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7
8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**

10
11 In the Matter of

FPPC No. 14/404

12 FAMILIAS POR MAYWOOD aka
13 FAMILIAS POR MAYWOOD
14 SUPPORTING AGUIRRE MAGAÑA
VARELA FOR MAYWOOD CITY
15 COUNCIL, EDWARD VARELA, and
OSCAR MAGAÑA,

STIPULATION, DECISION, AND ORDER

16 Respondents.

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18 **STIPULATION**

19 Complainant, the Fair Political Practices Commission (Commission), and respondents Familias
20 por Maywood aka Familias por Maywood Supporting Aguirre Magana Varela for Maywood City
21 Council, Edward Varela, and Oscar Magaña (Respondents) hereby agree that this Stipulation will be
22 submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled
23 meeting.

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

27 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
28 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of

1 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to
2 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
3 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to
4 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
5 the hearing as a hearing officer, and to have the matter judicially reviewed.

6 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing
7 to disclose campaign contributions on pre-election campaign statements in violation of Government
8 Code section 84211, subdivision (f), as described in Exhibit 1. Exhibit 1 is attached hereto and
9 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
10 the facts in this matter.

11 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
12 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
13 Two Thousand Dollars (\$2,000). Respondents submitted with this Stipulation a cashier's check from
14 Respondents in said amount, made payable to the "General Fund of the State of California," as full
15 payment of the administrative penalty that 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 Respondents in connection with this Stipulation shall be reimbursed to Respondents. Respondents
20 further stipulate and agree 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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25 Dated: _____ Gary S. Winuk, on behalf of the Enforcement Division
26 Fair Political Practices Commission
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Dated: _____
Edward Varela, individually, and on behalf of
Familias por Maywood

Dated: _____
Oscar Magaña, individually, and on behalf of
Familias por Maywood

DECISION AND ORDER

The foregoing Stipulation of the parties “Familias por Maywood aka Familias por Maywood Supporting Aguirre Magana Varela for Maywood City Council, Edward Varela, and Oscar Magaña” FPPC No. 14/404, 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 Chair.

IT IS SO ORDERED.

Dated: _____
JoAnn Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Familias por Maywood aka Familias por Maywood Supporting Aguirre Magana Varela for Maywood City Council (“Respondent Committee”) is a campaign committee that over the years has been controlled by various candidates for city council in the City of Maywood. In the 2009 General Election, Edward Varela (“Respondent Varela”), and Oscar Magaña (“Respondent Magaña”) were candidates for Maywood City Council who, along with a third candidate named Felipe Aguirre¹, controlled Respondent Committee. The Political Reform Act (the “Act”)² requires campaign committees to file pre-election campaign statements disclosing the committee’s contributions received and expenditures made, amongst other information. Respondents violated the Act by failing to disclose on a pre-election statement all contributions received.

For purposes of this Stipulation, the proposed violations of the Act are as follows:

COUNT 1: Respondents failed to disclose cumulative contributions of \$100 or more on Respondent Committee’s 2009 pre-election campaign statement in violation of Section 84211, subdivision (f).

SUMMARY OF THE LAW

A stated purpose of the Act is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters may be fully informed and improper practices may be inhibited. (Section 81003, subd. (a).) The Act’s campaign reporting system is designed to accomplish this purpose.

Duty to Disclose Contributions on Pre-election Campaign Statements

Candidate-controlled committees are required to file pre-election statements during election years. (Section 84200.5, subdivision (b).) Before a General Election, a committee must file one pre-election statement for the period ending September 30 no later than October 5, and a second pre-election statement for the period ending 17 days before the election no later than 12 days before the election. (Section 84200.7, subdivision (b).) Candidates for city council and their committees file preelction campaign statements with the city clerk. (Section 84215, subdivision (d).)

¹ Felipe Aguirre is not a party to this stipulation. As a controlling candidate of Respondent Committee, he and the Committee remain liable for all other violations of the Political Reform Act by Respondent Committee occurring while he was a controlling candidate. The Enforcement Division has a related case pending against Mr. Aguirre.

² 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.

Pre-election campaign statements must include information about all contributions received by the committee during the statement period, and all expenditures by the committee during the statement period. For cumulative contributions of \$100 or more during a statement period, the statement must include the name, address, occupation, and employer of the contributor, as well as the amount and the date of the contribution. (Section 84211, subdivision (f).)

SUMMARY OF THE FACTS

Respondent Varela and Respondent Magaña ran for city council seats in Maywood in the 2009 General Election. It was the first time they had run for political office. They were recruited to run on a slate along with incumbent city councilmember Felipe Aguirre. The three candidates were each listed on campaign filings as controlling candidates for Respondent Committee during the election. Respondent Varela and Respondent Magaña did not win seats on the city council. Felipe Aguirre maintained his seat on the city council.

