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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
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12 In the Matter of) FPPC No. 14/1234
13)
14 RUBEN VALENCIA, VALENCIA 4 CITY)
COUNCIL 2014, and KATHLEEN) STIPULATION, DECISION and
CHRISTIANSEN,) ORDER
15)
16 Respondents.)
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18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Ruben Valencia, Valencia 4 City Council 2014, and Kathleen Christiansen 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 Ruben Valencia, Valencia 4 City Council 2014, and Kathleen Christiansen understand, and
26 hereby knowingly and voluntarily waive, 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 Ruben Valencia,
2 Valencia 4 City Council 2014, and Kathleen Christiansen’s own expense, to confront and cross-
3 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have
4 an impartial administrative law judge preside over the hearing as a hearing officer, and to have the
5 matter judicially reviewed.

6 It is further stipulated and agreed that Ruben Valencia, Valencia 4 City Council 2014, and
7 Kathleen Christiansen violated the Political Reform Act by (1) failing to timely file 24 Hour
8 contribution reports in connection with late contributions received prior to the 2014 General Election,
9 in violation of Section 84203, subdivisions (a) and (b) of the Government Code (1 count); (2) failing to
10 disclose on campaign statements occupation and employer information for approximately 50 individual
11 contributors, in violation of Section 84211, subdivision (f) of the Government Code (1 count); and (3)
12 making expenditures of campaign funds on telephone calls that were similar in nature and aggregated
13 500 or more in number that did not disclose the Valencia 4 City Council committee who authorized and
14 paid for the telephone calls to the recipients of the telephone calls, in violation of Section 84310,
15 subdivision (a) of the Government Code (1 count). These counts are described in Exhibit 1, which is
16 attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and
17 accurate summary of the facts in this matter.

18 Ruben Valencia, Valencia 4 City Council 2014, and Kathleen Christiansen agree to the issuance
19 of the Decision and Order, which is attached hereto. Ruben Valencia, Valencia 4 City Council 2014,
20 and Kathleen Christiansen also agree to the Commission imposing upon them an administrative penalty
21 in the amount of \$4,500. A cashier’s check from Ruben Valencia, Valencia 4 City Council 2014, and
22 Kathleen Christiansen in said amount, made payable to the “General Fund of the State of California,” is
23 submitted with this Stipulation as full payment of the administrative penalty, to be held by the State of
24 California until the Commission issues its decision and order regarding this matter. The parties agree
25 that in the event the Commission refuses to accept this Stipulation, it shall become null and void, and
26 within fifteen (15) business days after the Commission meeting at which the Stipulation is rejected, all
27 payments tendered by Ruben Valencia, Valencia 4 City Council 2014, and Kathleen Christiansen in
28 connection with this Stipulation shall be reimbursed to them. Ruben Valencia, Valencia 4 City Council

1 2014, and Kathleen Christiansen further stipulate and agree that in the event the Commission rejects the
2 Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any
3 member of the Commission, nor the Executive Director, shall be disqualified because of prior
4 consideration of this Stipulation.

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8 Dated: _____
9 Galena West, Chief of Enforcement
10 Fair Political Practices Commission

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12 Dated: _____
13 Ruben Valencia, Respondent, individually, and
14 on behalf of, Valencia 4 City Council 2014,
15 Respondent

16 Dated: _____
17 Kathleen Christiansen, Respondent, individually, and
18 on behalf of Valencia 4 City Council 2014,
19 Respondent
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EXHIBIT 1

INTRODUCTION

Respondent Ruben Valencia was an unsuccessful candidate for Ontario City Council in the November 4, 2014 election. Respondent Valencia 4 City Council 2014 was his candidate controlled committee. Respondent Kathleen Christiansen served as treasurer.

This case was the result of complaints alleging that Valencia, Valencia 4 City Council 2014, and Christiansen failed to file late contribution reports and failed to include the required disclaimer information in telephone calls.

