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

10
11 In the Matter of:

12 **VOTERS FOR GOOD GOVERNMENT**
13 **AND BILLIE MARTINEZ,**

14 Respondents.

FPPC Case No. 16/182

STIPULATION, DECISION AND ORDER

15 **INTRODUCTION**

16 This matter arose from a complaint submitted to the Enforcement Division of the Fair Political
17 Practices Commission. Voters for Good Government is a general purpose committee. Billie Martinez is
18 the committee treasurer. This case involves campaign reporting violations of the Political Reform Act.¹

19 **SUMMARY OF THE LAW**

20 The Act and its regulations are amended from time to time. The violations in this case occurred in
21 2015. For this reason, all legal references and discussions of law pertain to the Act's provisions as they
22 existed at that time—unless otherwise noted.

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27 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections
28 81000 through 91014. All statutory references are to this code. 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 this source.

1 **Duty to Disclose Contributions on Campaign Statements**

2 Committees are required to disclose the total amount of contributions received during the period
3 covered by the campaign statement.¹⁰ Committees must disclose, on each campaign statement, the total
4 amount of contributions received during the period from persons who had given a cumulative amount of
5 \$100 or more.¹¹

6 **Duty to File Independent Expenditure Verification**

7 In addition, a committee’s principal officer must sign an independent expenditure verification,
8 under penalty of perjury, which states that the independent expenditure was not coordinated with the
9 affected candidate or measure committee or their opponent and the committee has reported all
10 contributions and reimbursements.¹² This verification is required within 10 days from the date of an
11 independent expenditure that totals, in the aggregate, \$1,000 or more to support or oppose a candidate or
12 measure in a calendar year.¹³

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

14 It is the duty of a committee treasurer to ensure that the committee complies with the Act.¹⁴ A
15 treasurer may be held jointly and severally liable, along with the committee, for violations committed by
16 the committee.¹⁵

17 **SUMMARY OF THE FACTS**

18 In this matter, the Committee and Martinez made independent expenditures, totaling \$2,500,
19 supporting the election of Christina Cortez, a candidate for Montebello City Council in the November 3,
20 2015 election.

21 The committee filed a 24-Hour Independent Expenditure Report with Los Angeles County, on
22 September 4, 2015, disclosing the expenditures made in support of Christina Cortez. However, this report
23 failed to include the disclosure of \$5,000 from United Pacific Waste, received on September 1, 2015;

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25 ¹⁰ Section 84211, subdivision (a).

26 ¹¹ Section 84211, subdivision (c).

27 ¹² Section 84213, subdivision (b).

28 ¹³ Regulation 18465.1, subdivision (b).

¹⁴ Sections 81004, 84100, and Regulation 18427.

¹⁵ Sections 83116.5 and 91006.

1 \$9,000 from Elizabeth Hano, received on September 2, 2015, and \$1,500 from Leticia Vasquez, received
2 on September 1, 2015. These contributions received were subsequently disclosed on a Pre-Election
3 Campaign Statement, filed with Los Angeles County, on September 24, 2015.

4 **Count 1**

5 Respondents Voters for Good Government and Billie Martinez failed to disclose, on a 24-Hour
6 Independent Expenditure Report, information concerning contributions received, in violation of Sections
7 82036.5, 84204 subdivision (a), and 84211, subdivision (a) of the Government Code.

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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 \$5,000.¹⁶

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.¹⁷ Additionally, the Commission considers penalties in prior cases with comparable
19 violations.

20 The typical stipulated administrative penalty for failing to file a late independent expenditure
21 report and reporting the expenditure on a semi-annual campaign statement has been in the middle level of
22 the penalty range, depending on the circumstances. *In the Matter of Concerned Citizens for a Better West*
23 *Covina and Dana Sykes*, FPPC No. 09/832, had a similar fact pattern involving the failure to file
24 campaign statements. In this matter, Respondents failed to file a late independent expenditure report by
25 the October 29, 2009 for an expenditure made of \$2,285.81 on October 28, 2009, in support of Measure
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¹⁶ See Section 83116, subdivision (c).

28 ¹⁷ Regulation 18361.5, subdivision (d).

1 D in the City of West Covina, in connection with the November 2009 election. The Commission
2 approved settlement of this case in September 17, 2010, and the agreed upon penalty for the campaign
3 statement filing violation was \$2,000.

4 Voters for Good Government and Martinez have a prior Enforcement History. In the prior *Voters*
5 *for Good Government* case, FPPC No.14-347, approved January 15, 2015, the Committee and Martinez
6 paid a penalty of \$2,000 for failing to file a late independent expenditure report within 24 hours of
7 making an independent expenditure opposing a Bakersfield City Council candidate, and to disclose this
8 expenditure on a semi-annual campaign statement. In the present matter, the Committee and Martinez did
9 timely file the 24-Hour Independent Expenditure Report and disclose the contributions received on a pre-
10 election campaign statement, thus providing some disclosure prior to the election.

11 After considering the factors listed in Regulation §18361.5 and penalties in prior similar cases, a
12 penalty of \$2,000 is recommended.

14 CONCLUSION

15 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
16 Respondents Voters for Good Government; and Billie Martinez hereby agree as follows:

- 17 1. Respondents violated the Act as described in the foregoing pages, which are a true and
18 accurate summary of the facts in this matter.
- 19 2. This stipulation will be submitted for consideration by the Fair Political Practices
20 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 21 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
22 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
23 liability of Respondents pursuant to Section 83116.
- 24 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all
25 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
26 This includes, but is not limited to the right to appear personally at any administrative hearing held in this
27 matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine all
28 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial

1 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
2 reviewed.

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

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

15 7. The parties to this agreement may execute their respective signature pages separately. A
16 copy of any party's executed signature page, including a hardcopy of a signature page transmitted via fax
17 or as a PDF email attachment, is as effective and binding as the original.

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20 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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23 Dated: _____

Billie Martinez, individually and on behalf of Voters for
Good Government, Respondents

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

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5 IT IS SO ORDERED.

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7 Dated: _____

Joann Remke, Chair
Fair Political Practices Commission