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

10  
11 In the Matter of:

12 ABEL MALDONADO FOR  
GOVERNOR 2014, ABEL  
13 MALDONADO, PAUL BRUNO, AND  
KELLY LAWLER,

14 Respondents.

FPPC Case No. 17/80

STIPULATION, DECISION AND ORDER

15  
16 INTRODUCTION

17 In 2014, Abel Maldonado (“Maldonado”) sought the office of Governor and, in conjunction  
18 therewith, created the state controlled committee Abel Maldonado for Governor 2014 (the “Committee”).  
19 The treasurer of the Committee is Paul Bruno (“Bruno”) and the assistant treasurer is Kelly Lawler  
20 (“Lawler”).

21 Although Maldonado filed a Candidate Intention Statement, created the Committee, and raised  
22 \$518,172, he withdrew from the election in early 2014 and did not appear on the ballot. In May 2013,  
23 the Committee failed to file \$5,000 contribution reports for three different contributions, amounting to  
24 \$39,700, in violation of Section 85309, subdivision (a), of the Political Reform Act (the “Act”).<sup>1</sup>

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27 <sup>1</sup> The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the  
28 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.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred  
3 in 2013. For this reason, all legal references and discussions of law pertain to the Act’s provisions as  
4 they existed at that time.

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

6 When enacting the Act, the people of California found and declared that previous laws regulating  
7 political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup> For this reason,  
8 the Act is to be construed liberally to accomplish its purposes.<sup>3</sup>

9 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in  
10 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper  
11 practices are inhibited.<sup>4</sup> Along these lines, the Act includes a comprehensive campaign reporting  
12 system—and the true sources of campaign contributions may not be concealed.<sup>5</sup> Another purpose of the  
13 Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”<sup>6</sup>

14 Duty to Report Contributions of \$5,000 or More

15 A candidate for elective state office is required to report to the Secretary of State within 10  
16 business days of receipt of every contribution of \$5,000 or more that is received at any time other than  
17 the election cycle.<sup>7</sup> The election cycle is the period of time commencing 90 days prior to an election and  
18 ending on the date of the election.<sup>8</sup>

19 Joint and Several Liability of Candidate, Committee, and Treasurer

20 It is the duty of a committee treasurer to ensure that the committee complies with the Act.<sup>9</sup> A  
21 treasurer may be held jointly and severally liable, along with the candidate and the committee, for  
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24 <sup>2</sup> Section 81001, subd. (h).

25 <sup>3</sup> Section 81003.

26 <sup>4</sup> Section 81002, subd. (a).

27 <sup>5</sup> Sections 84200, et seq., and 84301.

28 <sup>6</sup> Section 81002, subd. (f).

<sup>7</sup> Section 85309, subd. (c).

<sup>8</sup> Section 85204.

<sup>9</sup> Sections 81004, 84100, 84104, and 84213; Regulation 18427.

1 violations committed by the committee.<sup>10</sup>

## 2 SUMMARY OF THE FACTS

3 Maldonado created the Committee as his controlled committee in the 2014 race for Governor.  
4 The Committee filed its initial statement of organization on April 11, 2013. Although the Committee  
5 raised over \$500,000, Maldonado ended his campaign in early 2014, prior to the primary election.

6 This case arose from an audit performed by the Franchise Tax Board for the period of January 1,  
7 2013 to June 30, 2014. The audit revealed \$518,172 in total contributions received and \$511,874 in total  
8 expenditures. Although the Committee timely filed contribution reports for 28 contributions received  
9 totaling \$362,900, the Committee failed to timely file a \$5,000 contribution report for three different  
10 contributions received outside of the election cycle. These contributions included the following:

11 Contribution Date	Contributor	Amount
12 May 16, 2013	David H. Dornsife TTEE	\$7,500
13 May 21, 2013	Anderson & Middleton Company	\$5,000
14 May 28, 2013	Stephen D. Bechtel, Jr.	\$27,200
15		16 <b>Total: \$39,700</b>

17 Although these contributions were not reported on timely-filed \$5,000 contribution reports, they  
18 were disclosed on the Committee's semi-annual campaign statement covering the period of January 1,  
19 2013 to June 30, 2013.

