84200.

COUNT 5

Failure to Timely File a Pre-Election Campaign Statement

The Committee and Aguirre had a duty to timely file a pre-election campaign statement for the reporting period of July 1, 2016 through September 24, 2016, due on September 29, 2016. By failing to timely file this statement, the Committee and Aguirre violated Government Code Sections 84200.5 and 84200.8.

COUNT 6

Failure to Timely File a Pre-Election Campaign Statement

The Committee and Aguirre had a duty to timely file a pre-election campaign statement for the reporting period of September 25, 2016 through October 22, 2016, due on October 27, 2016. By failing to timely file this statement, the Committee and Aguirre violated Government Code Sections 84200.5 and 84200.8.

COUNT 7

Failure to Timely File Semi-Annual Campaign Statements

The Committee and Aguirre had a duty to timely file semi-annual campaign statements for the reporting periods of October 23, 2016 through December 31, 2016, due on January 31, 2017 and for January 1, 2017 through June 30, 2017, due on July 31, 2017. By failing to timely file these statements, the Committee and Aguirre violated Government Code Section 84200.

COUNT 8

Failure to Timely File Semi-Annual Campaign Statements

The Committee and Aguirre had a duty to timely file semi-annual campaign statements for the reporting periods of July 1, 2017 through December 31, 2017, due on January 31, 2018 and for January 1, 2018 through June 30, 2018, due on July 31, 2018. By failing to timely file these statements, the Committee and Aguirre violated Government Code Section 84200.

CONCLUSION

This matter consists of eight counts of violating the Act, which carry a maximum total administrative penalty of \$40,000.²⁶

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

The Enforcement Division also takes into consideration previous cases that were approved by the Commission in determining penalties. In this matter, the following case was used as a comparable case:

- *In the Matter of Gil Navarro Legal Defense Fund, Navarro for 47th Assembly 2014, and Gilbert "Gil" Navarro*, FPPC No. 16/137. (The Commission approved a default decision on April 19, 2018.) The Respondents failed to timely file two pre-election and six semi-annual campaign statements. Navarro was an experienced filer and officeholder who failed to provide any disclosure before the general election. The Commission imposed a penalty of \$5,000 per count for failure to timely file pre-election campaign statements and a penalty of \$4,000 per count for failure to timely file semi-annual campaign statements.

In this matter, the Committee and Aguirre failed to timely file four pre-election campaign statements and eight semi-annual campaign statements. The failure to comply with campaign filing obligations resulted in a lack of information for the voting public regarding the Committee's and Aguirre's campaign activity before the November 4, 2014 General Election and November 8, 2016 General Election. Before the 2014 election, the Committee and Aguirre only filed a 24-hour contribution report and disclosed receiving a contribution in the amount of \$5,000. Before the 2016 election, the Committee and Aguirre failed to provide any disclosure. Aguirre failed to file statements while he was in office.

²⁶ Section 83116, subdivision (c).

Aguirre is an experienced candidate and filer, having served on the Delano City Council from 2010 to 2014 and from 2016 to 2020. Aguirre and the Committee were contacted multiple times after the 2016 election by the Delano City Clerk, the Delano City Attorney, and the Enforcement Division regarding filing past-due statements.

In mitigation, Aguirre and the Committee filed two pre-election campaign statements before the November 3, 2020 General Election.

The violations in this case appear to have been negligent, as there is no evidence of an intent to conceal campaign activity. Aguirre and the Committee do not have prior enforcement history. There is no evidence that Aguirre sought or received advice from the Commission or from any other government official prior to the violations. Aguirre was unsuccessful in the November 4, 2014 General Election and the November 3, 2020 General Election and is therefore no longer in office. Aguirre and the Committee have filed outstanding campaign statements to the best of their ability in 2021. Based on the campaign statements filed and on evidence gathered as part of the investigation, the Enforcement Division believes that the violations described herein would qualify for the streamline settlement program, indicating that there was low public harm associated overall.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5 and the penalties imposed in prior cases, the following penalties are proposed:

Counts	Violations	Proposed Penalty per Count
1-2	Failure to Timely File a Pre-Election Campaign Statement	\$5,000
3-4	Failure to Timely File Semi-Annual Campaign Statements	\$4,000
5-6	Failure to Timely File a Pre-Election Campaign Statement	\$5,000
7-8	Failure to Timely File Semi-Annual Campaign Statements	\$4,000
	Total:	\$36,000

Exhibit A-1

1 GALENA WEST
Chief of Enforcement
2 THERESA GILBERTSON
Commission Counsel
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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

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10 In the Matter of

) FPPC No. 17/193

) **REPORT IN SUPPORT OF A FINDING OF
12) PROBABLE CAUSE**

13 FRIENDS OF JOE AGUIRRE FOR
DELANO CITY COUNCIL 2014 and
14 JOE AGUIRRE,

) Conference Date: TBA

) Conference Time: TBA

) Conference Location: Commission Offices
1102 Q Street, Suite 3000
15 Sacramento, CA 95811

16 Respondents.
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18

19 **INTRODUCTION**

20 Respondent Joe Aguirre (“Aguirre”) was elected to the Delano City Council in 2010. He was
21 unsuccessful in his re-election bid during the November 4, 2014 General Election but was successful in
22 the November 8, 2016 General Election. He currently serves as a Council Member. Respondent Friends
23 of Joe Aguirre for Delano City Council 2014 (“Committee”)¹, was the candidate controlled committee
24 established to support Aguirre’s run for re-election to the Delano City Council in 2014. Aguirre served
25 as treasurer for the Committee.

26 ¹ For clarity, due to other committees with a similar name, this committee name is in reference to: ID#: 1368843.
27

1 The Political Reform Act (the "Act")² requires controlled committees to file two semi-annual
2 campaign statements each year by July 31 and by January 31. The Act also requires candidate controlled
3 committees to file pre-election statements when the candidate is listed on the ballot. The Respondents
4 violated the Act by failing to timely file campaign statements over the course of two elections

5 SUMMARY OF THE LAW

6 All legal references and discussions of law pertain to the Act's provisions as they existed at the
7 time of the violation.

8 Jurisdiction

9 The Fair Political Practices Commission (the "Commission") has administrative jurisdiction to
10 enforce the provisions of the Act.³

11 Probable Cause Proceedings

12 Prior to the Enforcement Division commencing an administrative action, the General Counsel of
13 the Commission or her designee (the "hearing officer"), must make a finding that there is probable cause
14 to believe the respondent has violated the Act.⁴ After a finding of probable cause, the Commission may
15 hold a noticed hearing in accordance with the Administrative Procedure Act⁵ to determine whether
16 violations occurred, and levy an administrative penalty of up to \$5,000 for each violation.⁶

17 Standard for Finding Probable Cause

18 To make a finding of probable cause, the hearing officer must be presented with sufficient
19 evidence to lead a person of ordinary caution and prudence to believe, or entertain a strong suspicion,
20 that a respondent committed or caused a violation.⁷

23 ² The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
24 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.

25 ³ Section 83116.

26 ⁴ Section 83115.5 and Regulations 18361 and 18361.4.

27 ⁵ Section 11500, et seq.

28 ⁶ Section 83116 and Regulation 18361.4, subd. (e).

⁷ Section 18361.4, subd. (e).

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

2 When enacting the Political Reform Act, the people of the state of California found and declared
3 previous laws regulating political practices suffered from inadequate enforcement by state and local
4 authorities.⁸ To that end, the Act must be liberally construed to achieve its purposes.⁹

5 A central purpose of the Act is to ensure voters are fully informed and improper practices are
6 inhibited by requiring committees to disclose all contributions and expenditures made throughout a
7 campaign.¹⁰ Another is to provide adequate enforcement mechanisms so that the Act will be “vigorously
8 enforced.”¹¹

9 Semi-Annual Campaign Statements

10 A controlled committee must file two semi-annual campaign statements each year no later than
11 July 31 for the period ending June 30 and no later than January 31 for the period ending December 31.¹²
12 Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a
13 statement shall be extended to the next regular business day.¹³

14 Pre-Election Campaign Statements

15 A controlled committee must file two pre-election campaign statements before the election in
16 which the candidate is listed on the ballot.¹⁴ For the 2014 election, a committee was required to file a first
17 pre-election campaign statement for the period ending September 30 no later than October 5.¹⁵ A
18 committee was also required to file a second pre-election campaign statement for the period ending 17
19 days before the election no later than 12 days before the election.¹⁶ For the 2016 election, the first pre-
20 election statement must cover the period ending 45 days before the election and must be filed no later
21

22 ⁸ Section 81001, subd. (h).

23 ⁹ Section 81003.

24 ¹⁰ Section 81002, subd. (a)

25 ¹¹ Section 81002, subd. (f).

26 ¹² Section 84200, subd. (a).

27 ¹³ Regulation 18116, subd. (a).

28 ¹⁴ Section 84200.5.

¹⁵ Former Section 84200.7, subd. (b) (2014).

¹⁶ Id.

1 than 40 days before the election.¹⁷ The second pre-election statement must cover the period ending 17
2 days before the election and must be filed no later than 12 days before the election.¹⁸ Whenever the
3 deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a statement shall be
4 extended to the next regular business day.¹⁹

5 Candidate and Treasurer Liability

6 Under the Act, it is the duty of the candidate and the treasurer of a controlled committee to ensure
7 that the committee complies with all the requirements of the Act concerning the receipt, expenditure,
8 and reporting of funds.²⁰ The candidate and treasurer may be held jointly and severally liable, along with
9 the committee, for violations committed by the committee.²¹

10 **SUMMARY OF THE EVIDENCE**

11 The Committee filed an initial statement of organization with the Secretary of State (“SOS”) on
12 July 30, 2014 and indicated it qualified as of July 18, 2014. The Committee was established to re-elect
13 Aguirre to the Delano City Council. On August 18, 2014 the Committee filed a Form 497 to report a
14 \$5,000 contribution from Rudy Salas for Assembly 2014. The Committee has not filed any other
15 campaign statements and has not terminated. Aguirre was unsuccessful in his 2014 re-election, but was
16 successful in the November 8, 2016 election. His current term expires in 2020.

17 Because Aguirre was a candidate on the ballot for the November 4, 2014 General Election, the
18 Committee was required to file pre-election statements. The Committee and Aguirre failed to timely file
19 the first pre-election statement for the period of July 1, 2014 through September 30, 2014, due on
20 October 6, 2014, and the second pre-election statement for the period of October 1, 2014 through
21 October 18, 2014, due on October 23, 2014. Respondents failed to file the semiannual statement for the
22 period October 19, 2014 through December 31, 2014 due on February 2, 2015.

23
24 ¹⁷ Section 84200.8, subd. (a).

25 ¹⁸ Section 84200.8, subd. (b).

26 ¹⁹ Regulation 18116, subd. (a).

27 ²⁰ Sections 81004, 84100, 84213, and Regulation 18427.

28 ²¹ Sections 83116.5 and 91006.

1 The Committee remained open and therefore was required to continue filing semiannual
2 statements. Aguirre was a candidate on the ballot for the November 8, 2016 General Election, therefore,
3 the Committee was also required to file pre-election statements before that election. The Committee and
4 Aguirre failed to timely file the first pre-election statement for the period of July 1, 2016 through
5 September 24, 2016, due on September 29, 2016, and the second pre-election statement for the period
6 of September 25, 2016 through October 22, 2016, due October 27, 2016. The Committee continues to
7 be open, but no statements have been filed.

8 The Enforcement Division has attempted to contact the Committee and Aguirre by mail and by
9 phone on April 25, 2018, May 30, 2018 and August 2, 2018. The Committee and Aguirre have not
10 responded. The past due campaign statements have not been filed and the Committee has not been
11 terminated.

12 VIOLATIONS

13 Count 1: Failure to Timely File a Pre-Election Campaign Statement

14 The Committee and Aguirre failed to timely file the pre-election statement for the period of July
15 1, 2014 through September 30, 2014, due October 6, 2014, in violation of Sections 84200.5 and 84200.7.

16 Count 2: Failure to Timely File a Pre-Election Campaign Statement

17 The Committee and Aguirre failed to timely file the pre-election statement for the period of
18 October 1, 2014 through October 18, 2014, due October 23, 2014, in violation of Sections 84200.5 and
19 84200.7.

20 Count 3: Failure to Timely File a Semi-Annual Campaign Statement

21 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
22 period of October 19, 2014 through December 31, 2014, due February 2, 2015, in violation of Section
23 84200.

24 Count 4: Failure to Timely File a Semi-Annual Campaign Statement

25 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
26 period of January 1, 2015 through June 30, 2015, due July 31, 2015, in violation of Section 84200.

1 Count 5: Failure to Timely File a Semi-Annual Campaign Statement

2 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
3 period of July 1, 2015 through December 31, 2015, due February 1, 2016, in violation of Section 84200.