The Political Reform Act¹ (the “Act”) requires committees to timely file campaign statements and reports and disclose particular information. However, Ruben Valencia, Valencia 4 City Council 2014, and Kathleen Christiansen failed to file 24 Hour contribution reports, failed to disclose occupation and employer information for contributions received, and expended campaign funds on "robocalls" (telephone calls that are similar in nature and aggregated 500 or more in number) without disclosing the name of the organization that authorized or paid for the calls to the recipients of the calls.

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act’s provisions as they existed in 2014.

An express purpose of the Act is to ensure that contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters will be better informed and improper practices inhibited.² To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish the purposes of disclosure.

Duty to File 24 Hour Contribution Reports

A late contribution is a contribution of \$1,000 or more made to a candidate, a controlled committee of a candidate, or a committee formed or existing primarily to support or oppose a candidate or measure within 90 days of the election at which the candidate or measure is to be voted on.³ A committee controlled by a candidate is required to report within 24 hours any late contribution it receives.⁴

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 81002, subdivision (a).

³ Section 82036, subdivision (a).

⁴ Section 84203, subdivisions (a) and (b), Regulation 18425.

Failure to Disclose Occupation and Employer Information

For contributions totaling \$100 or more candidates and their controlled committees are required to itemize on each semi-annual and pre-election campaign statement the following information about the contributor: his or her full name and street address; his or her occupation, and the name of his or her employer, or if self-employed, the name of his or her business; the date and amount of each contribution; and the cumulative amount of contributions received from the contributor.⁵

Identification Requirements for Telephone Calls that are Similar in Nature and Aggregate 500 or More in Number

A committee may not expend campaign funds to pay for telephone calls that are similar in nature and aggregate 500 or more in number, made by an individual, or individuals, or by electronic means if the calls advocate support of, or opposition to, a candidate, unless during the course of each call the name of the organization that authorized or paid for the call is disclosed to the recipient of the call.⁶

A committee pays for a call whether it pays directly for the call or pays another person to make the call on its behalf.⁷

Liability of Committee Treasurers

Every committee must have a treasurer.⁸ It is the duty of a committee's treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds.⁹ A committee's treasurer may be held jointly and severally liable with the committee for any reporting violations.¹⁰

SUMMARY OF THE FACTS

The Enforcement Division's investigation found that Ruben Valencia, Valencia 4 City Council 2014, and Kathleen Christiansen failed to file a total of eight late contribution reports, reporting nine late contributions totaling \$17,000.

Valencia 4 City Council 2014 reported \$50,699 in contributions received and \$48,715 in expenditures made in connection with the November 4, 2014 election. The investigation found that Valencia, Valencia 4 City Council 2014, and Christiansen failed to disclose occupation and/or employer information for 50 individual contributors totaling \$25,200. This represents

⁵ Section 84211, subdivision (f).

⁶ Section 84310, subdivision (a).

⁷ Regulation 18440, subdivision (c)(1).

⁸ Section 84100.

⁹ Section 84100 and Regulation 18427, subdivision (a).

¹⁰ Sections 83116.5 and 91006.

approximately 50% of the total contributions received. This information has since been disclosed in amendments filed as part of this settlement agreement.

Valencia, Valencia 4 City Council 2014, and Christiansen arranged for, and caused to be made, a series of six different robocalls; all urging Ontario residents to vote for Valencia for city council. Approximately 6,000 telephone calls were made for each of the six robocalls. The total rate for all calls made was \$990. The payment of \$990 for the robocalls was reported on the pre-election campaign statement covering the period, October 1, 2014 through October 18, 2014.

VIOLATIONS

Count 1: Failure to File 24 Hour Contribution Reports

Valencia, Valencia 4 City Council 2014, and Christiansen failed to timely file 24 Hour contribution reports in connection with late contributions received prior to the 2014 General Election, in violation of Government Code Section 84203, subdivisions (a) and (b).

Count 2: Failure to Disclose Occupation and Employer Information

Valencia, Valencia 4 City Council 2014, and Christiansen failed to disclose on campaign statements occupation and employer information for approximately 50 individual contributors, in violation of Government Code Section 84211, subdivision (f).

