

3. A Notice of Defense (Two Copies);
4. A Statement to Respondents; and,
5. Copies of Sections 11506, 11507.5, 11507.6 and 11507.7 of the Government Code.

Government Code section 11506 provides that failure of a respondent to file a Notice of Defense within fifteen days after being served with an Accusation shall constitute a waiver of respondent's right to a hearing on the merits of the Accusation. The Statement to Respondent, served on Guzman, explicitly stated that a Notice of Defense must be filed in order to request a hearing. Guzman failed to file a Notice of Defense within fifteen days of being served with an Accusation. Government Code Section 11520 provides that, if the respondent fails to file a Notice of Defense, the Commission may take action, by way of a default, based upon the respondent's express admissions or upon other evidence, and that affidavits may be used as evidence without any notice to the respondent.

Guzman and the Committee violated the Political Reform Act as described in Exhibit 1, which is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the law and evidence in this matter. This Default Decision and Order is submitted to the Commission to obtain a final disposition of this matter.

Dated: 1 Sept 17



Galena West, Chief of Enforcement
Fair Political Practices Commission

ORDER

The Commission issues this Default Decision and Order and imposes an administrative penalty of \$9,000 upon Guzman and the Committee, payable to the "General Fund of the State of California."

IT IS SO ORDERED, effective upon execution below by the Chair of the Fair Political Practices Commission at Sacramento, California.

Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Frank Guzman (“Guzman”) was elected to the Pomona Unified School District Board on November 8, 2011, and ran unopposed for his seat on November 3, 2015. 2011 Committee to Elect Frank Guzman to PUSD Governing Board Member, a.k.a. Committee to Elect Frank Guzman to Pomona USD School Board 2011 (the “Committee”), is Guzman’s candidate-controlled committee. Guzman is the Committee treasurer. This matter arose out of a non-filer referral sent to the Fair Political Practices Commission’s (the “Commission”) Enforcement Division by the Los Angeles County Registrar-Recorder/County Clerk.

The Political Reform Act (the “Act”)¹ requires committees to file two semi-annual statements each year by July 31 for the period ending June 30 and by January 31 for the period ending December 31. The Committee and Guzman had a duty to file semiannual campaign statements with the County Clerk for each reporting period in which it was active. Guzman and the Committee failed to timely file three semiannual campaign statements.

DEFAULT PROCEEDINGS UNDER THE ADMINISTRATIVE PROCEDURE ACT

When the Commission determines that there is probable cause for believing that the Act has been violated, it may hold a hearing to determine if a violation has occurred.² Notice of the hearing, and the hearing itself, must be conducted in accordance with the Administrative Procedure Act (the “APA”).³ A hearing to determine whether the Act has been violated is initiated by the filing of an accusation, which shall be a concise written statement of the charges, specifying the statutes and rules which the respondent is alleged to have violated.⁴

Included among the rights afforded a respondent under the APA, is the right to file the Notice of Defense with the Commission within 15 days after service of the accusation, by which the respondent may (1) request a hearing; (2) object to the accusation on the ground it does not state acts or omissions upon which the agency may proceed; (3) object to the form of the accusation on the ground that it is so indefinite or certain that the respondent cannot identify the transaction or prepare a defense; (4) admit the accusation in whole or in part; (5) present new matter by way of a defense; or (6) object to the accusation on the ground that, under the circumstances,

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission (“Commission”) are contained in sections 18110 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to that title unless otherwise indicated.

² Section 83116.

³ The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code; Section 83116.

⁴ Section 11503.

compliance with a Commission regulation would result in a material violation of another department's regulation affecting substantive rights.⁵

The APA provides that a respondent's failure to file a Notice of Defense within 15 days after service of an accusation constitutes a waiver of the respondent's right to a hearing.⁶ Moreover, when a respondent fails to file a Notice of Defense, the Commission may take action based on the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to the respondent.⁷

PROCEDURAL REQUIREMENTS AND HISTORY

A. Initiation of the Administrative Action

The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated starts the administrative action.⁸

A finding of probable cause may not be made by the Commission unless the person alleged to have violated the Act is 1) notified of the violation by service of process or registered mail with return receipt requested; 2) provided with a summary of the evidence; and 3) informed of his or her right to be present in person and represented by counsel at any proceeding of the Commission held for the purpose of considering whether probable cause exists for believing the person violated the Act.⁹ Additionally, the required notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office.¹⁰

No administrative action pursuant to Chapter 3 of the Act alleging a violation of any of the provisions of Act may be commenced more than five years after the date on which the violation occurred.¹¹

Documents supporting the procedural history are included in the attached Certification of Records ("Certification") filed herewith at Exhibit 1, A-1 through A-13, and incorporated herein by reference.

