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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
STATE OF CALIFORNIA  
9

10 In the Matter of:

11 VOTERS FOR GOOD GOVERNMENT  
AND BILLIE MARTINEZ,

12 Respondents.  
13

FPPC Case No. 16/182

STIPULATION, DECISION AND ORDER

14 **INTRODUCTION**

15 This matter arose from a complaint submitted to the Enforcement Division of the Fair Political  
16 Practices Commission. Respondent Voters for Good Government (“Committee”) is a general purpose  
17 committee. Respondent Billie Martinez is the Committee treasurer. The Political Reform Act<sup>1</sup> requires  
18 general purpose committees that make a late independent expenditure to file a late independent  
19 expenditure report disclosing contributions received prior to the independent expenditure, and to file an  
20 independent expenditure verification. The Committee and Martinez violated the Act by failing to timely  
21 report contributions on a late independent expenditure report and failing to file a late independent  
22 expenditure verification.  
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27 <sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections  
81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission  
28 are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references  
are to this source.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred in  
3 2015. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they  
4 existed at that time—unless otherwise noted.

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

6 When enacting the Political Reform Act, the people of California found and declared that  
7 previous laws regulating political practices suffered from inadequate enforcement by state and local  
8 authorities.<sup>2</sup> Thus, it was decreed that the Act “should be liberally construed to accomplish its  
9 purposes.”<sup>3</sup>

10 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in  
11 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper  
12 practices are inhibited.<sup>4</sup> Along these lines, the Act includes a comprehensive campaign reporting system.<sup>5</sup>  
13 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be  
14 “vigorously enforced.”<sup>6</sup>

15 **Duty to File 24-Hour Independent Expenditure Reports**

16 When a committee makes a late independent expenditure, as defined in Section 82036.5, the  
17 committee must disclose the expenditure in a 24-Hour Independent Expenditure Report within 24 hours  
18 of making the late independent expenditure.<sup>7</sup> This report is required to be filed in the place where it  
19 would be required to file campaign statements if it were primarily formed to support or oppose the  
20 candidate or measure for or against which it is making the late independent expenditure.<sup>8</sup> A “late  
21 independent expenditure” is as any independent expenditure which totals in the aggregate \$1,000 or more  
22 and is made for or against any specific candidate or measure involved in an election within 90 days  
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25 <sup>2</sup> Section 81001, subdivision (h).

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

27 <sup>4</sup> Section 81002, subdivision (a).

28 <sup>5</sup> Sections 84200, et seq.

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

<sup>7</sup> Section 84204.

<sup>8</sup> Section 84204, subdivision (c).

1 before the date of the election.<sup>9</sup> The report shall include any contributions made after the closing date of  
2 the last campaign report filed to the date of the late independent expenditure.<sup>10</sup>

3 **Duty to File Independent Expenditure Verification**

4 In addition, a committee's principal officer must sign an independent expenditure verification,  
5 under penalty of perjury, which states that the independent expenditure was not coordinated with the  
6 affected candidate or measure committee or their opponent and the committee has reported all  
7 contributions and reimbursements.<sup>11</sup> This verification is required within 10 days from the date of an  
8 independent expenditure that totals, in the aggregate, \$1,000 or more to support or oppose a candidate or  
9 measure in a calendar year.<sup>12</sup>

10 **Joint and Several Liability of Committee and Treasurer**

11 It is the duty of a committee treasurer to ensure that the committee complies with the Act.<sup>13</sup> A  
12 treasurer may be held jointly and severally liable, along with the committee, for violations committed by  
13 the committee.<sup>14</sup>

14  
15 **SUMMARY OF THE FACTS**

16 In this matter, the Committee and Martinez made independent expenditures, totaling \$2,500,  
17 supporting the election of Christina Cortez, a candidate for Montebello City Council in the November 3,  
18 2015 election.

19 The Committee filed a 24-Hour Independent Expenditure Report with Los Angeles County, on  
20 September 4, 2015, disclosing the expenditures made in support of Christina Cortez. However, this report  
21 failed to include the disclosure of a \$5,000 contribution from United Pacific Waste, received on  
22 September 1, 2015; a \$9,000 contribution from Elizabeth Hano, received on September 2, 2015, and a  
23 \$1,500 contribution from Leticia Vasquez, received on September 1, 2015. These contributions received  
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25 <sup>9</sup> Section 82036.5

26 <sup>10</sup> Section 84204, subdivision (b).

27 <sup>11</sup> Section 84213, subdivision (b).

28 <sup>12</sup> Regulation 18465.1, subdivision (b).

<sup>13</sup> Sections 81004, 84100, and Regulation 18427.

<sup>14</sup> Sections 83116.5 and 91006.

1 were subsequently disclosed on a Pre-Election Campaign Statement, filed with Los Angeles County, on  
2 September 24, 2015. Additionally, the committee failed to file the independent expenditure verification.