Respondent Varela

Motivated by his desire to prevent construction of a new high school a couple blocks from his house in Maywood, Respondent Varela attended community meetings at the offices of Comité Pro-Uno in late 2008 or early 2009. Comité Pro-Uno was non-profit community organization run by Felipe Aguirre and political activist Hector Alvarado. At these meetings he met Felipe Aguirre and Hector Alvarado, as well as Leonardo Vilchis, the executive director of Union de Vecinos, another non-profit organization with a presence in Maywood.

Sometime in 2009, Leonardo Vilchis and Hector Alvarado asked Respondent Varela to run for city council on a slate with Felipe Aguirre and Oscar Magaña. Respondent Varela agreed to run because he believed Leonardo Vilchis, Hector Alvarado, and Felipe Aguirre were also opposed to the construction of a new high school. Leonardo Vilchis told Respondent Varela they could “re-use” Respondent Committee, which had been the candidate-controlled committee of Maywood City Councilmembers Veronica Guardado and Ana Rosa Rizo during their campaign in 2007. Leonardo Vilchis and Hector Alvarado recruited Veronica Guardado and Ana Rosa Rizo to run for city council in 2007.

Leonardo Vilchis ran the campaign. He instructed Respondent Varela to raise money and walk precincts. When Respondent Varela received a contribution check, of which he did not receive many, he would give it to Leonardo Vilchis. Respondent Varela had no knowledge of how much Respondent Committee received in contributions or how it spent the contributions it received. Respondent Varela also had no say in campaign strategy. When Respondent Varela asked for the telephone number for Respondent Committee’s treasurer, Karl Weichinger³, to find out how much money Respondent Committee had raised, Leonardo Vilchis refused to give him the number and told Respondent Varela just to raise more money.

³ Mr. Weichinger was killed in June of 2010 after being hit by a dump truck while walking on a bike path.

Respondent Magaña

Respondent Magaña also had never run for public office prior to being recruited by Felipe Aguirre, Leonardo Vilchis and Hector Alvarado in 2009. Respondent Magaña had worked as a community organizer in Maywood during President Obama's 2008 presidential campaign. It was in 2008 that Respondent Magaña first became acquainted with Leonardo Vilchis and Hector Alvarado, who recruited him to serve as treasurer for a campaign committee called Move Maywood Forward ("MMF"). MMF was organized to oppose an effort to recall councilmembers Felipe Aguirre, Veronica Guardado, and Ana Rosa Rizo. Respondent Magaña told Leonardo Vilchis and Hector Alvarado he had no experience as a treasurer. They assured him they would show him what to do. As treasurer, Respondent Magaña signed campaign forms and other documents but he did not prepare them or review them. He also was not responsible for paying bills, making deposits, or keeping the books. Leonardo Vilchis and Hector Alvarado took care of that. According to Respondent Magaña, his role as treasurer was mainly for "documentation purposes."

In the summer of 2009, Respondent Magaña met with Felipe Aguirre, Leonardo Vilchis, and Hector Alvarado. At the meeting, they asked him to run for city council on a slate with Felipe Aguirre and one other candidate of their choosing (which turned out to be Respondent Varela). Respondent Magaña initially declined because he did not believe he would have the support of other people associated with Felipe Aguirre and Hector Alvarado's organization, Comité Pro Uno. Hector Alvarado assured him they would support him. Respondent Magaña agreed to run. They told Respondent Magaña that his campaign committee would be Respondent Committee and that he would share the committee with Felipe Aguirre and the third candidate (Respondent Varela).

Like Respondent Varela, Respondent Magaña's role in the campaign was limited to soliciting contributions. He only solicited a few, mostly from family members. Felipe Aguirre brought in the large majority of Respondent Committee's campaign contributions. Leonardo Vilchis decided how Respondent Committee spent its funds. Respondent Magaña had no say in campaign strategy or spending decisions. This led to an altercation during the campaign between Respondent Magaña and Leonardo Vilchis because Respondent Magaña believed they were mismanaging the campaign.

Campaign Filings

On October 19, 2009, Respondent Committee filed an amended statement of organization. The amended statement listed Felipe Aguirre as the sole controlling candidate of Respondent Committee and Karl Weichinger as the treasurer. Prior to that, the controlling candidates of record for Respondent Committee had been Veronica Guardado and Ana Rosa Rizo. Also on October 19, 2009, Respondent Committee filed a pre-election campaign statement (Form 460) for the stated filing period of July 1, 2009 through October 14, 2009 that listed Respondent Committee's controlling candidates as Felipe Aguirre, Respondent Varela, and Respondent Magaña. Respondent Magaña and Respondent Varela did not prepare or review that campaign statement. Leonardo Vilchis gave it to them and told them to sign it, which they did.