Count 3: Failure to Disclose the Name of the Organization that Authorized or Paid for 500 or more Similar Telephone Calls

Valencia, Valencia 4 City Council 2014, and Christiansen expended campaign funds on telephone calls that were similar in nature and aggregated 500 or more in number that did not disclose the Valencia 4 City Council committee who authorized and paid for the telephone calls to the recipients of the telephone calls, in violation of Government Code Section 84310, subdivision (a).

CONCLUSION

This matter consists of three counts of violating the Act, which carries a maximum administrative penalty of fifteen thousand dollars (\$15,000).

In determining the appropriate penalty for a particular violation of the Act, the 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) 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.

The Commission also considers penalties in prior cases involving similar violations. A recent similar case involving the failure to timely file 24 Hour contribution reports includes:

- *In the Matter of John R. Munn, Jr. and Manual A. Carbahal*, FPPC 14/109. Respondents failed to timely file late contribution reports in connection with two late contributions, of \$3,000 and \$9,500, received prior to the 2012 General Election. On October 16, 2014, the Commission approved a \$1,500 penalty for this violation.

Recent similar cases involving the failure to disclose contributor occupation and employer information include:

- *In the Matter of Hugo A. Argumedo, Charmaine Faulkner, and Friends of Hugo A. Argumedo*, FPPC No. 04/237. Respondents failed to disclose occupation and employer information for 15 contributions, totaling \$7,020, which was approximately 55% of the total contributions received by the Committee during this period. On December 10, 2009, the Commission approved a \$1,500 penalty for this violation.
- *In the Matter of Joe Yee, Friends of Joe Yee for City Council 2012, and Lynda Otto*; FPPC No. 12/820. Respondents failed to disclose occupation and employer information for 60 contributions over six reporting periods. The total amount of these contributions was \$11,525; which was approximately 7% of the total amount of all contributions received by the committee. On February 20, 2014, the Commission approved a \$1,500 penalty for this violation.

A recent similar case involving robocalls which failed to include identifying information includes:

- *In the Matter of Neighbors Opposing Tebbs, Eason & Haney for Fire Board 2010, and Thomas J. Francl, Treasurer*, FPPC No. 10/1090. Respondents arranged and paid \$370 for 1,000 identical and automated telephone calls to be made to voters with a message urging voters to elect three candidates in the November 2, 2010, Deer Springs Fire Protection District Board Member election. On September 22, 2011, the Commission approved a \$1,500 penalty for this violation.

In the present case, Ruben Valencia, Valencia 4 City Council 2014, and Kathleen Christiansen failed to disclose occupation and employer information for approximately 50 individual contributors for contributions received over four successive reporting periods totaling \$25,200; representing approximately 50% of the total contributions received. Like the *In the Matter of Hugo A. Argumedo et. al.* case, this is a significant amount of the total contributions received, and is part of a pattern of non-disclosure, as occupation and employer information was not provided for individual contributors on successive campaign statements.

In mitigation, the investigation found no evidence of deliberate concealment and Valencia contends that they misunderstood the law and had little prior experience with the Act. As to the 24 Hour reports, although there were a total of nine contributions that should have been reported in eight 24 Hour reports, six of these contributions, totaling \$13,500 were reported before the election in timely filed pre-election campaign statements. As such, there was some disclosure of these contributions available to voters before the date of the election. In mitigation regarding the robocalls, the speakers in of the robocalls calls identified themselves as Valencia's daughters, who said "vote for our dad," while the speaker in one other call identified himself as Valencia. Therefore, the public harm is lessened since the origin of the robocalls was apparent for over half of those produced and they consisted of positive messages supporting Valencia's candidacy and not negative messages regarding others. Valencia, Valencia 4 City Council 2014, and Christiansen do not have a prior enforcement history.

PROPOSED PENALTY

After considering the factors listed above, a penalty of \$4,500 is recommended; \$1,500 for Count 1 and \$1,500 for Count 2, and \$1,500 for Count 3.

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