4 Count 6: Failure to Timely File a Semi-Annual Campaign Statement

5 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
6 period of January 1, 2016 through June 30, 2016, due August 1, 2016, in violation of Section 84200.

7 Count 7: Failure to Timely File a Pre-Election Campaign Statement

8 The Committee and Aguirre failed to timely file the pre-election statement for the period of July
9 1, 2016 through September 24, 2016, due September 29, 2016, in violation of Sections 84200.5 and
10 84200.8.

11 Count 8: Failure to Timely File a Pre-Election Campaign Statement

12 The Committee and Aguirre failed to timely file the pre-election statement for the period of
13 September 25, 2016 through October 22, 2016, due October 27, 2016, in violation of Sections 84200.5
14 and 84200.8.

15 Count 9: Failure to Timely File a Semi-Annual Campaign Statement

16 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
17 period of October 23, 2016 through December 31, 2016, due January 31, 2017, in violation of Section
18 84200.

19 Count 10: Failure to Timely File a Semi-Annual Campaign Statement

20 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
21 period of January 1, 2017 through June 30, 2017, due July 31, 2017, in violation of Section 84200.

22 Count 11: Failure to Timely File a Semi-Annual Campaign Statement

23 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
24 period of July 1, 2017 through December 31, 2017, due January 31, 2018, in violation of Section 84200.

25
26 //

1 Count 12: Failure to Timely File a Semi-Annual Campaign Statement

2 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
3 period of January 1, 2018 through June 30, 2018, due July 31, 2018, in violation of Section 84200.

4 **EXCULPATORY OR MITIGATING INFORMATION**

5 Aguirre was unsuccessful in the November 4, 2014 General Election.

6 **OTHER RELEVANT MATERIAL**

7 Aguirre is currently in office and his term expires in 2020.

8 **CONCLUSION**

9 Probable cause exists to believe that the Committee and Aguirre violated the Act as described
10 above. The Enforcement Division respectfully requests an order finding probable cause pursuant to
11 Section 83115.5 and Regulation 18361.4.

12
13 Dated: 9/6/18

Respectfully Submitted,

14 **FAIR POLITICAL PRACTICES COMMISSION**

15 Galena West
16 Enforcement Chief

17 

18 By: THERESA GILBERTSON
19 Commission Counsel
20 Enforcement Division

Exhibit A-2

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811.

On 9/6/18, I served the following document(s):

1. Letter dated 9/6/18, from Theresa Gilbertson;
2. FPPC No. 17/193 Report in Support of a Finding of Probable Cause;
3. Probable Cause Fact Sheet;
4. Selected Sections of the California Government Code regarding Probable Cause Proceedings for the Fair Political Practices Commission; and
5. Selected Regulations of the Fair Political Practices Commission regarding Probable Cause Proceedings.

By Personal Delivery. I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By United States Postal Service. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the addresses listed below and placed the envelope or package for collection and mailing by certified mail, return receipt requested, following my company's ordinary business practices. I am readily familiar with this business' practice for collection and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

SERVICE LIST

Certified Mail, Return Receipt Requested


Joe Aguirre
P.O. Box 1722
Delano, CA 93216

Joe Aguirre
Director of Facilities Management
Delano Regional Medical Center
1401 Garces Highway
Delano, CA 93215

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on 9/6/18



Theresa Gilbertson

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Joanna Herrera</i></p> <p>C. Date of Delivery </p>
<p>1. Article Addressed to:</p> <p>JOE AGUIRRE DIRECTOR OF FACILITIES MANAGEMENT DELANO REGIONAL MEDICAL CENTER 1401 BARCES HWY, DELANO, CA 93215</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
 9590 9402 3691 7335 8463 84	<p>3. Service Type</p> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Restricted Delivery
<p>2. Article Number (Transfer from service label)</p> 7018 0040 0000 7989 8313	

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Esther V. Aguirre</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Esther V. Aguirre</i></p> <p>C. Date of Delivery </p>
<p>1. Article Addressed to:</p> <p>JOE AGUIRRE P.O. BOX 1722 DELANO, CA 93216</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> 
 9590 9402 3691 7335 8463 91	<p>3. Service Type</p> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Restricted Delivery
<p>2. Article Number (Transfer from service label)</p> 7018 0040 0000 7989 8306	

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt



FAQs > (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

Track Another Package +

Tracking Number: 70180040000079898313

Remove X

Your item was delivered at 10:18 am on September 10, 2018 in DELANO, CA 93215.



September 10, 2018 at 10:18 am
Delivered
DELANO, CA 93215

Feedback

Tracking History



Product Information



See Less ^

Tracking Number: 70180040000079898306

Remove X

Your item was delivered at 4:12 pm on September 11, 2018 in DELANO, CA 93215.



September 11, 2018 at 4:12 pm
Delivered
DELANO, CA 93215

See More 

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

Feedback

The easiest tracking number is the one you don't have to know.

With Informed Delivery[®], you never have to type in another tracking number. Sign up to:

- See images* of incoming mail.
- Automatically track the packages you're expecting.
- Set up email and text alerts so you don't need to enter tracking numbers.
- Enter USPS Delivery Instructions[™] for your mail carrier.

Sign Up

[https://reg.usps.com/entreg/RegistrationAction_input?](https://reg.usps.com/entreg/RegistrationAction_input?app=UspsTools&appURL=https%3A%2F%2Ftools.usps.com%2Fgo)

*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.

Feedback

Exhibit A-3



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION

1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

September 6, 2018

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Joe Aguirre
P.O. Box 1722
Delano, CA 93216

Joe Aguirre
Director of Facilities Management
Delano Regional Medical Center
1401 Garces Highway
Delano, CA 93215

**In the Matter of Friends of Joe Aguirre for Delano City Council 2014 and Joe Aguirre, FPPC
No. 17/193**

Dear Mr. Aguirre:

The Enforcement Division of the Fair Political Practices Commission (the "Commission") is proceeding with an administrative action against you for your failure to comply with the filing and disclosure provisions of the Political Reform Act (the "Act"), as described in our previous discussions. The enclosed Report in Support of a Finding of Probable Cause (the "Report") contains a summary of the alleged violations and the relevant law and evidence.

You have the right to file a written response to the Report. That response may contain any information you think is relevant and that you wish to bring to the attention of the Hearing Officer. In your response, please indicate whether you would like the Hearing Officer to make a determination of probable cause based on the written materials alone (the Report and your response) or request a conference, during which you may orally present your case to the Hearing Officer. Probable cause conferences are held in our office, which is located at 1102 Q Street, Suite 3000, Sacramento, CA 95811. You may appear at the conference in person or by telephone and you are entitled to be represented by counsel. ***If you wish to submit a written response or request a probable cause conference, it must be filed with the Commission Assistant at the address listed above within 21 days from the date of service of this letter.*** You can reach the Commission Assistant at (916) 327-8269.

Please note that probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether there is probable cause to believe that the Act was violated. ***If you are interested in resolving this matter by means of a settlement, please contact me at (916) 323-6421 or tgilbertson@fppc.ca.gov.***

Finally, you have the right to request discovery of the evidence in possession of, and relied upon by, the Enforcement Division. ***This request must also be filed with the Commission Assistant within 21 days from the date of service of this letter.*** Should you request discovery, the Enforcement Division will provide the evidence by service of process or certified mail. From the date you are served with the evidence, you would have an additional 21 days to file a written response to the Report, just as described above.

Should you take no action within 21 days from the date of service of this letter, your rights to respond and to request a conference are automatically waived and the Enforcement Division will independently pursue the issuance of an accusation.

For your convenience, I have enclosed a fact sheet on probable cause proceedings and copies of the most relevant statutes and regulations.

Sincerely,



Theresa Gilbertson
Commission Counsel

Enclosures

PROBABLE CAUSE FACT SHEET

INTRODUCTION

The Fair Political Practices Commission is required by law to determine whether probable cause exists to believe that the Political Reform Act (the "Act") was violated before a public administrative accusation may be issued.

The probable cause proceedings before the Fair Political Practices Commission are unique, and most respondents and their attorneys are unfamiliar with them. Therefore, we have prepared this summary to acquaint you with the process.

THE LAW

Government Code sections 83115.5 and 83116 set forth the basic requirement that a finding of probable cause be made in a "private" proceeding before a public accusation is issued and a public hearing conducted in accordance with the Administrative Procedure Act.

The Commission has promulgated regulations further defining the probable cause procedure and delegating to the General Counsel (the "Hearing Officer" for purposes of these proceedings) the authority to preside over such proceedings and decide probable cause. A copy of these statutes and regulations are attached for your convenience.

In summary, the statutes and regulations entitle you to the following:

- a) A written probable cause report containing a summary of the law alleged to have been violated, and a summary of the evidence, including any exculpatory and mitigating information and any other relevant material and arguments;
- b) The opportunity to request discovery, respond in writing, and to request a probable cause conference within 21 days of service of the probable cause report;
- c) If the Commission met to consider whether a civil lawsuit should be filed in this matter, a copy of any staff memoranda submitted to the Commission and a transcript of staff discussions with the Commission at any such meeting; and
- d) If a timely request was made, a non-public conference with the General Counsel and the Enforcement Division staff to consider whether or not probable cause exists to believe the Act was violated.

THE PROCEDURE

Probable Cause Report

Administrative enforcement proceedings are commenced with the service, by registered or certified mail or in person, of a probable cause report. The report will contain a summary of the law and the evidence, including any exculpatory and mitigating information of which the staff has knowledge and any other relevant material and arguments. It is filed with the Hearing Officer.

Discovery

Within 21 calendar days following the service of the probable cause report, you may request discovery of the evidence in the possession of the Enforcement Division. This is not a right to full discovery of the Enforcement Division file, but to the evidence relied upon by the Division along with any exculpatory or mitigating evidence¹.

This request must be sent by registered or certified mail to the Commission Assistant.

Response to Probable Cause Report

Within 21 calendar days following the service of the probable cause report (or, if you timely requested discovery, within 21 calendar days from the service of the evidence) you may submit a response to the Report. By regulation, the written response may contain, "... a summary of evidence, legal arguments, and any mitigating or exculpatory information." (Cal. Code Regs., tit. 2, § 18361.4, subd. (c).)

You must file your response with the Commission Assistant and provide a copy, by service of process or registered or certified mail with return receipt requested, to all other proposed respondents listed in the probable cause report.

Staff Reply

Within 10 calendar days following the date the response was filed with the Commission Assistant, Commission staff may submit any evidence or argument in rebuttal. You will be served with a copy of any such reply.

Probable Cause Conference

Probable cause conferences are held at the offices of the Fair Political Practices Commission, which is located at 1102 Q Street, Suite 3000, Sacramento, CA 95811. You may appear at the conference in person or by telephone. The proceedings are not public unless all proposed respondents agree to open the conference to the public. Otherwise, the probable cause report, any written responses, and the probable cause conference itself are confidential.

Unless the probable cause conference is public, the only persons who may attend are the staff of the Commission, any proposed respondent and his or her attorney or representative, and, at the discretion of the Hearing Officer, witnesses.

The Hearing Officer may, but need not, permit testimony from witnesses. Probable cause conferences are less formal than court proceedings. The rules of evidence do not apply. The conferences will be recorded and a copy of the recording will be provided upon request.

Since it has the burden of proof, the Enforcement Division is permitted to open and close the conference presentations. The Hearing Officer may also hold the record open to receive additional evidence or arguments.

Probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether or not there is probable cause to believe that the

¹ But see Title 2, California Code of Regulations, Section 18362, which states that the Commission provides access to complaints, responses to complaints, and investigative files and information in accordance with the requirements of the Public Records Act. (Govt. Code § 6250, et seq.)

Political Reform Act was violated. Anyone who wishes to discuss settlement with the Enforcement Division may do so before or after the probable cause conference but not during the conference.

Pursuant to Title 2, California Code of Regulations, Section 18361.4, subdivision (e), the Hearing Officer will find probable cause "if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation."

Ordinarily, probable cause determinations are made based upon the written probable cause report, any written response by the respondent, any written reply by the Enforcement Division, and the oral arguments presented at the conference. Timely written presentations are strongly recommended.

Probable Cause Order and Accusation

Once the matter is submitted to the Hearing Officer, the probable cause decision will normally be made within ten days. If the Hearing Officer finds probable cause, he will issue a Finding of Probable Cause, which will be publicly announced at the next Commission Meeting. An accusation will be issued soon after the Finding of Probable Cause is publicly announced.

Continuances

Every reasonable effort is made to accommodate the schedules of parties and counsel. However, once a date has been set it is assumed to be firm and will not be continued except upon the order of the Hearing Officer after a showing of good cause. Settlement negotiations will be considered good cause only if the Hearing Officer is presented with a fully executed settlement, or is convinced that settlement is imminent.