## 20 VIOLATIONS

### 21 Count 1: Failure to Timely File \$5,000 Contribution Reports

22 The Committee, Maldonado, Bruno, and Lawler failed to timely file \$5,000 contribution reports  
23 for contributions of \$7,500, received on May 16, 2013; \$5,000, received on May 24, 2013; and \$27,200,  
24 received on May 28, 2013, in violation of Section 85309, subdivision (c).

## 25 PROPOSED PENALTY

26 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per  
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28 <sup>10</sup> Sections 83116.5 and 91006.

1 count. Thus, the maximum penalty that may be imposed is \$5,000.<sup>11</sup>

2 In determining the appropriate penalty for a particular violation of the Act, the Commission  
3 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the  
4 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
5 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
6 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
7 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
8 record of violations.<sup>12</sup> Additionally, the Commission considers penalties in prior cases with comparable  
9 violations.

10 The typical penalty levied for the failure to file \$5,000 contribution reports has historically fallen  
11 in the mid-to-low range of available penalties, depending on the facts of the case. Comparable cases in  
12 which a penalty was charged for violating Section 85309, subdivision (c), include the following:

13 • *In the Matter of Shannon Grove, Shannon Grove for Assembly 2012, and Karen Cain*; FPPC No.  
14 14/024. Respondents, a candidate for State Assembly, her candidate-controlled committee, and its  
15 treasurer, failed to file \$5,000 contribution reports in connection with 11 contributions totaling \$77,400.  
16 In June 2014, the Commission imposed a penalty of \$2,000 on one count.

17 The violation here is aggravated by Maldonado's prior enforcement history with the Commission.  
18 In 2014, a prior committee associated with Maldonado was assessed a penalty in conjunction with the  
19 committee's failure to file a campaign statement.

20 Based on the foregoing, a penalty in the amount of \$2,000 is recommended.

## 21 CONCLUSION

22 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
23 Respondents, Abel Maldonado for Governor 2014, Abel Maldonado, Paul Bruno, and Kelly Lawler,  
24 hereby agree as follows:

25 1. The Respondents violated the Act as described in the foregoing pages, which are a true  
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28 <sup>11</sup> Section 83116, subd. (c).

<sup>12</sup> Regulation 18361.5, subd. (d).

1 and accurate summary of the facts in this matter.

2           2.       This stipulation will be submitted for consideration by the Fair Political Practices  
3 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

4           3.       This stipulation resolves all factual and legal issues raised in this matter—for the purpose  
5 of reaching a final disposition without the necessity of holding an administrative hearing to determine the  
6 liability of the Respondents pursuant to Section 83116.

7           4.       The Respondents understand, and hereby knowingly and voluntarily waive, any and all  
8 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.  
9 This includes, but is not limited to, the right to appear personally at any administrative hearing held in  
10 this matter, to be represented by an attorney at the Respondents' own expense, to confront and cross-  
11 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an  
12 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter  
13 judicially reviewed.

14           5.       The Respondents agree to the issuance of the decision and order set forth below. Also, the  
15 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
16 \$2,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General  
17 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
18 administrative penalty described above, and same shall be held by the State of California until the  
19 Commission issues its decision and order regarding this matter.

20           6.       If the Commission refuses to approve this stipulation—then this stipulation shall become  
21 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
22 rejected, all payments tendered by the Respondents in connection with this stipulation shall be  
23 reimbursed to the Respondents. If this stipulation is not approved by the Commission, and if a full  
24 evidentiary hearing before the Commission becomes necessary, neither any member of the Commission,  
25 nor the Executive Director, shall be disqualified because of prior consideration of this Stipulation.

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1 The foregoing stipulation of the parties “In the Matter of Abel Maldonado for Governor 2014, Abel  
2 Maldonado, Paul Bruno, and Kelly Lawler,” FPPC Case No. 17/80 is hereby accepted as the final  
3 decision and order of the Fair Political Practices Commission, effective upon execution below by the  
4 Chair.

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6 IT IS SO ORDERED.

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8 Dated: \_\_\_\_\_

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10 Joann Remke, Chair  
11 Fair Political Practices Commission  
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