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against Guzman and the Committee in this matter by serving them with a Report in Support of a Finding of Probable Cause (the "Report") (Certification, Exhibit A-1) by

⁵ Section 11506, subd. (a)(1)-(6).

⁶ Section 11506, subd. (c).

⁷ Section 11520, subd. (a).

⁸ Section 91000.5, subd. (a).

⁹ Section 83115.5.

¹⁰ Section 83115.5.

¹¹ Section 91000.5.

certified mail, return receipt requested,¹² on June 15, 2016. (Certification, Exhibit A-2.) The administrative action commenced on June 15, 2016, the date the certified mail receipt was signed, and the five-year statute of limitations was effectively tolled on this date.

As required by Section 83115.5, the packet served on Guzman and the Committee contained a cover letter and a memorandum describing probable cause proceedings, advising that Guzman and the Committee had 21 days in which to request a probable cause conference and/or to file a written response to the Report. (Certification, Exhibit A-3.) Guzman and the Committee neither requested a probable cause conference nor submitted a written response to the Report.

B. Ex Parte Request for a Finding of Probable Cause

Because Guzman and the Committee failed to request a probable cause conference or submit a written response to the Report by the statutory deadline, the Enforcement Division submitted an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served to the Hearing Officer of the Commission on August 12, 2016. (Certification, Exhibit A-4.)

On August 24, 2016, Hearing Officer Jack Woodside, Senior Commission Counsel, Legal Division issued a Finding of Probable Cause and an Order to Prepare and Serve an Accusation on Guzman and the Committee. (Certification, Exhibit A-5.)

C. The Issuance and Service of the Accusation

Under the Act, if the Hearing Officer makes a finding of probable cause, the Enforcement Division must prepare an accusation pursuant to Section 11503 of the APA, and have it served on the persons who are the subject of the probable cause finding.¹³

Section 11503 states:

A hearing to determine whether a right, authority, license, or privilege should be revoked, suspended, limited, or conditioned shall be initiated by filing an accusation or District Statement of Reduction in Force. The accusation or District Statement of Reduction in Force shall be a written statement of charges that shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his or her defense. It shall specify the statutes and rules that the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of those statutes and rules. The accusation or District Statement of Reduction in Force shall be verified unless made by a public officer acting in his or her official capacity

¹² Section 83115.5.

¹³ Regulation 18361.4, subd. (e).

or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

Upon the filing of the accusation, the agency must 1) serve a copy thereof on the respondent as provided in Section 11505, subdivision (c); 2) include a post card or other form entitled Notice of Defense that, when signed by or on behalf of the respondent and returned to the agency, will acknowledge service of the accusation and constitute a notice of defense under Section 11506; 3) include (i) a statement that respondent may request a hearing by filing a notice of defense as provided in Section 11506 within 15 days after service upon the respondent of the accusation, and that failure to do so will constitute a waiver of the respondent's right to a hearing, and (ii) copies of Sections 11507.5, 11507.6, and 11507.7.¹⁴ The APA also sets forth the language required in the accompanying statement to the respondent.¹⁵

The Accusation and accompanying information may be sent to the respondent by any means selected by the agency, but no order adversely affecting the rights of the respondent may be made by the agency in any case unless the respondent has been served personally or by registered mail as set forth in the APA.¹⁶

On January 11, 2017, the Commission's Chief of Enforcement, Galena West, issued an Accusation against Guzman and the Committee in this matter. (Certification, Exhibit A-6.) In accordance with Section 11505, the Accusation and accompanying information, consisting of a Statement to Respondent, two copies of a Notice of Defense Form, and copies of Government Code Sections 11506, 11507.5, 11507.6 and 11507.7 were personally served on Guzman on February 4, 2017. (Certification, Exhibit A-8.)