Settlements

Settlement discussions may take place at any time except during the probable cause conference. In order to open settlement discussions, a proposed respondent or his or her counsel or representative should present a written offer to settle stating, where appropriate, the violations to be admitted, and the monetary penalty or other remedy to be tendered.

The Enforcement Division attorney assigned to the case will negotiate any potential settlement on behalf of the Fair Political Practices Commission, and will draft the language of the settlement agreement. The Hearing Officer will not directly participate in the negotiations, but will be represented by Enforcement Division attorneys. Staff attorneys will present settlement offers to the Hearing Officer for his/her approval.

CONCLUSION

This fact sheet was intended to give you a brief summary of the probable cause process at the Fair Political Practices Commission. Such a summary cannot answer every question that might arise in such proceedings. Therefore, if you have any questions that are not addressed by this fact sheet or the copies of the law and regulations we have attached, feel free to contact the attorney whose name appears on the probable cause report.

Attachments: Relevant Sections of (1) California Government Code , and (2) Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations.

CALIFORNIA GOVERNMENT CODE

Probable Cause Statutes

§ 83115.5. Probable cause; violation of title; notice of violation; summary of evidence; notice of rights; private proceedings

No finding of probable cause to believe this title has been violated shall be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of his right to be present in person and represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the commission a written request that the proceeding be public.

§ 83116. Violation of title; probable cause; hearing; order

When the Commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The Commission shall have all the powers granted by that chapter. When the Commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

- (a) Cease and desist violation of this title.
- (b) File any reports, statements, or other documents or information required by this title.
- (c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

**REGULATIONS OF THE FAIR POLITICAL PRACTICES COMMISSION
TITLE 2, DIVISION 6 OF THE CALIFORNIA CODE OF REGULATIONS**

Probable Cause Regulations

§ 18361 (b). Delegation by the Executive Director Pertaining to Enforcement Proceedings and Authority to Hear Probable Cause Proceedings.

Probable cause proceedings under Regulation 18361.4 shall be heard by the General Counsel or an attorney from the Legal Division. The General Counsel may delegate the authority to hear probable cause proceedings, in writing, to an administrative law judge.

§ 18361.4. Probable Cause Proceedings

(a) Probable Cause Report. If the Chief of the Enforcement Division decides to commence probable cause proceedings pursuant to Sections 83115.5 and 83116, he or she shall direct the Enforcement Division staff to prepare a written report, hereafter referred to as "the probable cause report." The probable cause report shall contain a summary of the law and evidence gathered in connection with the investigation, including any exculpatory and mitigating information of which the staff has knowledge and any other relevant material and arguments. The evidence recited in the probable cause report may include hearsay, including declarations of investigators or others relating the statements of witnesses or concerning the examination of physical evidence.

(b) No probable cause hearing will take place until at least 21 calendar days after the Enforcement Division staff provides the following, by service of process or registered or certified mail with return receipt requested, to all proposed respondents:

- (1) A copy of the probable cause report;
- (2) Notification that the proposed respondents have the right to respond in writing to the probable cause report and to request a probable cause conference at which the proposed respondent may be present in person and represented by counsel, and;
- (3) If the Commission met in executive session on this matter pursuant to Regulation 18361.2, a copy of any staff memoranda submitted to the Commission at that time along with the recording of any discussion between the Commission and the staff at the executive session as required in subdivision (b) of Regulation 18361.2.

(c) Response to Probable Cause Report.

- (1) Each proposed respondent may submit a written response to the probable cause report. The response may contain a summary of evidence, legal arguments, and any mitigating or exculpatory information. A proposed respondent who submits a response must file it with the Commission Assistant who will forward the response to the General Counsel or an attorney in the Legal Division (the "hearing officer") and provide a copy, by service of process or registered or certified mail with return receipt requested, to all other proposed respondents listed in the probable cause report not later than 21 days following service of the probable cause report.
- (2) Within 21 calendar days following the service of the probable cause report, a proposed

respondent may request discovery of evidence in the possession of the Enforcement Division. This request must be sent by registered or certified mail to the Commission Assistant. Upon receipt of the request, the Enforcement Division shall provide discovery of evidence relied upon by the Enforcement Division sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation, along with any exculpatory or mitigating evidence. This is not a right to full discovery of the Enforcement Division file. The Enforcement Division shall provide access to documents for copying by the Respondent, or upon agreement among the parties, the Enforcement Division will provide copies of the requested documents upon payment of a fee for direct costs of duplication. The Enforcement Division shall provide such evidence by service of process or registered or certified mail with return receipt requested to all respondents, with a copy to the Commission Assistant. A respondent may submit a written response to the probable cause report described in subsection (1) no later than 21 calendar days after service of discovery.

- (3) The Commission staff may submit any evidence or argument in rebuttal to the response. When the Commission staff submits evidence or argument in rebuttal to the response, it shall provide a copy, by service of process or registered or certified mail with return receipt requested, to all proposed respondents listed in the probable cause report not later than 10 calendar days following the date the response was filed with the Commission Assistant. The hearing officer may extend the time limitations in this section for good cause. At any time prior to a determination of probable cause, the hearing officer may allow additional material to be submitted as part of the initial response or rebuttal.

(d) Probable Cause Conference. Any proposed respondent may request a probable cause conference. The request shall be served upon the Commission Assistant and all other proposed respondents not later than 21 days after service of the probable cause report unless the hearing officer extends the time for good cause. The Commission Assistant shall fix a time for the probable cause conference and the hearing officer shall conduct the conference informally. The conference shall be closed to the public unless a proposed respondent requests and all other proposed respondents agree to a public conference. If the conference is not public, only members of the Commission staff, any proposed respondent and his or her legal counsel or representative shall have the right to be present and participate. The hearing officer may allow witnesses to attend and participate in part or all of the probable cause conference. In making this determination, the hearing officer shall consider the relevancy of the witness' proposed testimony, whether the witness has a substantial interest in the proceedings, and whether fairness requires that the witness be allowed to participate. Representatives of any civil or criminal prosecutor with jurisdiction may attend the conference at the discretion of the hearing officer if they agree to respect the confidential nature of the proceedings. If the conference is not open to the public and none of the parties and the presiding officer object, the conference may be conducted in whole or in part by telephone. The probable cause conference shall be recorded. The hearing officer may determine whether there is probable cause based solely on the probable cause report, any responses or rebuttals filed and any arguments presented at the probable cause conference by the interested parties. If the hearing officer requires additional information before determining whether there is probable cause, he or she may permit any party to submit additional evidence at the probable cause conference.

(e) Finding of Probable Cause. The hearing officer may find there is probable cause to believe a violation has occurred if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation. A finding of probable cause by the hearing officer does not constitute a finding that a violation has actually occurred. The hearing officer shall not make a finding of probable cause if he or she is presented with clear and convincing evidence that, at a time prior to the alleged violation, the violator consulted with the staff of the Commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice of the staff or because of the staff's failure to provide advice. If the hearing officer makes a finding of probable cause, the Enforcement Division shall prepare an Accusation pursuant to Section 11503 and have it served upon the person or persons who are subjects of the probable cause finding. The hearing officer shall publicly announce the finding of probable cause. The announcement shall contain a summary of the allegations and a cautionary statement that the respondent is presumed to be innocent of any violation of the Act unless a violation is proved in a subsequent proceeding. The Chief of the Enforcement Division shall be responsible for the presentation of the case in support of the Accusation at an administrative hearing held pursuant to Section 83116.

§ 18362. Access to Enforcement Records

(a) Production of Enforcement Records. The Commission will make complaints, investigative files, and related records available to the public and members of the media in accordance with the Public Records Act (Government Code Section 6250, et seq.) Enforcement records requests should specifically identify the documents sought.

(b) Format of Enforcement Records. The Commission will make records available for inspection at its office during office hours. The Commission may provide copies of requested records either in paper or electronic format to the person that requested the records in lieu of inspecting the records at the Commission offices. Any person requesting paper copies of records must reimburse the Commission ten cents (\$0.10) per page to pay the cost of copying, or supply copying equipment and make copies in the offices of the Commission. Original records of the Commission may not be removed from the offices of the Commission.

(c) Complaint Notice Period. The Commission may not provide or make available complaints or related records until after the disclosure periods provided in Regulation 18360.

§ 18361.2. Memorandum Respecting Civil Litigation.

(a) If the Executive Director concludes civil litigation should be initiated, he or she shall submit to the Commission a written memorandum, which shall be first reviewed by the General Counsel, or an attorney from the Legal Division, summarizing the facts and the applicable law of the case and recommending the initiation of a lawsuit. The memorandum shall include all exculpatory and mitigating information known to the staff.

(b) The Commission shall review the memorandum at an executive session. The General

Counsel, or an attorney from the Legal Division, and the Commission Assistant shall be in attendance. No other member of the staff may be present unless the Commission meets with a member of the staff for that person to answer questions. The Commission may not resume its deliberations until the person is no longer present. Any communication between the Commission and the person during the executive session shall be recorded. After review of the memorandum, the Commission may direct the Executive Director to do any of the following:

- (1) Initiate civil litigation.
- (2) Decide whether probable cause proceedings should be commenced pursuant to 2 Cal. Code of Regulations Section 18361.4.
- (3) Return the matter to the staff for further investigation.
- (4) Take no further action on the matter or take any other action it deems appropriate.

(c) If the Commission decides to initiate civil litigation, the Commission may then permit other members of the staff to attend the executive session.

(d) If the Executive Director deems it necessary, he or she may call a special meeting of the Commission to review a staff memorandum recommending the initiation of civil litigation.

(e) It is the intent of the Commission in adopting this section to preserve for the members of the Commission the authority to decide whether alleged violations should be adjudicated in administrative hearings or in civil litigation, while at the same time avoiding the possibility that discussions with members of the staff might cause members of the Commission to prejudge a case that might be heard by the Commission under Government Code Section 83116.

Exhibit A-4

GALENA WEST
Chief of Enforcement
THERESA GILBERTSON
Commission Counsel
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street, Suite 3000
Sacramento, CA 95811
Telephone: (916) 323-6421
Facsimile: (916) 322-1932

Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of	) FPPC No. 17/193
)
FRIENDS OF JOE AGUIRRE FOR	) EX PARTE REQUEST FOR A FINDING OF
DELANO CITY COUNCIL 2014 and JOE	) PROBABLE CAUSE AND AN ORDER THAT
AGUIRRE,	) AN ACCUSATION BE PREPARED AND
	) SERVED
)
Respondents.	) Gov. Code § 83115.5
)
)

TO THE HEARING OFFICER OF THE FAIR POLITICAL PRACTICES COMMISSION:

Pursuant to Section 83115.5 of the Political Reform Act (the "Act")¹ and Regulation 18361.4, Respondents Joe Aguirre ("Aguirre") and Friends of Joe Aguirre for Delano City Council 2014 ("Committee") were served with a copy of a report in support of a finding of probable cause ("Report") in the above-entitled matter.² The Report, attached as "Exhibit A," was part of a packet of materials, including a cover letter and a memorandum describing probable cause proceedings, which was served to Aguirre at two known addresses by means of certified mail, return receipt requested, by September 11, 2018. A copy of the return receipts and USPS tracking information is attached as "Exhibit B."

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 Practices Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Gov. Code § 83115.5; Cal. Code Reg., tit. 2, § 18361.4.

1 In the cover letter, dated September 6, 2018, and the attached materials, Aguirre and the Committee
2 were advised that they could respond in writing to the Report and orally present the case to the Hearing
3 Officer at a probable cause conference to be held in Sacramento. Aguirre and the Committee were further
4 advised that in order to have a probable cause conference, they needed to make a written request for one
5 on or before 21 days of the date they received the Report. Additionally, Aguirre and the Committee were
6 advised that if they did not request a probable cause conference, such a conference would not be held and
7 probable cause would be determined based solely on the Report and any written response that they
8 submitted within 21 days of the date they were served with the Report. To date, Aguirre and the Committee
9 have not submitted a written response or requested a probable cause conference.

10
11 WHEREFORE, based on the attached Report, the Enforcement Division requests a finding by the
12 Hearing Officer that probable cause exists to believe that the Respondent committed twelve violations of
13 the Act, stated as follows:

14 Count 1: Failure to Timely File a Pre-Election Campaign Statement

15 The Committee and Aguirre failed to timely file the pre-election statement for the period of July
16 1, 2014 through September 30, 2014, due October 6, 2014, in violation of Sections 84200.5 and 84200.7.

17 Count 2: Failure to Timely File a Pre-Election Campaign Statement

18 The Committee and Aguirre failed to timely file the pre-election statement for the period of
19 October 1, 2014 through October 18, 2014, due October 23, 2014, in violation of Sections 84200.5 and
20 84200.7.

