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3 **FAIR POLITICAL PRACTICES COMMISSION**
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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
10
11

12 In the Matter of) FPPC No. 14/1285
13)
14 PORT HUENEME POLICE OFFICERS')
ASSOCIATION POLITICAL ACTION) STIPULATION, DECISION and
15 COMMITTEE,) ORDER
16 Respondent.)
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18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondent the Port Hueneme Police Officers' Association Political Action Committee agree that this
20 Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next
21 regularly scheduled meeting.

22 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
23 matter and to reach a final disposition without the necessity of holding an administrative hearing to
24 determine the liability of the Respondent, pursuant to Section 83116 of the Government Code.

25 The Port Hueneme Police Officers' Association Political Action Committee understands, and
26 hereby knowingly and voluntarily waives, any and all procedural rights set forth in Sections 83115.5,
27 11503 and 11523 of the Government Code, and in Sections 18361.1 through 18361.9 of Title 2 of the
28 California Code of Regulations. This includes, but is not limited to, the right to personally appear at

1 any administrative hearing held in this matter, to be represented by an attorney at the Port Hueneme
2 Police Officers' Association Political Action Committee's own expense, to confront and cross-examine
3 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an
4 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter
5 judicially reviewed.

6 It is further stipulated and agreed that the Port Hueneme Police Officers' Association Political
7 Action Committee violated the Political Reform Act by producing and sending a mass mailer, which
8 failed to display required sender identification, in violation of Government Code Section 84305,
9 subdivision (a) (1 count). This count is described in Exhibit 1, which is attached hereto and
10 incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of
11 the facts in this matter.

12 The Port Hueneme Police Officers' Association Political Action Committee agrees to the
13 issuance of the Decision and Order, which is attached hereto. The Port Hueneme Police Officers'
14 Association Political Action Committee also agrees to the Commission imposing upon it an
15 administrative penalty in the amount of \$2,500. A cashier's check from the Port Hueneme Police
16 Officers' Association Political Action Committee, in said amount, made payable to the "General Fund
17 of the State of California," is submitted with this Stipulation as full payment of the administrative
18 penalty, to be held by the State of California until the Commission issues its decision and order
19 regarding this matter. The parties agree that in the event the Commission refuses to accept this
20 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
21 meeting at which the Stipulation is rejected, all payments tendered by the Port Hueneme Police
22 Officers' Association Political Action Committee in connection with this Stipulation shall be
23 reimbursed to the Port Hueneme Police Officers' Association Political Action Committee. The Port
24 Hueneme Police Officers' Association Political Action Committee further stipulates and agrees that in
25 the event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
26 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
27 disqualified because of prior consideration of this Stipulation.

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Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

Dated: _____

Mike Galvan, on behalf of the Port Hueneme
Police Officers' Association Political Action
Committee, Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of the Port Hueneme Police Officers’
3 Association Political Action Committee,” FPPC No. 14/1285, including all attached exhibits, is hereby
4 accepted as the final decision and order of the Fair Political Practices Commission, effective upon
5 execution below by the Chair.

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7 **IT IS SO ORDERED.**

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9 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Port Hueneme Police Officers' Association Political Action Committee (the "PAC") is a general purpose committee sponsored by the Port Hueneme Police Officers' Association.

This case was opened as the result of an anonymous complaint regarding a mailer that supported three candidates (one for harbor commissioner and two for city council) in the November 4, 2014 election. The mailer failed to include proper sender identification.

The Political Reform Act¹ (the "Act") requires political mailers that endorse candidates for public office include information identifying the sender.

SUMMARY OF THE LAW

Sender Identification Requirements

The Act requires candidates and committees to properly identify themselves when sending a mass mailing. Specifically, the statute provides that no candidate or committee may send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing.²

A "mass mailing" is defined as over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry.³ The regulations clarify this section, and further defines a mass mailing as over two hundred substantially similar pieces of mail sent in a calendar month.⁴ The "sender" is the candidate or committee who pays for the largest portion of expenditures attributable to the designing, printing or posting of the mailing.⁵

SUMMARY OF THE FACTS

In November of 2014, the PAC caused to be sent approximately 8,182 mailers, which supported three candidates on the ballot in the November 4, 2014 General Election: Mary Anne Rooney for harbor commissioner, and Jim Hensley and Tom Figg for city council. The costs for the design, printing, and postage totaled \$3,496. These costs were reported on statements not filed until after the date of the election.

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.

² Section 84305, subdivision (a).

³ Section 82041.5.

⁴ Regulation 18435, subdivision (a).

⁵ Section 84305 and Regulation 18435, subdivision (b).

VIOLATION

Prior to the November 4, 2014 election, the Port Hueneme Police Officers' Association Political Action Committee caused to be sent a mass mailer, which failed to display required sender identification, in violation of Government Code Section 84305, subdivision (a).

CONCLUSION

This matter consists of one count of violating the Act carrying a maximum administrative penalty of \$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): 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 the Respondent, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

The Commission also considers penalties in prior cases involving similar violations. Recent penalties for sending a mass mailing without proper sender identification include:

In the Matter of Joe Anderson, FPPC No. 12/764. This case involved a mass mailer in a local election campaign, sent to approximately 1,200 households, which lacked proper sender identification. As in the present case, Anderson failed to report the cost of the mailer until after the initiation of the investigation into the mailer. Anderson did not have an Enforcement history. A \$2,500 penalty was approved by the Commission on August 21, 2014.

In the Matter of Protect Burlingame and Kevin Osborne, FPPC No. 09/804. This case involved two separate mailers in a local election campaign, sent to approximately 7,000 households, which lacked proper sender identification. Respondent in this matter did not have an Enforcement history. A \$2,500 penalty was approved by the Commission on April 11, 2011.

This case is similar to the *Joe Anderson* case, because the public harm was aggravated by the failure to disclose the costs of the mailer until after the date of the election. In mitigation, the mailer did contain the name of the police officers association in several places, providing information as to the probable sender. In addition, only one mailer was sent. The Port Hueneme Police Officers' Association Political Action Committee cooperated with the investigation, has no prior history with the Enforcement Division.

PROPOSED PENALTY

After considering the factors listed above, a penalty of a penalty of \$2,500 for the violation is recommended.