Along with the Accusation, the Enforcement Division served Guzman and the Committee with a "Statement to Respondent," which notified them that they could request a hearing on the merits and warned that, unless a Notice of Defense was filed within 15 days of service of the Accusation, he would be deemed to have waived the right to a hearing. (Certification, Exhibit A-7.) Guzman and the Committee did not file a Notice of Defense within the statutory time period, which ended on February 21, 2017.

As a result, on September 5, 2017, Assistant Chief of Enforcement Dave Bainbridge sent a letter to Guzman and the Committee advising that this matter would be submitted for a Default Decision and Order at the Commission's public meeting scheduled for September 21, 2017. (Certification, Exhibit A-13.) A copy of the Default Decision and Order, and this accompanying Exhibit 1 with attachments, was included with the letter.

¹⁴ Section 11505, subd. (a).

¹⁵ Section 11505, subd. (b).

¹⁶ Section 11505, subd. (c).

SUMMARY OF THE LAW

An express purpose of the Act is to ensure voters are fully informed and improper practices are inhibited by requiring all candidates, as well as the committees that support or oppose them, to disclose all contributions and expenditures made throughout a campaign.¹⁷ In furtherance of this purpose, the Act requires a candidate controlled-committee to file semi-annual campaign statements twice per year to disclose its campaign contributions and expenditures.¹⁸

Candidate-controlled committees must file semi-annual campaign statements each year no later than July 31 for the reporting period ending on June 30, and no later than January 31 of the following year for the semi-annual reporting period ending December 31.¹⁹ When a filing deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline is extended to the next business day.²⁰

SUMMARY OF THE EVIDENCE

Background

Guzman was first elected to the Pomona Unified School District Board on November 8, 2011. Because he ran unopposed for his seat when his first term ended, he did not appear on the 2015 ballot, but was re-elected on November 3, 2015. His term expires in 2019. The Committee first qualified as a recipient committee on or about September 21, 2009 to support Guzman's unsuccessful 2009 campaign for the Pomona Unified School District Board. A Statement of Organization amendment was filed August 12, 2011 to re-name the Committee for Guzman's 2011 campaign.

Late Semi-annual Statements

Guzman and the Committee failed to timely file a semi-annual campaign statement for the periods of January 1, 2014 through June 30, 2014 by July 31, 2014. The Los Angeles Registrar-Recorder/County Clerk ("Clerk") attempted to contact Guzman and the Committee four times regarding the statement due July 31, 2014. (Certification, Exhibit A-9.) When they did not respond, the clerk referred the matter to the Enforcement Division. (Certification, Exhibit A-10.)

Guzman and the Committee then failed to timely file a semi-annual campaign statement for the period of July 1, 2014 through December 31, 2014 by February 2, 2015.

On January 28, 2015 and April 22, 2015, the Enforcement Division sent Guzman and the Committee letters regarding the Committee's outstanding semi-annual campaign statements. The Enforcement Division also emailed Guzman and the Committee on April 8, 2015. (Certification, Exhibit A-11.) Guzman and the Committee did not respond. The Enforcement Division also contacted Guzman by telephone twice, once on April 22, 2015 and again on July 29, 2015.

¹⁷ Section 81002, subd. (a).

¹⁸ Section 84200, subd. (a).

¹⁹ Section 84200, subd. (a).

²⁰ Regulation 18116.

On July 31, 2015, Guzman and the Committee filed the semi-annual campaign statement for the period of January 1, 2014 through June 30, 2014, approximately one year late. The statement reported no activity. Also on July 31, 2015, Guzman and the Committee filed the semi-annual campaign statement for the period of July 1, 2014 through December 31, 2014, approximately six months late. It also reported no campaign activity.

Subsequently, Guzman and the Committee failed to timely file a semi-annual campaign statement for the period of July 1, 2015 through December 31, 2015 by February 1, 2016. The Clerk attempted to contact Guzman and the Committee four times regarding the statement due February 1, 2016, sending letters on February 8, 2016 and February 23, 2016, and leaving a voicemail on March 2, 2016. (Certification, Exhibit A-12.) Guzman and the Committee failed to respond, and the Clerk referred the matter to the Enforcement Division.

Guzman and the Committee filed a semi-annual campaign statement for the period of July 1, 2015 through December 31, 2016 approximately six months late on July 14, 2016. It reported no campaign activity.