21 Count 3: Failure to Timely File a Semi-Annual Campaign Statement

22 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
23 of October 19, 2014 through December 31, 2014, due February 2, 2015, in violation of Section 84200.

24 Count 4: Failure to Timely File a Semi-Annual Campaign Statement

25 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
26 of January 1, 2015 through June 30, 2015, due July 31, 2015, in violation of Section 84200.

1 Count 5: Failure to Timely File a Semi-Annual Campaign Statement

2 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
3 of July 1, 2015 through December 31, 2015, due February 1, 2016, in violation of Section 84200.

4 Count 6: Failure to Timely File a Semi-Annual Campaign Statement

5 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
6 of January 1, 2016 through June 30, 2016, due August 1, 2016, in violation of Section 84200.

7 Count 7: Failure to Timely File a Pre-Election Campaign Statement

8 The Committee and Aguirre failed to timely file the pre-election statement for the period of July
9 1, 2016 through September 24, 2016, due September 29, 2016, in violation of Sections 84200.5 and
10 84200.8.

11 Count 8: Failure to Timely File a Pre-Election Campaign Statement

12 The Committee and Aguirre failed to timely file the pre-election statement for the period of
13 September 25, 2016 through October 22, 2016, due October 27, 2016, in violation of Sections 84200.5
14 and 84200.8.

15 Count 9: Failure to Timely File a Semi-Annual Campaign Statement

16 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
17 of October 23, 2016 through December 31, 2016, due January 31, 2017, in violation of Section 84200.

18 Count 10: Failure to Timely File a Semi-Annual Campaign Statement

19 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
20 of January 1, 2017 through June 30, 2017, due July 31, 2017, in violation of Section 84200.

21 Count 11: Failure to Timely File a Semi-Annual Campaign Statement

22 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
23 of July 1, 2017 through December 31, 2017, due January 31, 2018, in violation of Section 84200.

24 Count 12: Failure to Timely File a Semi-Annual Campaign Statement

25 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period of
26 January 1, 2018 through June 30, 2018, due July 31, 2018, in violation of Section 84200.

1 Additionally, after finding probable cause exists, the Enforcement Division requests an order by
2 the Hearing Officer that an accusation be prepared against Aguirre and the Committee and served upon
3 them.³

4 A copy of this Request was mailed via U.S. Mail to Aguirre and the Committee on October 30,
5 2018 at the last known address and the place of service, as follows:

6 Joe Aguirre
7 Director of Facilities Management
8 Delano Regional Medical Center
9 1401 Garces Highway
10 Delano, CA 93215


 Joe Aguirre
 P.O. Box 1722
 Delano, CA 93216

11
12 Dated: 30 Oct 2018

Respectfully Submitted,

13
14
15 **FAIR POLITICAL PRACTICES COMMISSION**

16 Galena West
17 Chief of Enforcement

18 

19 By: Theresa Gilbertson
20 Commission Counsel
21 Enforcement Division

22
23
24
25 _____
26 ³ Gov. Code § 11503.

EXHIBIT A

1 GALENA WEST
Chief of Enforcement
2 THERESA GILBERTSON
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
1102 Q Street, Suite 3000
4 Sacramento, CA 95811
Telephone: (916) 323-6421
5 Facsimile: (916) 322-1932
Attorneys for Complainant
6 Enforcement Division of the Fair Political Practices Commission

7
8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

9 **STATE OF CALIFORNIA**

10 In the Matter of

) FPPC No. 17/193

)

) **REPORT IN SUPPORT OF A FINDING OF**
) **PROBABLE CAUSE**

11
12 FRIENDS OF JOE AGUIRRE FOR
13 DELANO CITY COUNCIL 2014 and
14 JOE AGUIRRE,

) Conference Date: TBA

) Conference Time: TBA

) Conference Location: Commission Offices
1102 Q Street, Suite 3000
Sacramento, CA 95811

15 Respondents.
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17
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19 **INTRODUCTION**

20 Respondent Joe Aguirre (“Aguirre”) was elected to the Delano City Council in 2010. He was
21 unsuccessful in his re-election bid during the November 4, 2014 General Election but was successful in
22 the November 8, 2016 General Election. He currently serves as a Council Member. Respondent Friends
23 of Joe Aguirre for Delano City Council 2014 (“Committee”)¹, was the candidate controlled committee
24 established to support Aguirre’s run for re-election to the Delano City Council in 2014. Aguirre served
25 as treasurer for the Committee.

26 ¹ For clarity, due to other committees with a similar name, this committee name is in reference to: ID#: 1368843.
27

1 The Political Reform Act (the "Act")² requires controlled committees to file two semi-annual
2 campaign statements each year by July 31 and by January 31. The Act also requires candidate controlled
3 committees to file pre-election statements when the candidate is listed on the ballot. The Respondents
4 violated the Act by failing to timely file campaign statements over the course of two elections

5 SUMMARY OF THE LAW

6 All legal references and discussions of law pertain to the Act's provisions as they existed at the
7 time of the violation.

8 Jurisdiction

9 The Fair Political Practices Commission (the "Commission") has administrative jurisdiction to
10 enforce the provisions of the Act.³

11 Probable Cause Proceedings

12 Prior to the Enforcement Division commencing an administrative action, the General Counsel of
13 the Commission or her designee (the "hearing officer"), must make a finding that there is probable cause
14 to believe the respondent has violated the Act.⁴ After a finding of probable cause, the Commission may
15 hold a noticed hearing in accordance with the Administrative Procedure Act⁵ to determine whether
16 violations occurred, and levy an administrative penalty of up to \$5,000 for each violation.⁶

17 Standard for Finding Probable Cause

18 To make a finding of probable cause, the hearing officer must be presented with sufficient
19 evidence to lead a person of ordinary caution and prudence to believe, or entertain a strong suspicion,
20 that a respondent committed or caused a violation.⁷

21
22
23 ² The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
24 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.

³ Section 83116.

⁴ Section 83115.5 and Regulations 18361 and 18361.4.

⁵ Section 11500, et seq.

⁶ Section 83116 and Regulation 18361.4, subd. (e).

⁷ Section 18361.4, subd. (e).

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

2 When enacting the Political Reform Act, the people of the state of California found and declared
3 previous laws regulating political practices suffered from inadequate enforcement by state and local
4 authorities.⁸ To that end, the Act must be liberally construed to achieve its purposes.⁹

5 A central purpose of the Act is to ensure voters are fully informed and improper practices are
6 inhibited by requiring committees to disclose all contributions and expenditures made throughout a
7 campaign.¹⁰ Another is to provide adequate enforcement mechanisms so that the Act will be “vigorously
8 enforced.”¹¹

9 Semi-Annual Campaign Statements

10 A controlled committee must file two semi-annual campaign statements each year no later than
11 July 31 for the period ending June 30 and no later than January 31 for the period ending December 31.¹²
12 Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a
13 statement shall be extended to the next regular business day.¹³

14 Pre-Election Campaign Statements

15 A controlled committee must file two pre-election campaign statements before the election in
16 which the candidate is listed on the ballot.¹⁴ For the 2014 election, a committee was required to file a first
17 pre-election campaign statement for the period ending September 30 no later than October 5.¹⁵ A
18 committee was also required to file a second pre-election campaign statement for the period ending
19 days before the election no later than 12 days before the election.¹⁶ For the 2016 election, the first pre-
20 election statement must cover the period ending 45 days before the election and must be filed no later
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23 ⁸ Section 81001, subd. (h).

⁹ Section 81003.

¹⁰ Section 81002, subd. (a).

¹¹ Section 81002, subd. (f).

¹² Section 84200, subd. (a).

¹³ Regulation 18116, subd. (a).

¹⁴ Section 84200.5.

¹⁵ Former Section 84200.7, subd. (b) (2014).

¹⁶ Id.

1 than 40 days before the election.¹⁷ The second pre-election statement must cover the period ending 17
2 days before the election and must be filed no later than 12 days before the election.¹⁸ Whenever the
3 deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a statement shall be
4 extended to the next regular business day.¹⁹

5 Candidate and Treasurer Liability

6 Under the Act, it is the duty of the candidate and the treasurer of a controlled committee to ensure
7 that the committee complies with all the requirements of the Act concerning the receipt, expenditure,
8 and reporting of funds.²⁰ The candidate and treasurer may be held jointly and severally liable, along with
9 the committee, for violations committed by the committee.²¹

10 **SUMMARY OF THE EVIDENCE**

11 The Committee filed an initial statement of organization with the Secretary of State (“SOS”) on
12 July 30, 2014 and indicated it qualified as of July 18, 2014. The Committee was established to re-elect
13 Aguirre to the Delano City Council. On August 18, 2014 the Committee filed a Form 497 to report a
14 \$5,000 contribution from Rudy Salas for Assembly 2014. The Committee has not filed any other
15 campaign statements and has not terminated. Aguirre was unsuccessful in his 2014 re-election, but was
16 successful in the November 8, 2016 election. His current term expires in 2020.

17 Because Aguirre was a candidate on the ballot for the November 4, 2014 General Election, the
18 Committee was required to file pre-election statements. The Committee and Aguirre failed to timely file
19 the first pre-election statement for the period of July 1, 2014 through September 30, 2014, due on
20 October 6, 2014, and the second pre-election statement for the period of October 1, 2014 through
21 October 18, 2014, due on October 23, 2014. Respondents failed to file the semiannual statement for the
22 period October 19, 2014 through December 31, 2014 due on February 2, 2015.

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¹⁷ Section 84200.8, subd. (a).

¹⁸ Section 84200.8, subd. (b).

¹⁹ Regulation 18116, subd. (a).

²⁰ Sections 81004, 84100, 84213, and Regulation 18427.

²¹ Sections 83116.5 and 91006.

1 The Committee remained open and therefore was required to continue filing semiannual
2 statements. Aguirre was a candidate on the ballot for the November 8, 2016 General Election, therefore,
3 the Committee was also required to file pre-election statements before that election. The Committee and
4 Aguirre failed to timely file the first pre-election statement for the period of July 1, 2016 through
5 September 24, 2016, due on September 29, 2016, and the second pre-election statement for the period
6 of September 25, 2016 through October 22, 2016, due October 27, 2016. The Committee continues to
7 be open, but no statements have been filed.

8 The Enforcement Division has attempted to contact the Committee and Aguirre by mail and by
9 phone on April 25, 2018, May 30, 2018 and August 2, 2018. The Committee and Aguirre have not
10 responded. The past due campaign statements have not been filed and the Committee has not been
11 terminated.

12 VIOLATIONS

13 Count 1: Failure to Timely File a Pre-Election Campaign Statement

14 The Committee and Aguirre failed to timely file the pre-election statement for the period of July
15 1, 2014 through September 30, 2014, due October 6, 2014, in violation of Sections 84200.5 and 84200.7.

16 Count 2: Failure to Timely File a Pre-Election Campaign Statement

17 The Committee and Aguirre failed to timely file the pre-election statement for the period of
18 October 1, 2014 through October 18, 2014, due October 23, 2014, in violation of Sections 84200.5 and
19 84200.7.

20 Count 3: Failure to Timely File a Semi-Annual Campaign Statement

21 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
22 period of October 19, 2014 through December 31, 2014, due February 2, 2015, in violation of Section
23 84200.

24 Count 4: Failure to Timely File a Semi-Annual Campaign Statement

25 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
26 period of January 1, 2015 through June 30, 2015, due July 31, 2015, in violation of Section 84200.

1 Count 5: Failure to Timely File a Semi-Annual Campaign Statement

2 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
3 period of July 1, 2015 through December 31, 2015, due February 1, 2016, in violation of Section 84200.

4 Count 6: Failure to Timely File a Semi-Annual Campaign Statement

5 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
6 period of January 1, 2016 through June 30, 2016, due August 1, 2016, in violation of Section 84200.

7 Count 7: Failure to Timely File a Pre-Election Campaign Statement

8 The Committee and Aguirre failed to timely file the pre-election statement for the period of July
9 1, 2016 through September 24, 2016, due September 29, 2016, in violation of Sections 84200.5 and
10 84200.8.

11 Count 8: Failure to Timely File a Pre-Election Campaign Statement

12 The Committee and Aguirre failed to timely file the pre-election statement for the period of
13 September 25, 2016 through October 22, 2016, due October 27, 2016, in violation of Sections 84200.5
14 and 84200.8.

15 Count 9: Failure to Timely File a Semi-Annual Campaign Statement

16 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
17 period of October 23, 2016 through December 31, 2016, due January 31, 2017, in violation of Section
18 84200.

19 Count 10: Failure to Timely File a Semi-Annual Campaign Statement

20 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
21 period of January 1, 2017 through June 30, 2017, due July 31, 2017, in violation of Section 84200.

