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

11 In the Matter of) FPPC No. 13/1122
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Respondent.

STIPULATION

Complainant, the Fair Political Practices Commission, and Respondent Gustavo Villa, hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by this matter and to reach a final disposition without the necessity of holding an additional administrative hearing to determine the liability of Respondent.

Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to personally appear at any administrative hearing held in this matter, to be represented by an attorney at Respondent's own expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over

1 the hearing as a hearing officer, and to have the matter judicially reviewed.

2 It is further stipulated and agreed that on or about October 31, 2008, Respondent violated the
3 Political Reform Act by making two campaign contributions in the amounts of \$2,000 and \$800, in the
4 name of Beatriz Torres rather than his own name, by failing to disclose to the recipients of the
5 contributions that he was the true source, by failing to disclose to the recipients of the contributions that
6 he was an intermediary for another, and by failing to disclose to the recipients of the contributions that
7 Beatriz Torres was an intermediary for another, in violation of Sections 84300, subdivision (c), 84301
8 and 84302 of the Government Code (1 count) as described in Exhibit 1. Exhibit 1 is attached hereto
9 and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary
10 of the facts in this matter.

11 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
12 Respondent also agrees to the Commission imposing an administrative penalty in the total amount of
13 Four Thousand Five Hundred Dollars (\$4,500). A cashier's check from Respondent in said amount,
14 made payable to the "General Fund of the State of California," is submitted with this Stipulation as full
15 payment of the administrative penalty, and shall be held by the State of California until the Commission
16 issues its Decision and Order regarding this matter. The parties agree that in the event the Commission
17 refuses to accept this Stipulation, it shall become null and void, and within fifteen (15) business days
18 after the Commission meeting at which the Stipulation is rejected, all payments tendered by
19 Respondent in connection with this Stipulation shall be reimbursed to Respondent. Respondent further
20 stipulates and agrees that in the event the Commission rejects the Stipulation, and a full evidentiary
21 hearing before the Commission becomes necessary, neither any member of the Commission, nor the
22 Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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24 Dated: _____

Gary S. Winuk, on Behalf of the Enforcement Division
Fair Political Practices Commission

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27 Dated: _____

Gustavo Villa, Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Gustavo Villa,” including all attached exhibits, is hereby accepted as the final Decision and Order of the Fair Political Practices Commission, effective upon execution below by the Chairman.

IT IS SO ORDERED.

Dated: _____

Sean Eskovitz, Vice-Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent Gustavo Villa (Respondent Villa) was the General Manager of Maywood Mutual Water Company No. 2 (MMWC2) from October 2006 through January 2012. In the 15 years before he became MMWC2 General Manager, Respondent Villa was a member of the MMWC2 Board of Directors. Additionally, Respondent Villa was an unsuccessful candidate for Maywood City Clerk in 2011.

The Political Reform Act (the “Act”)¹ prohibits contributions of \$100 or more unless made in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary. (Section 84300, subd. (c).) Additionally, the Act prohibits persons from making contributions in a name other than the name by which such person is identified for legal purposes. (Section 84301.) Also, the Act prohibits any contribution through an intermediary, unless the name, address and employer of both the intermediary and the original contributor are disclosed to the recipient of the contribution. (Section 84302).

In this matter, Respondent Villa violated the Act by giving cash for two contributions to another individual in order for the individual to write checks to make two contributions in those amounts to campaign committees, and then failing to disclose the true source and intermediary information to the recipients of the contributions.

For the purposes of this Stipulation, Respondent Villa’s violations of the Act are stated as follows:

COUNT 1: On or about October 31, 2008, Respondent Gustavo Villa made two campaign contributions, in the amounts of \$2,000 and \$800, in the name of Beatriz Torres rather than his own name, failed to disclose to the recipients of the contributions that he was the true source, failed to disclose to the recipients of the contributions that he was an intermediary for another, and failed to disclose to the recipients of the contributions that Beatriz Torres was an intermediary for another, in violation of Government Code Sections 84300, subdivision (c), 84301 and 84302.

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¹ The Political Reform 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 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.

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act's provisions as they existed at the time of the violation in question.

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that contributions and expenditures effecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose.

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

When the Political Reform Act was enacted, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities. (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

One of the purposes of the Act is to prevent conflicts of interest by public officials. (Section 81002, subd. (c).) Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced." (Section 81002, subd. (f).)

Duty to Make Campaign Contributions in Own Legal Name

Section 81002, subdivision (a) of the Act provides that "receipts and expenditures in election campaigns shall be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited." Timely and truthful disclosure of the source of campaign contributions is an essential part of the Act's mandate.

In order to obtain disclosure of the true source of campaign contributions, Section 84301 prohibits contributions being made, directly or indirectly, by any person in a name other than that by which the contributor is identified for legal purposes.