Guzman terminated the Committee in May of 2017. Guzman and the Committee, through their attorney, expressed to Enforcement Division staff an unwillingness and/or inability to settle the matter through the streamline fine program.

Summary of Contacts

Overall, Guzman and the Committee were contacted a total of 29 times regarding their campaign statements, as follows:

- August 7, 2014: voicemail from the Clerk to Guzman regarding the campaign statement due July 31, 2014.
- August 11, 2014: letter from the Clerk to Guzman regarding the campaign statement due July 31, 2014.
- August 21, 2014: voicemail from the Clerk to Guzman regarding the campaign statement due July 31, 2014.
- September 11, 2014: letter from the Clerk to Guzman regarding the campaign statement due July 31, 2014.
- January 28, 2015: letter from Enforcement to Guzman regarding settlement and filing.
- April 8, 2015: email from Enforcement to Guzman regarding settlement and filing.
- On or around April 22, 2015: during a phone conversation with a staff member of the Enforcement, Guzman declared he had filed the campaign statements the day before.
- April 22, 2015: letter from Enforcement to Guzman regarding settlement and filing.
- On July 29, 2015: during a phone conversation with a staff member of the Enforcement. Guzman declared he would file the campaign statements.
- August 3, 2015: email from Enforcement to Guzman regarding the campaign statements.

- February 8, 2016: letter from the Clerk to Guzman regarding the campaign statement due February 1, 2016.
- February 23, 2016: letter from the Clerk to Guzman regarding the campaign statement due February 1, 2016.
- March 2, 2016: voicemail from the Clerk to Guzman regarding the campaign statement due February 1, 2016.
- June 15, 2016: Report in Support of Probable Cause served on Guzman and the Committee.
- August 9, 2016: email from Enforcement to Adam Silver representing Guzman regarding settlement.
- August 12, 2016: copy of Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served mailed to Guzman and the Committee.
- February 4, 2017: Accusation served upon Guzman and the Committee.
- February 13, 2017: voicemail from Enforcement to Natalie Alvarado representing Guzman regarding settlement.
- February 14, 2017: email and phone call from Enforcement to Natalie Alvarado regarding settlement.
- March 8, 2017: email and phone call from Enforcement to Natalie Alvarado regarding settlement.
- March 27, 2017: email from Enforcement to Natalie Alvarado regarding settlement.
- March 28, 2017: email from Enforcement to Natalie Alvarado regarding settlement.
- May 5, 2017: email from Enforcement to Natalie Alvarado regarding settlement.
- May 9, 2017: email from Enforcement to Natalie Alvarado regarding settlement.
- May 10, 2017: email from Enforcement to Natalie Alvarado regarding settlement.
- May 11, 2017: emails from Enforcement to Natalie Alvarado regarding settlement.
- May 15, 2017: email from Enforcement to Natalie Alvarado regarding settlement.
- May 18, 2017: email from Enforcement to Natalie Alvarado regarding settlement.
- May 22, 2017: email from Enforcement to Natalie Alvarado regarding settlement.

VIOLATIONS

Guzman and the Committee committed three violations of the Act, as follows:

COUNT 1

Failure to Timely File a Semi-annual Campaign Statement by July 31, 2014

The Committee and Guzman had a duty to file a semi-annual campaign statement for the period of January 1, 2014 through June 30, 2014 by July 31, 2014. The Committee and Guzman failed to timely file the statement in violation of Government Code Section 84200.

COUNT 2

Failure to Timely File a Semi-annual Campaign Statement by February 2, 2015

The Committee and Guzman had a duty to file a semi-annual campaign statement for the

period of July 1, 2014 through December 31, 2014 by February 2, 2015. The Committee and Guzman failed to timely file the statement in violation of Government Code Section 84200.

COUNT 3

Failure to Timely File a Semi-annual Campaign Statement by February 1, 2016

The Committee and Guzman had a duty to file a semi-annual campaign statement for the period of July 1, 2015 through December 31, 2015 by February 1, 2016. The Committee and Guzman violated Government Code Section 84200.