22 Count 11: Failure to Timely File a Semi-Annual Campaign Statement

23 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
24 period of July 1, 2017 through December 31, 2017, due January 31, 2018, in violation of Section 84200.

25
26 //

1 Count 12: Failure to Timely File a Semi-Annual Campaign Statement

2 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the
3 period of January 1, 2018 through June 30, 2018, due July 31, 2018, in violation of Section 84200.

4 **EXCULPATORY OR MITIGATING INFORMATION**

5 Aguirre was unsuccessful in the November 4, 2014 General Election.

6 **OTHER RELEVANT MATERIAL**

7 Aguirre is currently in office and his term expires in 2020.

8 **CONCLUSION**

9 Probable cause exists to believe that the Committee and Aguirre violated the Act as described
10 above. The Enforcement Division respectfully requests an order finding probable cause pursuant to
11 Section 83115.5 and Regulation 18361.4.

12
13 Dated: 9/6/18

Respectfully Submitted,


14 **FAIR POLITICAL PRACTICES COMMISSION**

15 Galena West
16 Enforcement Chief

17 

18 By: THERESA GILBERTSON
19 Commission Counsel
20 Enforcement Division

EXHIBIT B

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Joanna Herrera</i></p> <p>C. Date of Delivery </p>												
<p>1. Article Addressed to:</p> <p>JOE AGUIRRE DIRECTOR OF FACILITIES MANAGEMENT DELANO REGIONAL MEDICAL CENTER 1401 BARCES HWY, DELANO, CA 93215</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>												
 9590 9402 3691 7335 8463 84	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®												
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™												
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<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise												
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™												
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery												
<p>2. Article Number (Transfer from service label)</p> <p>7018 0040 0000 7989 8313</p>	<p><input type="checkbox"/> Restricted Delivery</p>												

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Esther V. Aguirre</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Esther V. Aguirre</i></p> <p>C. Date of Delivery </p>												
<p>1. Article Addressed to:</p> <p>JOE AGUIRRE P.O. BOX 1722 DELANO, CA 93216</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> 												
 9590 9402 3691 7335 8463 91	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
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<p>2. Article Number (Transfer from service label)</p> <p>7018 0040 0000 7989 8306</p>	<p><input type="checkbox"/> Restricted Delivery</p>												

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt



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Tracking Number: 70180040000079898313

Remove X

Your item was delivered at 10:18 am on September 10, 2018 in DELANO, CA 93215.



September 10, 2018 at 10:18 am
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DELANO, CA 93215

Feedback

Tracking History



Product Information



See Less ^

Tracking Number: 70180040000079898306

Remove X

Your item was delivered at 4:12 pm on September 11, 2018 in DELANO, CA 93215.



September 11, 2018 at 4:12 pm
Delivered
DELANO, CA 93215

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*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.

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Exhibit A-5

1 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

2 STATE OF CALIFORNIA

3
4 In the Matter of

) FPPC No. 17/193

5 FRIENDS OF JOE AGUIRRE FOR
6 DELANO CITY COUNCIL 2014 and JOE
AGUIRRE,

) FINDING OF PROBABLE CAUSE AND
) ORDER TO PREPARE AND SERVE AN
) ACCUSATION

7 Respondent.

) Gov. Code § 83115.5
8)

9 By means of an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation
10 Be Prepared and Served, dated October 30, 2018, the Enforcement Division submitted the above-entitled
11 matter to the Hearing Officer for a determination of Probable Cause. As set forth in the Ex Parte Request
12 for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served (Ex Parte
13 Request), the Enforcement Division served a Report in Support of a Finding of Probable Cause (PC
14 Report) on Respondent Joe Aguirre (“Aguirre”) and Respondent Friends of Joe Aguirre for Delano City
15 Council 2014 (“Committee”) on September 6, 2018 by certified mail, return receipt requested.
16 Accompanying the PC Report was a packet of materials that informed Respondents of their right to file a
17 written response to the PC Report and to request a probable cause conference within 21 days following
18 service of the PC Report. During the 21 days that followed service of the PC Report, Respondents did not
19 file a response to the PC Report or request a probable cause conference. Pursuant to California Code of
20 Regulations title 2, section 18361.4, determination of probable cause may be made solely on papers
21 submitted when the respondent does not request a probable cause conference.¹

22 In making a probable cause determination, it is the duty of the Hearing Officer of the Fair Political
23 Practices Commission to determine whether probable cause exists to believe that a respondent violated
24 the Political Reform Act as alleged by the Enforcement Division in the PC Report served on the
25 respondent.

26
27 ¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. The regulations of the
Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of
Regulations.

1 Probable cause to believe a violation has occurred can be found to exist when “the evidence is
2 sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that
3 the proposed respondent(s) committed or caused a violation.”²
4

5 The PC Report served on Respondents Aguirre and the Committee, and the subsequent Ex Parte
6 Request in this matter, alleges twelve violations of the Political Reform Act were committed, as follows:
7

8 Count 1: Failure to Timely File a Pre-Election Campaign Statement

9 The Committee and Aguirre failed to timely file the pre-election statement for the period of July
10 1, 2014 through September 30, 2014, due October 6, 2014, in violation of Sections 84200.5 and 84200.7.

11 Count 2: Failure to Timely File a Pre-Election Campaign Statement

12 The Committee and Aguirre failed to timely file the pre-election statement for the period of
13 October 1, 2014 through October 18, 2014, due October 23, 2014, in violation of Sections 84200.5 and
14 84200.7.

15 Count 3: Failure to Timely File a Semi-Annual Campaign Statement

16 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
17 of October 19, 2014 through December 31, 2014, due February 2, 2015, in violation of Section 84200.

18 Count 4: Failure to Timely File a Semi-Annual Campaign Statement

19 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
20 of January 1, 2015 through June 30, 2015, due July 31, 2015, in violation of Section 84200.

21 Count 5: Failure to Timely File a Semi-Annual Campaign Statement

22 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
23 of July 1, 2015 through December 31, 2015, due February 1, 2016, in violation of Section 84200.

24 Count 6: Failure to Timely File a Semi-Annual Campaign Statement

25 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
26 of January 1, 2016 through June 30, 2016, due August 1, 2016, in violation of Section 84200.

27 //

28 ² Cal. Code Reg., tit. 2, § 18361.4, subd. (e).

1 Count 7: Failure to Timely File a Pre-Election Campaign Statement

2 The Committee and Aguirre failed to timely file the pre-election statement for the period of July
3 1, 2016 through September 24, 2016, due September 29, 2016, in violation of Sections 84200.5 and
4 84200.8.

5 Count 8: Failure to Timely File a Pre-Election Campaign Statement

6 The Committee and Aguirre failed to timely file the pre-election statement for the period of
7 September 25, 2016 through October 22, 2016, due October 27, 2016, in violation of Sections 84200.5
8 and 84200.8.

9 Count 9: Failure to Timely File a Semi-Annual Campaign Statement

10 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
11 of October 23, 2016 through December 31, 2016, due January 31, 2017, in violation of Section 84200.

12 Count 10: Failure to Timely File a Semi-Annual Campaign Statement

13 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
14 of January 1, 2017 through June 30, 2017, due July 31, 2017, in violation of Section 84200.

15 Count 11: Failure to Timely File a Semi-Annual Campaign Statement

16 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
17 of July 1, 2017 through December 31, 2017, due January 31, 2018, in violation of Section 84200.

18 Count 12: Failure to Timely File a Semi-Annual Campaign Statement

19 The Committee and Aguirre failed to timely file the semi-annual campaign statement for the period
20 of January 1, 2018 through June 30, 2018, due July 31, 2018, in violation of Section 84200.

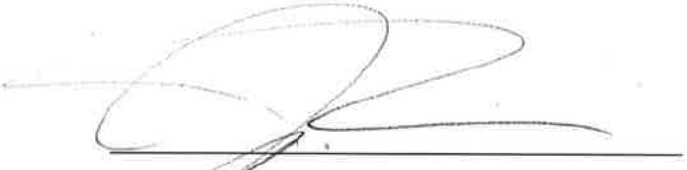
21
22 Based on the Ex Parte Request given to me, I find that notice has been given to Aguirre and the
23 Committee.³ I further find, based on the PC Report and the Ex Parte Request, that there is probable cause
24 to believe that the Aguirre and the Committee violated the Political Reform Act as alleged in Counts 1-
25 12, as identified above.

26
27
28 ³ Government Code § 83115.5; Cal. Code Reg., tit. 2, §18361.4, subd. (b).

1 I therefore direct that the Enforcement Division issue an accusation against the Aguirre and the
2 Committee in accordance with this finding.

3
4 IT IS SO ORDERED.

5
6 Dated: 10/31/18

7 
8 John M. Feser, Jr., Hearing Officer
9 Fair Political Practices Commission
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FPPC No. 17/193, In the matter of Friends of Joe Aguirre for Delano City Council 2014 and Joe Aguirre

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811. On the date below, I served the following document:

FINDING OF PROBABLE CAUSE AND ORDER TO PREPARE AND SERVE AN ACCUSATION

MANNER OF SERVICE

(U.S. Mail) By causing a true copy thereof to be served on the parties in this action through the U.S. Mail and addressed as listed below. I am familiar with the procedure of the Fair Political Practices Commission for collection and processing of correspondence for mailing with the United States Postal Service, and the fact that the correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

SERVICE LIST

Joe Aguirre
Director of Facilities Management
Delano Regional Medical Center
1401 Garces Highway
Delano, CA 93215

Joe Aguirre
PO Box 1722
Delano, CA 93216

(By Personal Service) On Thursday, November 1, 2018, at approximately 10:00 a.m., I personally served:

Theresa Gilbertson, Commission Counsel, at 1102 Q Street, Suite 3000, Sacramento, CA 95811.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this document is executed at Sacramento, California, on November 1, 2018.



Sasha Linker

Exhibit A-6

1 GALENA WEST
Chief of Enforcement
2 THERESA GILBERTSON
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
1102 Q St, Suite 3000
4 Sacramento, CA 95811
Telephone: (916) 323-6421
5 Email: tgilbertson@fppc.ca.gov

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

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

11 In the Matter of) FPPC No. 17/193
12)
13 FRIENDS OF JOE AGUIRRE FOR) **ACCUSATION**
14 DELANO CITY COUNCIL 2014)
and JOE AGUIRRE,)
15) (Gov. Code §11503)
16 Respondents.)
17

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, after a finding
19 of probable cause pursuant to Government Code Section 83115.5, alleges the following:

20 **JURISDICTION**

- 21 1. Complainant is the Enforcement Division of the Fair Political Practices Commission (the
22 “Commission”) and makes this Accusation in its official capacity and in the public interest.
- 23 2. The authority to bring this action is derived from Title 2, California Code of Regulations,
24 Sections 18361 and 18361.4, subdivision (e), and the statutory law of the State of California, specifically
25 including, but not limited to, Government Code Sections 83111, 83116, and 91000.5, which assign to the
26 Enforcement Division the duty to administer, implement, and enforce the provisions of the Political
27 Reform Act, found at Government Code Sections 81000 through 91014.

1 no later than July 31 for the reporting period ending on June 30, and no later than January 31 of the
2 following year for the reporting period ending December 31.⁵

3 8. Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing
4 deadline for a statement shall be extended to the next regular business day.⁶

5 **B. Duty to File Pre-Election Campaign Statements**

6 9. In addition to semi-annual campaign statements, a candidate-controlled committee must
7 file two pre-election campaign statements before an election in which the candidate is listed on the ballot.⁷

8 10. For the November 4, 2014 election, a committee was required to file the first pre-election
9 campaign statement for the period ending September 30 no later than October 5.⁸ For the period ending
10 17 days before the election, a committee was required to file the second pre-election campaign statement
11 no later than 12 days before the election.⁹ Whenever the deadline falls on a Saturday, Sunday, or official
12 state holiday, the filing deadline for a statement shall be extended to the next regular business day.¹⁰

13 11. For the November 8, 2016 election, a committee was required to file the first pre-election
14 campaign statement for the period ending 45 days before the election (September 24, 2016) no later than
15 40 days before the election (September 29, 2016).¹¹ For the period ending 17 days before the election
16 (October 22, 2016), a committee was required to file the second pre-election campaign statement no later
17 than 12 days before the election (October 27, 2016).¹²

18 **C. Factors to be Considered by the Fair Political Practices Commission**

19 12. In framing a proposed order following a finding of a violation pursuant to Section 83116,
20 the Commission and the administrative law judge shall consider all the surrounding circumstances
21 including but not limited to: (1) The seriousness of the violation; (2) The presence or absence of any
22 intention to conceal, deceive or mislead; (3) Whether the violation was deliberate, negligent or inadvertent;
23 (4) Whether the violator demonstrated good faith by consulting the Commission staff or any other
24

25 ⁵ Section 84200, subd. (a).
26 ⁶ Regulation 18116, subd. (a).
27 ⁷ Section 84200.5.
28 ⁸ Former Section 84200.7, subd. (b) (2014).
⁹ Id.
¹⁰ Regulation 18116, subd. (a).
¹¹ Section 84200.8, subd. (a).
¹² Section 84200.8, subd. (b).