Section 84300, subdivision (c), prohibits making campaign contributions of One Hundred Dollars (\$100.00) or more unless the contributions are made by way of written instrument containing the names of both the actual donor and the real payee.

Duty to Disclose Intermediary

Section 84301 provides that no contribution shall be made by any person in a name other than the name by which such person is identified for legal purposes.

Section 84302 prohibits any person from making a contribution while acting as the intermediary of another, without disclosing to the recipient of the contribution both the intermediary's own full name, street address, occupation, and employer, and the original contributor's full name, street address, occupation, and employer. (Section 84302; Regulation

18432.5.) Regulation 18432.5 states that a person is an intermediary for a contribution if the recipient of the contribution "would consider the person to be the contributor without the disclosure of the identity of the true source of the contribution."

SUMMARY OF THE FACTS

Respondent Gustavo Villa (Respondent Villa) was the General Manager of Maywood Mutual Water Company No. 2 (MMWC2), a non-profit corporation, from October 2006 through January 2012. As General Manager, he took directions from the Board of Directors, whose members were elected by the shareholders – property and home owners within the service area. In the 15 years before he became MMWC2 General Manager, Respondent Villa was a member of the MMWC2 Board of Directors. Additionally, Respondent Villa was an unsuccessful candidate for Maywood City Clerk in 2011.

California Citizens for Good Government was a state general purpose committee whose purpose, as stated in its statement of organization, was “[t]o distribute educational and policy making literature throughout the state by informing voters to support ballot measures, local city, school board, county and statewide candidates.”

On December 9, 2008, the City of Maywood held a Special Election to recall three Maywood City Council members. Vote for Vasquez/Gallardo was a candidate controlled committee for two replacement candidates, Jamie Vasquez and Miriam Kirk-Gallardo, in that recall election. According to the candidates, Jamie Vasquez and Miriam Kirk-Gallardo, as well as Salvador Contreras, the treasurer of Vote for Vasquez/Gallardo, Respondent Villa was instrumental in getting people together to work on the Vote for Vasquez/Gallardo campaign. He also helped distribute and display campaign signs, made a contribution in his own name of \$1,500 to Vote for Vasquez/Gallardo, and solicited contributions from other persons for Vote for Vasquez/Gallardo.

Beatriz Ortega Torres was hired in September 2008 by the MMWC2 as an Assistant Office Manager. Respondent Villa, as the General Manager of MMWC2, was her direct supervisor.

The evidence shows that on October 31, 2008, Respondent Villa told Ms. Torres that he was going to take her to the bank to show her how to do the deposits for MMWC2. At the bank, Respondent Villa instructed Ms. Torres in making the deposits. Afterwards, Respondent Villa asked Ms. Torres to write a \$2,000 check in exchange for \$2,000 in cash. Since Ms. Torres held an account at the same bank as MMWC2, and she did not want to displease the boss for her new job, Ms. Torres agreed. She wrote out a check, leaving the payee section blank, and deposited the cash directly into her account. Respondent Villa gave the \$2,000 check to California Citizens for Good Government, likely via either Art Chacon, a member of the Central Basin Municipal Water District, or his brother, Hector Chacon, a member of the Board of Education for the Montebello Unified School District, and the controlling candidate of California Citizens for Good Government. California Citizens for Good Government reported receiving a \$2,000 contribution from Beatriz Torres on November 4, 2008.

Respondent Villa contends that he was not the source of the \$2,000 contribution, but rather, Art Chacon gave him the \$2,000 in cash and requested a check from Respondent Villa. However, because Respondent Villa did not have his checkbook at work, and Art Chacon wanted to make the exchange immediately, Respondent Villa asked Ms. Torres to write the check instead. Respondent Villa contends that when Ms. Torres gave the check to him, he immediately gave the check to Art Chacon.

Art Chacon denies any involvement with the \$2,000 contribution. Additionally, Ms. Torres has no recollection of Art Chacon being at either the MMWC2 or at the bank on the day Respondent Villa asked her to write the \$2,000 check.

Also on October 31, 2008, Respondent Villa asked Ms. Torres to write an \$800 check in exchange for \$800 in cash. Again, Ms. Torres agreed. She wrote out the check, leaving the payee and memo sections blank, and deposited the cash directly into her account. Vote for Vasquez/Gallardo held an account at the same bank, and Vote for Vasquez/Gallardo bank records show that Respondent Villa deposited the \$800 check from Ms. Torres and his personal contribution of \$1,500 to Vote for Vasquez/Gallardo, directly into the account for Vote for Vasquez/Gallardo on October 31, 2008. Despite having a campaign bank account and receiving over \$1,000 in contributions, no campaign statements could be located by the City of Maywood or by the California Secretary of State regarding Vote for Vasquez/Gallardo.