CONCLUSION

This matter consists of three counts of violating the Act, which carries a maximum administrative penalty of \$15,000.²¹

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division 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 Enforcement Division considers the facts and circumstances of the violation in the context of the following factors set forth in Regulation 18361.5 subdivision (d)(1) through (6): (1) The seriousness of the violation; (2) The presence or absence of any intention to conceal, deceive or mislead; (3) Whether the violation was deliberate, negligent or inadvertent; (4) Whether the violator demonstrated good faith by consulting the Commission staff or any other governmental agency in a manner not constituting complete defense under Government Code section 83114(b); (5) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and (6) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

In this matter, Guzman and the Committee failed to timely file three semi-annual campaign statements. The failure to comply with their obligations has denied the public information about Guzman and the Committee's campaign activities. Guzman has been in his current office since 2011, having won re-election in 2015 with his term due to expire in 2019.

Guzman and the Committee were well aware of their obligations to file campaign statements having received numerous notices from the Clerk, and the Enforcement Division of the Commission before eventually filing the delinquent statements.

The Enforcement Division also takes into consideration previous cases that were approved by the Commission in determining penalties. Most recently, the Commission approved a default decision for *In the Matter of Ralph Denney and Vote Ralph Denney to the Assembly – 78th District*, FPPC No. 15/156. The respondent in that case failed to timely file three semi-annual statements. The committee eventually filed the delinquent statements after numerous notices from his filing

²¹ Section 83116, subd. (c).

clerk and the Enforcement Division. The Commission impose a penalty of \$3,000 per delinquent semi-annual statement at its meeting on April 20, 2017.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5 and the penalties imposed in prior cases, a penalty of \$3,000 per count for a total penalty of \$9,000.



**DECLARATION OF CUSTODIAN OF RECORDS
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
Enforcement Division**

CERTIFICATION OF RECORDS

The undersigned declares and certifies as follows:

1. I am employed as a Staff Services Analyst by the California Fair Political Practices Commission (Commission). My business address is: California Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811.
2. I am a duly authorized custodian of the records maintained by the Commission in the Enforcement Division. As such, I am authorized to certify copies of those records as being true and correct copies of the original business records which are in the custody of the Commission.
3. I have reviewed documents maintained in *FPPC Case No. 15/625; Frank Guzman and 2011 Committee to Elect Frank Guzman to PUSD Governing Board Member a.k.a Committee to Elect Frank Guzman to Pomona USD School Board 2011*, and have caused copies to be made of documents contained therein. I certify that the copies attached hereto are true and correct copies of the documents prepared in the normal course of business and which are contained in files maintained by the Commission. The attached documents are as follows:

EXHIBIT A-1: Report in Support of a Finding of Probable Cause, dated June 13, 2016


EXHIBIT A-2: Proof of Service for the Report in Support of a Finding of Probable Cause and applicable statutes and regulations, dated June 13, 2016, and Return Receipt received on June 20, 2016

EXHIBIT A-3: Cover letter to the Respondent regarding the Report in Support of a Finding of Probable Cause, memorandum describing Probable Cause Proceedings, and applicable statutes and regulations, dated June 13, 2016

EXHIBIT A-4: Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served, dated August 12, 2016

- EXHIBIT A-5: Finding of Probable Cause and an Order to Prepare and Serve an Accusation, dated August 24, 2016, and Proof of Service, dated August 29, 2016
- EXHIBIT A-6: Accusation, dated January 11, 2017
- EXHIBIT A-7: Statement to the Respondent, Notices of Defense Form, and applicable statutes and Proof of Service for Accusation and accompanying documents, dated January 12, 2017
- EXHIBIT A-8: Proof of Service on February 4, 2017, for Accusation and accompanying documents from process server, dated February 6, 2017
- EXHIBIT A-9: Letters from the Los Angeles Registrar-Recorder/County Clerk to Frank Guzman regarding the statement due July 31, 2014, dated August 11, 2014, and September 11, 2014, and call reports from the Los Angeles Registrar-Recorder/County Clerk regarding voicemails left for Frank Guzman on August 7, 2014, and August 21, 2014
- EXHIBIT A-10: Non-filer referral from the Los Angeles Registrar-Recorder/County Clerk referring Frank Guzman to the Enforcement Division as a campaign statement non-filer, dated September 26, 2014
- EXHIBIT A-11: Letters from the Enforcement Division to Committee to Elect Frank Guzman to Pomona USD School Board 2013 and Frank Guzman dated January 28, 2015, and April 22, 2015, and an email from the Enforcement Division to Frank Guzman, dated April 8, 2015
- EXHIBIT A-12: Letters from the Los Angeles Registrar-Recorder/County Clerk to Frank Guzman regarding the statement due February 1, 2016, dated February 8, 2016, and February 23, 2016, and call reports from the Los Angeles Registrar-Recorder/County Clerk regarding voicemail left for Frank Guzman March 2, 2016
- EXHIBIT A-13: Notice of Intent to Enter into Default Decision and Order dated September 5, 2017

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 5, 2017 at Sacramento, California.