1 government agency in a manner not constituting a complete defense under Section 83114(b); (5) Whether
2 the violation was isolated or part of a pattern and whether the violator has a prior record of violations of
3 the Act or similar laws; and (6) Whether the violator, upon learning of a reporting violation, voluntarily
4 filed amendments to provide full disclosure.¹³

5 **GENERAL FACTS**

6 1. The Enforcement Division received referrals against Aguirre from the City Clerk of Delano
7 for failure to file campaign statements and the Secretary of State for failure to pay the annual fees.

8 2. Aguirre was elected to the Delano City Council in 2010 but was unsuccessful in his re-
9 election bid during the November 4, 2014 General Election.

10 3. The Committee was Aguirre's candidate-controlled committee for the 2014 election.

11 4. Records obtained from the filing officer, City of Delano, show that the Committee filed an
12 initial statement of organization with the Secretary of State on July 30, 2014 and indicated that it had
13 qualified as a recipient committee on July 18, 2014. The identification number given to this committee
14 was #1368843.

15 5. On August 18, 2014, the Committee filed a 24-hour contribution report (Form 497) to
16 report receiving a contribution from the committee Rudy Salas for Assembly 2014 in the amount of
17 \$5,000.

18 6. Aguirre was a candidate on the November 4, 2014 General Election ballot. Therefore, the
19 Committee and Aguirre were required to file the first pre-election campaign statement for the reporting
20 period of July 1, 2014 through September 30, 2014 by the deadline of October 6, 2014. According to
21 records of the filing officer, the City of Delano, this statement was not filed

22 7. The Committee and Aguirre were required to file the second pre-election campaign
23 statement for the reporting period of October 1, 2014 through October 18, 2014 by the deadline of October
24 23, 2014. According to the records of City of Delano, this statement was not filed.

25 8. Since the Committee was not terminated after the election, the Committee and Aguirre
26 were required continue reporting the activity of the Committee. Specifically, the Committee and Aguirre
27 were required to file semi-annual campaign statements for the reporting periods of October 19, 2014

28 ¹³ Regulation 18361.5, subd. (d).

1 through December 31, 2014 by the deadline of February 2, 2015; January 1, 2015 through June 30, 2015
2 by the deadline of July 31, 2015; July 1, 2015 through December 31, 2015 by the deadline of February 1,
3 2016; and January 1, 2016 through June 30, 2016 by the deadline of August 1, 2016. According to City
4 of Delano records, these statements were not filed.¹⁴

5 9. Aguirre was a successful candidate for the Delano City Council in the November 8, 2016
6 General Election, however, he filed no campaign statements to disclose his campaign activity for this
7 election. His current term expires in 2020. He is presently serving as the Mayor of Delano on the City
8 Council.

9 10. Since Aguirre was a candidate on the November 8, 2016 General Election ballot, the
10 Committee and Aguirre were required to file the first pre-election campaign statement for the reporting
11 period of July 1, 2016 through September 24, 2016 by the deadline of September 29, 2016. According to
12 City of Delano records, this statement was not filed.

13 11. The Committee and Aguirre were required to file the second pre-election campaign
14 statement for the reporting period of September 25, 2016 through October 22, 2016 by the deadline of
15 October 27, 2016. According to City of Delano records, this statement was not filed.

16 12. The Committee and Aguirre were required to file semi-annual campaign statements for the
17 reporting periods of October 23, 2016 through December 31, 2016 by the deadline of January 31, 2017;
18 January 1, 2017 through June 30, 2017 by the deadline of July 31, 2017; July 1, 2017 through December
19 31, 2017 by the deadline of January 31, 2018; and January 1, 2018 through June 30, 2018 by the deadline
20 of July 31, 2018. According to City of Delano records, these statements were not filed.

21 **PROCEDURAL HISTORY**

22 13. The Enforcement Division contacted Aguirre by email on December 11, 2017; August 8,
23 2018; August 9, 2018; and November 29, 2018; by U.S. Mail on April 25, 2018, and May 30, 2018; and
24 by phone on August 9, 2018, regarding the required campaign statements.

25 14. The Enforcement Division initiated an administrative action against the Committee and
26 Aguirre in this matter by serving them with a packet containing a cover letter, a Report in Support of a
27

28 ¹⁴ Due to statutory deadlines falling on weekends, the filing deadlines for these statements were extended to the following business days.

1 Finding of Probable Cause (“PC Report”), a fact sheet regarding probable cause proceedings, selected
2 sections of the Government Code regarding probable cause proceedings for the Commission, and selected
3 regulations of the Commission regarding probable cause proceedings.

4 15. The Committee and Aguirre were served with the PC Report at two known addresses on
5 or around September 11, 2018. The information contained in the PC Report packet advised the Committee
6 and Aguirre that they had 21 days in which to request a probable cause conference, file a written response
7 to the PC Report, or both. As of the date of this Accusation, the Committee and Aguirre have not responded
8 to the PC Report.

9 16. By means of an Ex Parte Request for a Finding of Probable Cause and an Order that an
10 Accusation Be Prepared and Served (“Ex Parte Request”), dated October 30, 2018, the Enforcement
11 Division submitted the matter to the Hearing Officer for a determination of probable cause.

12 17. On or about October 31, 2018, the Hearing Officer issued an order finding, based on the
13 Ex Parte Request and the PC Report, that there was probable cause to believe the Committee and Aguirre
14 violated the Act and directed the Enforcement Division to issue an accusation against the Committee and
15 Aguirre in accordance with the finding.

16 VIOLATIONS

17 18. The Committee and Aguirre committed twelve violations of the Act as follows:

18 Count 1

19 Failure to Timely File a Pre-Election Campaign Statement

20 19. Complainant incorporates paragraphs 1 – 18 of this Accusation, as though completely set
21 forth here.

22 20. The Committee and Aguirre were required to timely file a pre-election campaign statement
23 for the reporting period of July 1, 2014 through September 30, 2014, due on October 6, 2014.

24 21. The Committee and Aguirre failed to file the pre-election campaign statement for the
25 reporting period of July 1, 2014 through September 30, 2014, by the deadline.

26 22. By failing to file the pre-election campaign statement by October 6, 2014, the Committee
27 and Aguirre violated Government Code Sections 84200.5 and 84200.7.

1 **Count 2**

2 **Failure to Timely File a Pre-Election Campaign Statement**

3 23. Complainant incorporates paragraphs 1 – 22 of this Accusation, as though completely set
4 forth here.

5 24. The Committee and Aguirre were required to timely file a pre-election campaign statement
6 for the reporting period of October 1, 2014 through October 18, 2014, due on October 23, 2014.

7 25. The Committee and Aguirre failed to file the pre-election campaign statement for the
8 reporting period of October 1, 2014 through October 18, 2014, by the deadline.

9 26. By failing to file the pre-election campaign statement by October 23, 2014, the Committee
10 and Aguirre violated Government Code Sections 84200.5 and 84200.7.

11 **Count 3**

12 **Failure to Timely File a Semi-Annual Campaign Statement**

13 27. Complainant incorporates paragraphs 1 – 26 of this Accusation, as though completely set
14 forth here.

15 28. The Committee and Aguirre were required to timely file a semi-annual campaign statement
16 for the reporting period of October 19, 2014 through December 31, 2014, due on February 2, 2015.

17 29. The Committee and Aguirre failed to file the semi-annual campaign statement for the
18 reporting period of October 19, 2014 through December 31, 2014, by the deadline.

19 30. By failing to file the semi-annual campaign statement by February 2, 2015, the Committee
20 and Aguirre violated Government Code Section 84200.

21 **Count 4**

22 **Failure to Timely File a Semi-Annual Campaign Statement**

23 31. Complainant incorporates paragraphs 1 – 30 of this Accusation, as though completely set
24 forth here.

25 32. The Committee and Aguirre were required to timely file a semi-annual campaign statement
26 for the reporting period of January 1, 2015 through June 30, 2015, due on July 31, 2015.

27 33. The Committee and Aguirre failed to file the semi-annual campaign statement for the
28 reporting period of January 1, 2015 through June 30, 2015, by the deadline.

1 34. By failing to file the semi-annual campaign statement by July 31, 2015, the Committee and
2 Aguirre violated Government Code Section 84200.

3 **Count 5**

4 **Failure to Timely File a Semi-Annual Campaign Statement**

5 35. Complainant incorporates paragraphs 1 – 34 of this Accusation, as though completely set
6 forth here.

7 36. The Committee and Aguirre were required to timely file a semi-annual campaign statement
8 for the reporting period of July 1, 2015 through December 31, 2015, due on February 1, 2016.

9 37. The Committee and Aguirre failed to file the semi-annual campaign statement for the
10 reporting period of July 1, 2015 through December 31, 2015, by the deadline.

11 38. By failing to file the semi-annual campaign statement by February 1, 2016, the Committee
12 and Aguirre violated Government Code Section 84200.

13 **Count 6**

14 **Failure to Timely File a Semi-Annual Campaign Statement**

15 39. Complainant incorporates paragraphs 1 – 38 of this Accusation, as though completely set
16 forth here.

17 40. The Committee and Aguirre were required to timely file a semi-annual campaign statement
18 for the reporting period of January 1, 2016 through June 30, 2016, due on August 1, 2016.

19 41. The Committee and Aguirre failed to file the semi-annual campaign statement for the
20 reporting period of January 1, 2016 through June 30, 2016, by the deadline.

21 42. By failing to file the semi-annual campaign statement by August 1, 2016, the Committee
22 and Aguirre violated Government Code Section 84200.

23 **Count 7**

24 **Failure to Timely File a Pre-Election Campaign Statement**

25 43. Complainant incorporates paragraphs 1 – 42 of this Accusation, as though completely set
26 forth here.

27 44. The Committee and Aguirre were required to timely file a pre-election campaign statement
28 for the reporting period of July 1, 2016 through September 24, 2016, due on September 29, 2016.

1 45. The Committee and Aguirre failed to file the pre-election campaign statement for the
2 reporting period of July 1, 2016 through September 24, 2016, by the deadline.

3 46. By failing to file the pre-election campaign statement by September 29, 2016, the
4 Committee and Aguirre violated Government Code Sections 84200.5 and 84200.8.

5 **Count 8**

6 **Failure to Timely File a Pre-Election Campaign Statement**

7 47. Complainant incorporates paragraphs 1 – 46 of this Accusation, as though completely set
8 forth here.

9 48. The Committee and Aguirre were required to timely file a pre-election campaign statement
10 for the reporting period of September 25, 2016 through October 22, 2016, due on October 27, 2016.

11 49. The Committee and Aguirre failed to file the pre-election campaign statement for the
12 reporting period of September 25, 2016 through October 22, 2016, by the deadline.

13 50. By failing to file the pre-election campaign statement by October 27, 2016, the Committee
14 and Aguirre violated Government Code Sections 84200.5 and 84200.8.

15 **Count 9**

16 **Failure to Timely File a Semi-Annual Campaign Statement**

17 51. Complainant incorporates paragraphs 1 – 50 of this Accusation, as though completely set
18 forth here.

19 52. The Committee and Aguirre were required to timely file a semi-annual campaign statement
20 for the reporting period of October 23, 2016 through December 31, 2016, due on January 31, 2017.

21 53. The Committee and Aguirre failed to file the semi-annual campaign statement for the
22 reporting period of October 23, 2016 through December 31, 2016, by the deadline.

23 54. By failing to file the semi-annual campaign statement by January 31, 2017, the Committee
24 and Aguirre violated Government Code Section 84200.

25 **Count 10**

26 **Failure to Timely File a Semi-Annual Campaign Statement**

27 55. Complainant incorporates paragraphs 1 – 54 of this Accusation, as though completely set
28 forth here.

1 68. Aguirre does not have prior enforcement history.

2 **AGGRAVATING FACTORS AND OTHER RELEVANT MATERIALS**

3 69. Aguirre has run for office multiple times and knew or should have known the filing
4 obligation. In spite of this, the Committee and Aguirre failed to disclose the Committee's activity before
5 the 2014 and the 2016 election. There was considerable public harm because for both elections, the public
6 had no disclosure as to the Committee's activities. To date, the Committee and Aguirre have failed to file
7 numerous statements, showing a pattern of behavior.

8 70. Aguirre is currently in office and his term expires in 2020.