Respondent Villa denies any involvement with the \$800 contribution to Vote for Vasquez/Gallardo.

VIOLATIONS

In this matter, Respondent Villa violated the Act by giving cash for two contributions to another individual in order for the individual to write checks to make two contributions in those exact amounts to campaign committees. Accordingly, Respondent Villa violated the Act, as follows:

Count 1

(Making Campaign Contributions in the Name of Another)

On October 31, 2008, Respondent Villa gave Beatriz Ortega Torres \$2,000 in cash to write a check for a \$2,000 contribution for California Citizens for Good Government. Respondent Villa was not identified either as the true source of the contribution, or as the intermediary for another person. Additionally, Beatriz Torres was not identified as the intermediary for another person.

Also on October 31, 2008, Respondent Villa gave Beatriz Ortega Torres \$800 in cash to write a check for an \$800 contribution to Vote for Vasquez/Gallardo. Respondent Villa was not identified as the true source of the contribution, and Beatriz Torres was not identified as the intermediary for another person.

By making two campaign contributions in the name of Beatriz Torres rather than his own name, failing to disclose to the recipients of the contributions that he was the true source, failing to disclose to the recipients of the contributions that he was an intermediary for another, and failing to disclose to the recipients of the contributions that Beatriz Torres was an intermediary for another, Respondent Villa violated Government Code Sections 84300, subdivision (c), 84301 and 84302.

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of Five Thousand Dollars (\$5,000).

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 context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6):

1. The seriousness of the violations;
2. The presence or lack of intent to deceive the voting public;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the Respondent demonstrated good faith in consulting with Commission staff;
5. Whether there was a pattern of violations; and
6. Whether, upon learning of the violation, the violator voluntarily provided amendments to provide full disclosure.

Making campaign contributions in the name of another person is one of the more serious violations of the Act as it denies the public of information about the true source of a campaign's financial support. The typical administrative penalty for similar violations, depending on the facts of the case, has been at or near the maximum penalty per violation, depending on the circumstances of the violation.

In this matter, Respondent Villa made two contributions in the name of Beatriz Torres, failed to identify himself as the true source of the contributions, failed to identify himself as the intermediary for someone else, and failed to identify Beatriz Torres as an intermediary for someone else. Making contributions in another person's name and failing to disclose intermediary information are serious violations of the Act, showing a possible intent to deceive the voting public as to the true source of the contributions.

Respondent Villa admitted during an interview with Enforcement Division staff that he was aware of the Act's requirements and prohibitions. Respondent Villa had experience running political campaigns, both for himself and for others. Thus, Respondent Villa should have known that even without any applicable local contribution limits, making contributions in the name of another person and failing to disclose intermediary information were prohibited under the Act.

Additionally, Respondent Villa worked directly with/for Vote for Vasquez/Gallardo, and even though he made a contribution in his own name, he also made an \$800 contribution to Vote for Vasquez/Gallardo in the name of another person.

In mitigation, Respondent Villa fully cooperated during the investigation of this matter, and he has no prior history of violating the Act. Additionally, the City of Maywood does not have any contribution limits for local campaigns.

Recent penalties approved by the Commission concerning similar violations of the Act include:

In the Matter of Michelle Berman, FPPC No. 10/115 (Default Decision). Respondent, a campaign volunteer, caused a \$1,000 contribution to the Friends of John Guardino committee to be made in the name of three separate intermediaries, in violation of Government Code sections 84301 and 84302 (3 counts). In November 2010, the Commission imposed a penalty of \$5,000 per count.

In the Matter of Adrienne Lauby, FPPC No. 10/116 (Default Decision). Respondent, a campaign volunteer, acting as an agent or intermediary, made a contribution on behalf of another person, such that the identity of the donor was not reported, in violation of Government Code sections 84301 and 84302 (1count). In November 2010, the Commission imposed a penalty of \$4,500 per count.

In the Matter of Tim Foley, FPPC No. 10/117 (Default Decision). Respondent, a campaign volunteer, acting as an agent or intermediary, made a contribution on behalf of another person, such that the identity of the donor was not reported, in violation of Government Code sections 84301 and 84302 (1count). In November 2010, the Commission imposed a penalty of \$4,500 per count.

PROPOSED PENALTY

The facts of this case, including the aggravating and mitigating factors above, justify imposition of the agreed upon penalty of Four Thousand Five Hundred Dollars (\$4,500) for Count 1. A higher penalty is not being sought because Respondent Villa cooperated with the Enforcement Division of the Fair Political Practices Commission by agreeing to an early settlement of this matter well in advance of the Probable Cause Conference that otherwise would have been held.

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