Dominika Wojenska
Staff Services Analyst, Enforcement Division
Fair Political Practices Commission

Exhibit A-1

1 GALENA WEST
Chief of Enforcement
2 TANYA SMITH
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5021
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant
Enforcement Division of the Fair Political Practices Commission
7

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

11 In the Matter of) FPPC No. 15/625
12)
13) **REPORT IN SUPPORT OF A FINDING OF**
FRANK GUZMAN AND COMMITTEE) **PROBABLE CAUSE**
14 TO ELECT FRANK GUZMAN TO)
POMONA USD SCHOOL BOARD) Conference Date: TBA
2011,) Conference Time: TBA
15 Respondents.) Conference Location: Commission Offices
428 J Street, Suite 620
16 Sacramento, CA 95814

17 **INTRODUCTION**

18 Respondent Committee to Elect Frank Guzman to Pomona USD School Board 2011 (“the
19 Committee”) is a candidate-controlled committee organized to support respondent Frank Guzman
20 (“Guzman”), who ran unopposed for the school board in the November 2015 election. Guzman is also
21 the committee’s treasurer.

22 The Political Reform Act (the “Act”)¹ required candidate-controlled committees to file semi-
23 annual campaign statements by no later July 31, 2014 for the period ending June 30. Additionally, the
24

25
26 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
27 are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2
of the California Code of Regulations, and all regulatory references are to this source.

1 Act required candidate-controlled committees to file semi-annual campaign statements by no later than
2 February 2, 2015 and February 1, 2016 for the periods ending December 31 in 2014 and 2015,
3 respectively. Lastly, the Act requires candidate-controlled committees to annually pay the Office of the
4 Secretary of State a \$50 committee fee.

5 The Committee failed to timely file three semi-annual campaign statements and failed to timely
6 pay its \$50 annual committee fee to the Secretary of State for four years.

7
8 **SUMMARY OF THE LAW**

9 All legal references and discussions of law pertain to the Act's provisions as it they existed in
10 2014 and 2015.

11 Jurisdiction

12 The Fair Political Practices Commission (the "Commission") has administrative jurisdiction to
13 enforce the provisions of the Act.²

14 Probable Cause Proceedings

15 Prior to the Enforcement Division commencing an administrative action, the General Counsel of
16 the Commission or her designee (the "hearing officer"), must make a finding that there is probable
17 cause to believe the respondent has violated the Act.³ After a finding of probable cause, the
18 Commission may hold a noticed hearing in accordance with the Administrative Procedure Act⁴ to
19 determine whether violations occurred, and levy an administrative penalty of up to \$5,000 for each
20 violation.⁵

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22 ///

23 ///

24
25 ² Section 83116.

26 ³ Section 83115.5, and Regulations 18361 and 18361.4.

27 ⁴ Section 11500, et seq.

28 ⁵ Section 83116, and Regulation 18361.4, subd. (e).

1 Standard for Finding Probable Cause

2 To make a finding of probable cause, the hearing officer must be presented with sufficient
3 evidence to lead a person of ordinary caution and prudence to believe, or entertain a strong suspicion,
4 that a respondent committed or caused a violation.⁶

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

6 When enacting the Political Reform Act, the people of the state of California found and declared
7 that previous laws regulating political practices suffered from inadequate enforcement by state and local
8 authorities.⁷ To that end, the Act must be liberally construed to achieve its purposes.⁸

9 There are many purposes of the Act. Among these purposes are to ensure voters are fully
10 informed and improper practices are inhibited by requiring all political candidates, as well as the
11 committees that support or oppose them, to disclose all contributions and expenditures made
12 throughout a campaign.⁹ Another is to provide adequate enforcement mechanisms so that the Act will
13 be "vigorously enforced."¹⁰

14 Semi-Annual Campaign Statements

15 The Act requires a candidate-controlled committee to file semi-annual campaign statements by
16 July 31 for the period ending June 30 and by January 31 for the period ending December 31.¹¹ If a due
17 date falls on a weekend or holiday, the next regular business day becomes the due date for filing semi-
18 annual campaign statements.¹²

19 Annual Committee Fee

20 Additionally, the Act requires a candidate-controlled committee to pay the Office of the
21 Secretary of State a \$50 annual committee fee.¹³ If the annual fee is not timely paid, a late penalty of
22

23 ⁶ Section 18361.4, subdivision (e).