9 **PRAYER**

10 WHEREFORE, Complainant prays as follows:

- 11 1. That the Fair Political Practices Commission hold a hearing pursuant to Section 83116 and
12 Regulation 18361.5, and at such hearing find that the Committee and Aguirre violated the
13 Act as alleged herein;
- 14 2. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
15 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
16 of the Political Reform Act alleged in **Count 1**;
- 17 3. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
18 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
19 of the Political Reform Act alleged in **Count 2**;
- 20 4. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
21 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
22 of the Political Reform Act alleged in **Count 3**;
- 23 5. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
24 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
25 of the Political Reform Act alleged in **Count 4**;
- 26 6. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
27 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
28 of the Political Reform Act alleged in **Count 5**;

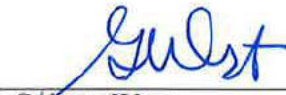
- 1 7. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
2 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
3 of the Political Reform Act alleged in **Count 6**;
- 4 8. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
5 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
6 of the Political Reform Act alleged in **Count 7**;
- 7 9. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
8 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
9 of the Political Reform Act alleged in **Count 8**;
- 10 10. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
11 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
12 of the Political Reform Act alleged in **Count 9**;
- 13 11. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
14 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
15 of the Political Reform Act alleged in **Count 10**;
- 16 12. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
17 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
18 of the Political Reform Act alleged in **Count 11**;
- 19 13. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
20 order the Committee and Aguirre to pay a monetary penalty of up to \$5,000 for the violation
21 of the Political Reform Act alleged in **Count 12**;
- 22 14. That the Fair Political Practices Commission, pursuant to Regulation 18361.5, subdivision
23 (d), consider the following factors in framing a proposed order following a finding of a
24 violation pursuant to Section 83116: (1) the seriousness of the violation; (2) the presence or
25 absence of any intention to conceal, deceive or mislead; (3) whether the violation was
26 deliberate, negligent or inadvertent; (4) whether the violator demonstrated good faith by
27 consulting the Commission staff or any other government agency in a manner not
28 constituting a complete defense under Section 83114, subdivision (b); (5) whether the

1 violation was isolated or part of a pattern and whether the violator has a prior record of
2 violations of the Act or similar laws; and (6) whether the violator, upon learning of a
3 reporting violation, voluntarily filed amendments to provide full disclosure.

- 4 15. That the Fair Political Practices Commission grant such other and further relief as it deems
5 just and proper.

6
7 Dated:

25 April 19



Galena West
Chief of Enforcement
Fair Political Practices Commission

Exhibit A-7

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Address</i>): 916-322-8185 CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION 1102 Q STREET, SUITE 3000 SACRAMENTO CA 95811		TELEPHONE NO.: Ref. No. or File No.:	FOR COURT USE ONLY	
ATTORNEY FOR (<i>Name</i>): Insert name of court and name of judicial district and branch court if any:				
PLAINTIFF: IN THE MATTER OF JOE AGUIRRE DEFENDANT:				
PROOF OF SERVICE Personal Service	HEARING DATE:	HEARING TIME:	DEPT./DIV.:	CASE NUMBER: 17/193

PERSONAL SERVICE

1. Documents served:

STATEMENT TO RESPONDENT;
 FPPC CASE NO. 17/193: ACCUSATION;
 NOTICE OF DEFENSE (TWO COPIES);
 SELECTED SECTIONS OF THE CALIFORNIA
 GOVERNMENT CODE; ADMINISTRATIVE PROCEDURE ACT

2. Person served (*name*) :

JOE AGUIRRE

3. By personally delivering copies to the person served, as follows:

(1) Date: 5/7/2019 (2) Time: 11:40AM

(3) Address: [REDACTED]

4. At the time of service I was at least 18 years of age and not a party to this cause.

5. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

6. Fee for Service: \$170.00

Active Legal Process Solutions Inc.
 9530 Hageman Rd., #B278
 Bakersfield, CA 93312
 (661) 368-0789 KERN

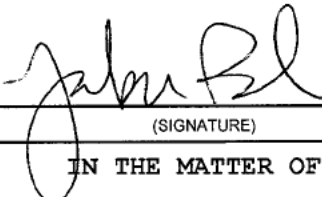
- Exempt from registration under B&P 22350(b).
- Registered California process server.
- Employee or independent contractor
 (2) Registration No.: #560/KERN
 (3) County

81055

Date: 4/29/2019

JACKIE BRAZEAL

 (TYPE OR PRINT NAME)



 (SIGNATURE)

PROOF OF SERVICE
 Personal Service

IN THE MATTER OF JOE AGUIRRE

Exhibit A-8



FAIR POLITICAL PRACTICES COMMISSION

1102 Q Street • Suite 3000 • Sacramento, CA 95811

STATEMENT TO RESPONDENTS

[Government Code Section 11505, subdivision (b)]

FRIENDS OF JOE AGUIRRE FOR DELANO CITY COUNCIL 2014

and JOE AGUIRRE

FPPC Case No. 17/193

Enclosed is an Accusation, which was filed with the Fair Political Practices Commission (the "FPPC") and which is hereby served upon you, along with two copies of a Notice of Defense and Government Code Sections 11506 through 11508.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the FPPC within 15 days after the Accusation was served on you, the FPPC may proceed upon the Accusation without a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled Notice of Defense, or by delivering or mailing a notice of defense as provided by Section 11506 of the Government Code to the Commission Assistant at the FPPC.

You may, but need not, be represented by counsel at any or all stages of these proceedings.

If you desire a list of the names and addresses of witnesses against you, or an opportunity to inspect and copy the items mentioned in Section 11507.6 of the Government Code that are in the possession, custody, or control of this agency, or if you wish to discuss the possibility of resolving this matter without a formal hearing, you may contact Theresa Gilbertson, Commission Counsel, at (916) 323-6421 or tgilbertson@fppc.ca.gov, Enforcement Division.

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the FPPC or, if an administrative law judge has been assigned to the hearing, the Office of Administrative Hearings, within 10 working days after you discover the good cause. Failure to give notice within 10 days will deprive you of a postponement.

After a hearing, the FPPC will consider the following factors in determining whether to assess a penalty (Title 2, California Code of Regulations, Section 18361.5, subdivision (d).):

1. The seriousness of the violation;
2. The presence or absence of any intention to conceal, deceive, or mislead;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the violator demonstrated good faith by consulting Commission staff or any other government agency in a manner not constituting a complete defense under Government Code Section 83114, subdivision (b);
5. Whether the violation was isolated or part of a pattern;
6. Whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
7. Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.



Before the Fair Political Practices Commission

State of California

In the Matter of	)	NOTICE OF DEFENSE
	)	(Pursuant to Gov. Code § 11506)
)	
FRIENDS OF JOE AGUIRRE FOR	)	FPPC Case No. 17/193
DELANO CITY COUNCIL 2014)	
and JOE AGUIRRE)	
)	
Respondents.)	
)	
)	

Friends of Joe Aguirre for Delano City Council 2014, a respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

GROUND FOR NOTICE OF DEFENSE

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
 - a) I admit the Accusation in whole.
 - b) I admit the Accusation in part as indicated below:

- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: _____

Respondent

Print Name

Mailing Address

City, State, Zip



Before the Fair Political Practices Commission

State of California

In the Matter of	)	NOTICE OF DEFENSE
	)	(Pursuant to Gov. Code § 11506)
)	
FRIENDS OF JOE AGUIRRE FOR	)	FPPC Case No. 17/193
DELANO CITY COUNCIL 2014)	
and JOE AGUIRRE)	
)	
Respondents.)	
)	
)	

Joe Aguirre, a respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

GROUND FOR NOTICE OF DEFENSE

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
 - a) I admit the Accusation in whole.
 - b) I admit the Accusation in part as indicated below:

- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: _____

Respondent

Print Name

Mailing Address

City, State, Zip

California Government Code sections 11506 through 11508

§ 11506. Filing of notice of defense or notice of participation; Contents; Right to hearing on the merits

(a) Within 15 days after service of the accusation or District Statement of Reduction in Force the respondent may file with the agency a notice of defense, or, as applicable, notice of participation, in which the respondent may:

(1) Request a hearing.

(2) Object to the accusation or District Statement of Reduction in Force upon the ground that it does not state acts or omissions upon which the agency may proceed.

(3) Object to the form of the accusation or District Statement of Reduction in Force on the ground that it is so indefinite or uncertain that the respondent cannot identify the transaction or prepare a defense.

(4) Admit the accusation or District Statement of Reduction in Force in whole or in part.

(5) Present new matter by way of defense.

(6) Object to the accusation or District Statement of Reduction in Force upon the ground that, under the circumstances, compliance with the requirements of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights.

(b) Within the time specified the respondent may file one or more notices of defense, or, as applicable, notices of participation, upon any or all of these grounds but all of these notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense or notice of participation, and the notice shall be deemed a specific denial of all parts of the accusation or District Statement of Reduction in Force not expressly admitted. Failure to file a notice of defense or notice of participation shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in paragraph (3) of subdivision (a), all objections to the form of the accusation or District Statement of Reduction in Force shall be deemed waived.

(d) The notice of defense or notice of participation shall be in writing signed by or on behalf of the respondent and shall state the respondent's mailing address. It need not be verified or follow any particular form.

(e) As used in this section, "file," "files," "filed," or "filing" means "delivered or mailed" to the agency as provided in Section 11505.

HISTORY: Added Stats 1945 ch 867 § 1. Amended Stats 1963 ch 931 § 1; Stats 1982 ch 606 § 1; Stats 1986 ch 951 § 20; Stats 1995 ch 938 § 29 (SB 523), operative July 1, 1997; Stats 2013 ch 90 § 5 (SB 546), effective January 1, 2014.

§ 11507. Amended or supplemental accusation or District Statement of Reduction in Force; Objections

At any time before the matter is submitted for decision, the agency may file, or permit the filing of, an amended or supplemental accusation or District Statement of Reduction in Force. All parties shall be notified of the filing. If the amended or supplemental accusation or District Statement of Reduction in Force presents new charges, the agency shall afford the respondent a reasonable opportunity to prepare his or her defense to the new charges, but he or she shall not be entitled to file a further pleading unless the agency in its discretion so orders. Any new charges shall be deemed controverted, and any objections to the amended or supplemental accusation or District Statement of Reduction in Force may be made orally and shall be noted in the record.

HISTORY: Added Stats 1945 ch 867 § 1. Amended Stats 2013 ch 90 § 6 (SB 546), effective January 1, 2014; Stats 2014 ch 71 § 69 (SB 1304), effective January 1, 2015.

§ 11507.3. Consolidated proceedings; Separate hearings

(a) When proceedings that involve a common question of law or fact are pending, the administrative law judge on the judge's own motion or on motion of a party may order a joint hearing of any or all the matters at issue in the proceedings. The administrative law judge may order all the proceedings consolidated and may make orders concerning the procedure that may tend to avoid unnecessary costs or delay.

(b) The administrative law judge on the judge's own motion or on motion of a party, in furtherance of convenience or to avoid prejudice or when separate hearings will be conducive to expedition and economy, may order a separate hearing of any issue, including an issue raised in the notice of defense or notice of participation, or of any number of issues.

HISTORY: Added Stats 1995 ch 938 § 30 (SB 523), operative July 1, 1997. Amended Stats 2013 ch 90 § 7 (SB 546), effective January 1, 2014.

///

§ 11507.5. Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

HISTORY: Added Stats 1968 ch 808 § 3.

§ 11507.6. Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

HISTORY: Added Stats 1968 ch 808 § 4. Amended Stats 1985 ch 1328 § 5; Stats 1995 ch 938 § 31 (SB 523), operative July 1, 1997.

§ 11507.7. Motion to compel discovery; Order

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of *Section 915 of the Evidence Code* and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become

effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

HISTORY: Added Stats 1968 ch 808 § 5. Amended Stats 1971 ch 1303 § 8; Stats 1980 ch 548 § 2; Stats 1995 ch 938 § 32 (SB 523), operative July 1, 1997.

§ 11508. Time and place of hearing

(a) The agency shall consult the office, and subject to the availability of its staff, shall determine the time and place of the hearing. The hearing shall be held at a hearing facility maintained by the office in Sacramento, Oakland, Los Angeles, or San Diego and shall be held at the facility that is closest to the location where the transaction occurred or the respondent resides.

(b) Notwithstanding subdivision (a), the hearing may be held at either of the following places:

(1) A place selected by the agency that is closer to the location where the transaction occurred or the respondent resides.

(2) A place within the state selected by agreement of the parties.

(c) The respondent may move for, and the administrative law judge has discretion to grant or deny, a change in the place of the hearing. A motion for a change in the place of the hearing shall be made within 10 days after service of the notice of hearing on the respondent.

Unless good cause is identified in writing by the administrative law judge, hearings shall be held in a facility maintained by the office.