On October 23, 2009, Respondent Committee filed a pre-election campaign statement for the stated filing period of October 15, 2009 through October 27, 2009. This statement again listed Respondent Committee’s controlling candidates as Felipe Aguirre, Respondent Varela, and Respondent Magaña, and included the signatures of all three. In this statement, Respondent Committee’s name is listed as “Familias por Maywood supporting Aguirre Magaña Varela for Maywood City Council.” Again, Respondent Magaña and Respondent Varela did not prepare or review the statement but just signed it when told to do so by Leonardo Vilchis. On October 29, 2009, Respondent Committee filed an amended statement of organization (Form 410) in which it listed the committee’s name as “Familias por Maywood supporting Aguirre Magaña Varela for Maywood City Council.”

The Election and Afterwards

Respondent Varela did not win a seat on the city council during the 2009 election. But the city council appointed him to the council in December 2009 after one of the sitting councilmembers resigned. Respondent Varela broke ties with Felipe Aguirre, Leonardo Vilchis, and Hector Alvarado in July of 2010. Respondent Varela ran for re-election in 2013. He had his own candidate-controlled committee for that election. He did not win a seat on the city council in that election.

Respondent Magaña also did not win a seat on the city council during the 2009 election. He ran again in 2011 and won. He had his own campaign committee for that election. By that time he was no longer associated with Felipe Aguirre, Leonardo Vilchis, and Hector Alvarado, or their organizations. Currently, Respondent Magaña sits on the city council and serves as the mayor of Maywood.

VIOLATION

Count 1

Failure to Report Contributions on Pre-election Campaign Statements

As discussed above, Respondent Committee filed pre-election campaign statements for the 2009 General Election on October 19, 2009 for the first pre-election reporting period, and October 23, 2009 for the second pre-election reporting period. Respondent Magaña and Respondent Varela were controlling candidates of Respondent Committee at the time these statements were filed. They signed the statements certifying that the statements were true and complete.

In fact, the statements failed to disclose a number of contributions received by Respondent Committee. Respondent Committee’s bank records indicate the following checks were deposited in the committee bank account but were not reported as cumulative contributions of \$100 or more on the pre-election campaign statements:

#	Check Date	Date Processed	Check No.	Payor/Remitter	Amount
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1	07/09/2009	08/10/2009	330	Andres Gonzalez	\$100.00
2	08/13/2009	09/28/2009	3765	Timothy S. Barker, Cynthia Anderson	\$200.00
3	08/26/2009	09/28/3009	187	Erick N. Rivas	\$50.00
4	08/26/2009	09/28/2009	188	Erick N. Rivas	\$50.00
5	08/26/2009	09/28/2009	3017	Karl V. Weichinger	\$75.00
6	08/27/2009	09/28/2009	3018	Karl V. Weichinger	\$50.00
7	09/18/2009	09/18/2009	18390	Nations Recovery Services, Inc.	\$460.30
8	10/11/2009	10/13/2009	2290	Edward Varela	\$99.00
9	10/11/2009	10/13/2009	2291	Edward Varela	\$99.00
Total = \$1,183.30					

By failing to properly report on their 2009 pre-election statements the cumulative contributions of \$100 or more identified above, Respondent Committee, Respondent Magaña, and Respondent Varela violated Section 84211, subdivision (f).

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 Fair Political Practices Commission (“Commission”) 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 Commission considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the Respondents demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

Violations for failure to disclose contributions on campaign statements typically range from \$1,500 to \$3,000 per count depending on the amount of undisclosed contributions, as well as other factors. In a recent comparable case, *In the Matter of Rosalinda Avitia, friends of*

Rosalinda Avitia for Tulare Local Healthcare District Area 2 Director, and Robert Montion FPPC No. 12/965 (Commission approved stipulation and decision on September 19, 2013), the Commission imposed a penalty of \$2,000 on the respondents for failing to disclose nine contributions totaling \$2,200 during one statement period. The respondents also paid a penalty of \$1,500 for failing to disclose three contributions totaling \$400 during another statement period.

Similarly, in *In the Matter of Fernando Vazquez, Vazquez for Downey City Council 2010, and Jane Leiderman*, FPPC No. 11/057 (Commission approved stipulation and decision on March 15, 2012) the respondents failed to disclose ten contributions totaling \$1,600 on one pre-election statement, and nine contributions totaling approximately \$6,096 on the next pre-election statement. They stipulated to two counts of failing to disclose contributions and paid a penalty of \$2,000 per count.

Lastly, *In the Matter of Arturo Chacon and Art Chacon for Water Board 2010*, FPPC No. 08/652 (Commission approved stipulation and decision on February 10, 2011) resulted in a penalty of \$2,000 for respondents failure to disclose two contributions totaling \$3,100 on a semi-annual statement.

In the case at issue, Respondents failed to disclose on their pre-election statements contributions totaling \$1,183. This amount is lower than the amounts in the cases listed above that resulted in \$2,000 penalties but Respondents violations occurred over two reporting periods, not just one as in the comparable cases. Respondent Varela and Respondent Magaña had very limited knowledge of, and input in, Respondent Committee's financial matters so their violation was, at worst, negligent.

PROPOSED PENALTY

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

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