24 ⁷ Section 81001, subdivision (h).

25 ⁸ Section 81003.

26 ⁹ Section 81002, subdivision (a).

27 ¹⁰ Section 81002, subdivision (f).

28 ¹¹ Section 84200, subdivision (a).

¹² Regulation 18116, subdivision (a).

¹³ Section 84101.5, subdivision (a).

1 \$150 is assessed by the Secretary of State, in addition to the \$50 annual fee.¹⁴ The Commission
2 enforces the late penalty assessed when committees fail to timely pay their annual fees to the Secretary
3 of State.¹⁵

4 **SUMMARY OF THE EVIDENCE**

5 The Committee re-designated itself as a 2011 committee on or about August 8, 2011. Guzman
6 was unsuccessful in the 2011 election for school board, but ran unopposed for the school board in the
7 November 2015 election.

8 The Committee failed to timely file its semi-annual campaign statement for the period ending
9 June 30, 2014 by the July 31, 2014 deadline. The Committee also failed to timely file its semi-annual
10 campaign statement for the period ending December 31, 2014 by the February 2, 2015 deadline. The
11 Committee also failed to timely file its semi-annual campaign statement for the period ending
12 December 31, 2015 by the February 1, 2016 deadline.

13 The Los Angeles County Registrar-Recorder called Guzman and corresponded with Guzman
14 sixteen times between August 7, 2014 and March 2, 2016 regarding the missing semi-annual campaign
15 statements.

16 Additionally, the Committee failed to timely pay its \$50 annual committee fee with the Office
17 of the Secretary of the State in 2013, 2014, 2015, and 2016. The Secretary of State corresponded with
18 Guzman six times from November 2012 through November 2015 regarding his annual committee fees.

19 In January and April 2015, Enforcement Division wrote to Guzman regarding his semi-annual
20 campaign statement that had not been filed by July 31, 2014. Both letters informed Guzman that he
21 would incur additional penalties if he did not file by specified dates. He did not respond to either letter.
22 In July 2015, Enforcement Division called Guzman to discuss the semi-annual campaign statements
23 that had not been filed by July 31, 2014 and by February 2, 2015. He filed the two statements on July
24 31, 2015, but did not respond regarding his penalties for late filing.

25
26 ¹⁴ Section 84101.5, subdivision (d)(1).

27 ¹⁵ Section 84101.5, subdivision (d)(2).

1 As of May 25, 2016, the Committee had not filed a semi-annual campaign statement due by
2 February 1, 2016, had not paid its annual fees from 2013 through 2016 to the Secretary of State. The
3 Committee had not been terminated as of May 25, 2016.

4
5 **VIOLATIONS**

6 Count 1: Failure to Timely File Semi-Annual Campaign Statement due by July 31, 2014

7 The Committee and Guzman failed to timely file a semi-annual campaign statement due by July
8 31, 2014 for the reporting period ending June 30, 2014, in violation of Section 84200.

9 Count 2: Failure to Timely File Semi-Annual Campaign Statement due by February 2, 2015

10 The Committee and Guzman failed to timely file a semi-annual campaign statement due by
11 February 2, 2015 for the reporting period ending December 31, 2014, in violation of Section 84200.

12 Count 3: Failure to Timely File Semi-Annual Campaign Statement due by February 1, 2016

13 The Committee and Guzman failed to timely file a semi-annual campaign statement due by
14 February 1, 2016 for the reporting period ending December 31, 2015, in violation of Section 84200.

15 Count 4: Failure to Timely Pay \$50 Annual Committee Fee - 2013

16 The Committee and Guzman failed to timely pay a \$50 annual committee fee with the Secretary
17 of State, due by January 15, 2013, in violation of Section 84101.5, subdivision (c)(1).