HISTORY: Added Stats 1945 ch 867 § 1. Amended Stats 1963 ch 710 § 1; Stats 1967 ch 17 § 39; Stats 1987 ch 50 § 1; Stats 1995 ch 938 § 33 (SB 523), operative July 1, 1997; Stats 2005 ch 674 § 22 (SB 231), effective January 1, 2006.

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811.

On 4/25/19, I served the following document(s):

1. Statement to Respondent;
2. FPPC Case No. 17/193: Accusation;
3. Notice of Defense (Two Copies);
4. Selected Sections of the California Government Code, Administrative Procedure Act.

By Personal Delivery. I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By personal service. At 11:37 a.m./p.m.:

I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By providing the document(s) listed above with instructions for registered process server to personally deliver the envelope(s) to the person(s) at the address(es) set forth on the service list below. **The signed proof of service by the registered process server will be attached as soon as it is available.**

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

SERVICE LIST


Personal Delivery

Sasha Linker, Commission
Assistant
Fair Political Practices
Commission
1102 Q Street, Suite 3000
Sacramento, California 95811

Personal Service

Joe Aguirre


I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on 4/25/19.



Suzanna Gevorkyan

Exhibit A-9

**Statement of Organization
Recipient Committee**

R
L 15

1368843

Statement Type

Initial

Not yet qualified or

07 / 18 / 2014
Date qualified as committee

Amendment

List I.D. number:

Date qualified as committee
(If applicable)

Termination - See Part 5

List I.D. number:

Date of Termination

RECEIVED AND FILED
in the office of the Secretary of State
of the State of California

Date Stamp

JUL 30 2014

DEBRA BOWEN
Secretary of State

CALIFORNIA FORM 410

For Official Use Only

R/gf

1. Committee Information

NAME OF COMMITTEE

"Friends of Joe Aguirre for Delano City Council 2014"

STREET ADDRESS (NO P.O. BOX)

2159 Bellagio Street

CITY STATE ZIP CODE AREA CODE/PHONE
Delano Ca 93215 (661)427-9325

MAILING ADDRESS (IF DIFFERENT)

FAX / E-MAIL ADDRESS

(661)721-5334

COUNTY OF DOMICILE

Kern

JURISDICTION WHERE COMMITTEE IS ACTIVE

Delano

2. Treasurer and Other Principal Officers

NAME OF TREASURER

Joe Aguirre

STREET ADDRESS (NO P.O. BOX)

2159 Bellagio Street

CITY STATE ZIP CODE AREA CODE/PHONE
Delano Ca 93215 (661)427-9325

NAME OF ASSISTANT TREASURER, IF ANY

STREET ADDRESS (NO P.O. BOX)

CITY STATE ZIP CODE AREA CODE/PHONE

NAME OF PRINCIPAL OFFICER(S)

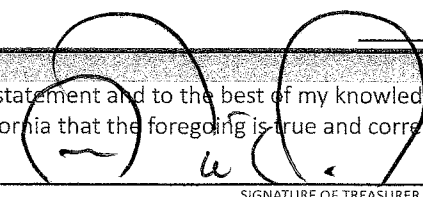
STREET ADDRESS (NO P.O. BOX)

CITY STATE ZIP CODE AREA CODE/PHONE

Attach additional information on appropriately labeled continuation sheets.

3. Verification

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 07/18/2014 By  SIGNATURE OF TREASURER OR ASSISTANT TREASURER

Executed on _____ By _____ SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on _____ By _____ SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on _____ By _____ SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Exhibit A-10

497 Contribution Report

Type or print in ink.
Amounts may be rounded to whole dollars.

497 CONTRIBUTION REPORT

NAME OF FILER Joe Aguirre		Date of This Filing <u>08/18/2014</u>	Date Stamp	<div style="background-color: #333; color: white; padding: 5px; font-weight: bold; font-size: 1.2em;">CALIFORNIA FORM 497</div> <p style="font-size: 0.8em; margin: 0;">For Official Use Only</p>
AREA CODE/PHONE NUMBER 661-427-9325	I.D. NUMBER (if applicable) FPPC # 1368843	Report No. _____		
STREET ADDRESS 2159 Bellagio Street		<input type="checkbox"/> Amendment to Report No. _____ (explain below)		
CITY Delano	STATE Ca	ZIP CODE 93215	No. of Pages _____	

1. Contribution(s) Received

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR <small>(IF COMMITTEE, ALSO ENTER I.D. NUMBER)</small>	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER <small>(IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)</small>	AMOUNT RECEIVED
08/18/2014	Rudy Salas for Assembly 2014 Committee ID 3 1354338 Shafter, Ca 93263	<input type="checkbox"/> IND <input checked="" type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		\$ 5,000.00 <input type="checkbox"/> Check if Loan _____% <small>Provide interest rate</small>
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		<input type="checkbox"/> Check if Loan _____% <small>Provide interest rate</small>
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		<input type="checkbox"/> Check if Loan _____% <small>Provide interest rate</small>

Reason for Amendment: _____

****Contributor Codes**

IND - Individual
 COM - Recipient Committee (other than PTY or SCC)
 OTH - Other (e.g., business entity)
 PTY - Political Party
 SCC - Small Contributor Committee

Exhibit A-11



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street, Suite 3000 • Sacramento, CA 95811

March 9, 2021

Brandon Martin, Esq.
Attorney-at-Law
o/b/o Friends of Joe Aguirre for Delano City Council 2014 and Joe Aguirre
1430 Truxtun Avenue, 5th Floor
Bakersfield, California 93301
Via Email: brandon@brandonmartinlaw.com

NOTICE OF DEFAULT DECISION AND ORDER

Re: FPPC No. 17/193, In the Matter of Friends of Joe Aguirre for Delano City Council 2014 and Joe Aguirre

Dear Mr. Martin:

On May 7, 2019, your client, Joe Aguirre, was personally served with an accusation in the above referenced matter. Pursuant to the Administrative Procedure Act, your client was required to file a notice of defense within 15 days after service of the accusation to request an administrative hearing. Your client did not file a notice of defense. **As a result, your client has waived his right to an administrative hearing.**¹

The Fair Political Practices Commission (the “Commission”) will proceed with a default, decision and order (“default”) against your client and his committee Friends of Joe Aguirre for Delano City Council 2014 (the “Committee”). The initial notice of this default will appear on the published agenda for the Commission’s public meeting on April 15, 2021. This agenda will be public, and your client could be contacted by the media with questions. The Commission will be asked to adopt the default at the subsequent public meeting on May 20, 2021 and impose an administrative penalty of \$52,000 against your client and his Committee.

Following the issuance of the default, the Commission will obtain a judgment in superior court for the amount owed and then take action to collect the judgment. Please be advised that administrative penalties for violations of the Political Reform Act cannot be discharged in bankruptcy proceedings.

Your client may still resolve this matter informally by way of a stipulated settlement if an agreement can be reached prior to this matter appearing for consideration by the Commission. Please contact me at (916) 323-6421 or tgilbertson@fppc.ca.gov if your client wishes to enter into a settlement to resolve this matter in its entirety.

Sincerely,

Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

¹ Government Code Section 11505.

Exhibit A-12



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street, Suite 3000 • Sacramento, CA 95811

January 25, 2022

Brandon Martin, Esq.
Attorney-at-Law
o/b/o Joe Aguirre and Friends of Joe Aguirre for Delano City Council 2014
1430 Truxtun Avenue, 5th Floor
Bakersfield, California 93301
Via Email: brandon@brandonmartinlaw.com

NOTICE OF INTENT TO ENTER DEFAULT DECISION AND ORDER

Re: FPPC No. 17/193, In the Matter of Friends of Joe Aguirre for Delano City Council 2014 and Joe Aguirre

Dear Mr. Martin:

On May 7, 2019, your client Joe Aguirre was personally served with an accusation in the above referenced matter. Pursuant to the Administrative Procedure Act, your client was required to file a notice of defense within 15 days after service of the accusation to request an administrative hearing. Your client did not file a notice of defense. **As a result, your client has waived his right to an administrative hearing.**¹

The Fair Political Practices Commission (the “Commission”) will proceed with a default, decision and order (“default”) against your client and his committee Friends of Joe Aguirre for Delano City Council 2014 (the “Committee”). The initial notice of this default appeared on the published agenda for the Commission’s public meeting on April 15, 2021. The Commission will be asked to adopt the default at its public meeting scheduled for March 17, 2022 and impose an administrative penalty of \$36,000 against your client and his Committee. A copy of the default, decision, and order and accompanying exhibits the Commission will consider at its meeting on March 17, 2022 is enclosed with this letter.

Your client may, but is not required to, provide a response brief, along with any supporting materials, no later than five calendar days before the Commission hearing at which the default is scheduled to be heard. The response brief must be served on the Commission Assistant, at the above address.

Following the issuance of the default order and imposition of the administrative penalty, we will commence legal proceedings to collect this fine, which may include converting the Commission’s order to a court judgment. Please be advised that administrative penalties for violations of the Political Reform Act cannot be discharged in bankruptcy proceedings.

¹ Government Code Section 11505.

This letter is your client's last opportunity to resolve this matter informally by way of a stipulated settlement, before the default proceedings are commenced. If we do not reach a resolution, the enclosed documents will be placed on the Commission's agenda for the March 17, 2022 meeting. Please contact me at (916) 323-6421 or tgilbertson@fppc.ca.gov if your client wishes to enter into a negotiated settlement.

Sincerely,



Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

Enclosures



**DECLARATION OF CUSTODIAN OF RECORDS
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
Enforcement Division**

CERTIFICATION OF RECORDS

The undersigned declares and certifies as follows:

1. I am employed as an Associate Governmental Program Analyst by the California Fair Political Practices Commission (Commission). My business address is: California Fair Political Practices Commission, 1102 Q St, Ste 3000, Sacramento, CA 95811.
2. I am a duly authorized custodian of the records maintained by the Commission in the Enforcement Division. As such, I am authorized to certify copies of those records as being true and correct copies of the original business records which are in the custody of the Commission.
3. I have reviewed documents maintained in *FPPC Case No. 17/193; Friends of Joe Aguirre for Delano City Council 2014 and Joe Aguirre* and have caused copies to be made of documents contained therein. I certify that the copies attached hereto are true and correct copies of the documents prepared in the normal course of business and which are contained in files maintained by the Commission. The attached documents are as follows:

EXHIBIT A-1: Report in Support of a Finding of Probable Cause, dated September 6, 2018

EXHIBIT A-2: Proof of Service for the Report in Support of a Finding of Probable Cause and applicable statutes and regulations, dated September 6, 2018, signed return receipts, and the USPS tracking

EXHIBIT A-3: Cover letter to the Respondents regarding the Report in Support of a Finding of Probable Cause, dated September 6, 2018, memorandum describing Probable Cause Proceedings, and applicable statutes and regulations

EXHIBIT A-4: Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served, dated October 30, 2018

EXHIBIT A-5: Finding of Probable Cause and Order to Prepare and Serve an Accusation, dated October 31, 2018

- EXHIBIT A-6: Accusation, dated April 25, 2019
- EXHIBIT A-7: Proof of Service on May 7, 2019, for Accusation and accompanying documents from process server, dated April 29, 2019
- EXHIBIT A-8: Statement to Respondents, Notices of Defense, applicable statutes, and Proof of Service for Accusation and accompanying documents, dated April 25, 2019
- EXHIBIT A-9: Initial statement of organization filed by the committee Friends of Joe Aguirre for Delano City Council 2014 on July 30, 2014
- EXHIBIT A-10: A 24-hour contribution report filed by the committee Friends of Joe Aguirre for Delano City Council 2014 on August 18, 2014
- EXHIBIT A-11: Notice of Default Decision and Order, dated March 9, 2021
- EXHIBIT A-12: Notice of Intent to Enter Default Decision and Order, dated January 25, 2022

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 26, 2022, at Sacramento, California.



Shaina Elkin
Associate Governmental Program Analyst
Enforcement Division
Fair Political Practices Commission

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811. On February 17, 2022, I served the following document(s):

1. Letter re: Notice of Default Decision and Order and Administrative Fine, dated 01/25/2022, from Theresa Gilbertson, Senior Commission Counsel, Enforcement Division;
2. Copy of the signed Default Decision and Order, FPPC No. 17/193
3. Exhibit 1 in Support of a Default Decision and Order and Exhibits A-1 through A-12; and
4. Copy of California Code of Regulations, Title 2, Section 18361.11, "Default Proceedings."

By Personal Delivery. I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By United States Postal Service. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the addresses listed below and placed the envelope or package for collection and mailing by first class mail, following my company's ordinary business practices. I am readily familiar with this business' practice for collection and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

SERVICE LIST

Brandon Martin
o/b/o Joe Aguirre and Committee, Friends of Joe Aguirre
1707 Eye St, Ste 213
Bakersfield, CA 93301-5208

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 17, 2022.



Shaina Elkin