## 3 4 **VIOLATION**

### 5 **Count 1**

6 Respondents Voters for Good Government and Billie Martinez failed to disclose, on a 24-Hour  
7 Independent Expenditure Report, information concerning contributions received and failed to file an  
8 independent expenditure verification in violation of Sections 84204 and 84213, subdivision (b).

### 9 **PROPOSED PENALTY**

10 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per  
11 count. Thus, the maximum penalty that may be imposed is \$5,000.<sup>15</sup>

12 In determining the appropriate penalty for a particular violation of the Act, the Commission  
13 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the  
14 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
15 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
16 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
17 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
18 record of violations.<sup>16</sup> Here, the public harm is less severe than typical non-reporting violations because  
19 the contributions were reported on the next Pre-Election Campaign Statement. The error appears to be  
20 negligent and was not made with any intention to conceal or mislead. However, the Committee does have  
21 a prior record of violation.

22 Additionally, the Commission considers penalties in prior cases with comparable violations. The  
23 typical stipulated administrative penalty for failing to file a late independent expenditure report and  
24 reporting the expenditure on a semi-annual campaign statement has been in the middle level of the  
25 penalty range, depending on the circumstances. *In the Matter of Concerned Citizens for a Better West*

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<sup>15</sup> See Section 83116, subdivision (c).

28 <sup>16</sup> Regulation 18361.5, subdivision (d).

1 *Covina and Dana Sykes*, FPPC No. 09/832, the Respondents failed to file a late independent expenditure  
2 report by the October 29, 2009 for an expenditure made of \$2,285.81 on October 28, 2009, in support of  
3 Measure D in the City of West Covina, in connection with the November 2009 election. The  
4 Commission approved settlement of this case in September 17, 2010, and the agreed upon penalty for the  
5 campaign statement filing violation was \$2,000. *In the Matter of Kern County Young Republicans Voting*  
6 *Guide, Kern County Young Republicans PAC, and Bryan Williams*, FPPC No. 10/1095, the Respondents  
7 failed to file two late expenditures totaling \$5,978 and \$13,064 respectively. The Commission approved a  
8 settlement of this case in February 28, 2013 and the agreed upon penalty was \$2,000.

9 In the present matter, the violation is distinguishable because the Committee timely filed the  
10 independent expenditure report. Instead, the violation is for failure to disclose contributions made to the  
11 committee after the prior reporting period. The public harm here is less than the harm in the  
12 aforementioned cases because the Committee timely reported the independent expenditure. Furthermore,  
13 the Committee reported the omitted contributions on subsequent pre-election campaign statements. In  
14 aggravation, Voters for Good Government and Martinez have a prior Enforcement History. In the prior  
15 *Voters for Good Government* case, FPPC No. 14/347, approved January 15, 2015, the Committee and  
16 Martinez paid a penalty of \$2,000 for failing to file a late independent expenditure report within 24 hours  
17 of making an independent expenditure opposing a Bakersfield City Council candidate, and to disclose  
18 this expenditure on a semi-annual campaign statement. In the present matter, a penalty is appropriate  
19 because the Committee has shown a pattern of not preparing late independent expenditures reports  
20 correctly. However, a lower penalty is justified because, unlike the previous matter, there was disclosure  
21 to the public prior to the election.

22 After considering the factors listed in Regulation §18361.5 and penalties in prior similar cases, a  
23 penalty of \$1,500 is recommended.

## 24 25 **CONCLUSION**

26 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
27 Respondents Voters for Good Government; and Billie Martinez hereby agree as follows:  
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1           1.       Respondents violated the Act as described in the foregoing pages, which are a true and  
2 accurate summary of the facts in this matter.

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

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

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

15           5.       Respondents agree to the issuance of the decision and order set forth below. Also,  
16 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
17 \$1,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General  
18 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
19 administrative penalty described above, and same shall be held by the State of California until the  
20 Commission issues its decision and order regarding this matter.

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

1           7.       The parties to this agreement may execute their respective signature pages separately. A  
2 copy of any party’s executed signature page, including a hardcopy of a signature page transmitted via fax  
3 or as a PDF email attachment, is as effective and binding as the original.  
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6 Dated: \_\_\_\_\_  
7 Galena West, Chief of Enforcement  
8 Fair Political Practices Commission

9 Dated: \_\_\_\_\_  
10 Billie Martinez, individually and on behalf of Voters for  
11 Good Government, Respondents

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15           The foregoing stipulation of the parties “In the Matter of Voters for Good Government and Billie  
16 Martinez,” FPPC Case No. 16/182, is hereby accepted as the final decision and order of the Fair Political  
17 Practices Commission, effective upon execution below by the Chair.

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19           IT IS SO ORDERED.

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21 Dated: \_\_\_\_\_  
22 Joann Remke, Chair  
23 Fair Political Practices Commission

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