18 Count 5: Failure to Timely Pay \$50 Annual Committee Fee - 2014

19 The Committee and Guzman failed to timely pay a \$50 annual committee fee with the Secretary
20 of State, due by January 15, 2014, in violation of Section 84101.5, subdivision (c)(1).

21 Count 6: Failure to Timely Pay \$50 Annual Committee Fee - 2015

22 The Committee and Guzman failed to timely pay a \$50 annual committee fee with the Secretary
23 of State, due by January 15, 2015, in violation of Section 84101.5, subdivision (c)(1).

24 Count 7: Failure to Timely Pay \$50 Annual Committee Fee - 2016

25 The Committee and Guzman failed to timely pay a \$50 annual committee fee with the Secretary
26 of State, due by January 15, 2016, in violation of Section 84101.5, subdivision (c)(1).

1 **OTHER RELEVANT MATERIAL**

2 The Committee and Guzman have a previous enforcement history for failing to file semi-annual
3 campaign statements. On December 13, 2012, the Commission approved a \$200 streamlined stipulation
4 for the Committee and Guzman's failure to file a semi-annual campaign statement covering the
5 reporting period for the second half of 2011. (FPPC Case No. 12/345).

6 Previously, Enforcement Division issued a warning letter to the Committee and Guzman on
7 January 23, 2012 for their failure to file a semi-annual campaign statement for the first half of 2011.
8 (FPPC Case No. 11/1103). The warning letter informed them that they would be subject to penalties of
9 up to \$5,000 for future failure to timely file their campaign statements.

10 Additionally, the Enforcement Division issued a warning letter to the Committee, Guzman and
11 his former treasurer on December 21, 2010 for their failure to file a semi-annual campaign statement
12 for the first half of 2010. (FPPC Case No. 10/925).

13
14
15 **EXCULPATORY AND MITIGATING INFORMATION**

16 The two statements Guzman filed late on July 31, 2015 showed no campaign activity for the
17 reporting periods ending June 30, 2014 and December 31, 2014. No other exculpatory or mitigating
18 factors are known at this time.

19
20
21 **CONCLUSION**


22 Probable cause exists to believe that the Committee and Guzman violated the Act by failing to
23 timely file three semi-annual campaign statements due in 2014, 2015 and 2016. Additionally, probable
24 cause exists to believe that the Committee and Guzman violated the Act by failing to pay their \$50
25 annual committee fees with the Secretary of State for 2013, 2014, 2015, and 2016. The Enforcement
26

1 Division respectfully requests an order finding probable cause pursuant to Section 83115.5 and
2 Regulation 18361.4.

3
4 Dated: June 13, 2016

5
6 Respectfully Submitted,

7 **FAIR POLITICAL PRACTICES COMMISSION**
8 Galena West
9 Enforcement Chief

10 

11 By: Tanya Smith
12 Commission Counsel
13 Enforcement Division

Exhibit A-2

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814. On June 13, 2016, I served the following document(s):

1. Letter dated June 13, 2016, from Tanya Smith;
2. FPPC No. 15/625 Frank Guzman and Committee to Elect Frank Guzman Report in Support of a Finding of Probable Cause;
3. Probable Cause Fact Sheet
4. Selected Sections of the California Government Code regarding Probable Cause Proceedings for the Fair Political Practices Commission; and
5. Selected Regulations of the Fair Political Practices Commission regarding Probable Cause Proceedings

By Personal Delivery. I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By United States Postal Service. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the addresses listed below and placed the envelope or package for collection and mailing by certified mail, return receipt requested, following my company's ordinary business practices. I am readily familiar with this business' practice for collection and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

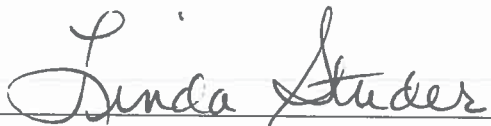
I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

SERVICE LIST

Certified Mail, Return Receipt Requested

Mr. Frank C. Guzman
Committee to Elect Frank Guzman to Pomona
USD School Board 2011
c/o Pomona Unified School District
800 South Garey Ave.
Pomona, CA 91766

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 13, 2016



Linda Studer

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Boardmember Frank Guzman
 clo Pomona Unif. School Dist.
 800 South Garey Ave.
 Pomona, CA 91766



9590 9403 0234 5146 5233 78

2. Article Number (Transfer from service label)

7016 0340 0000 4006 8287

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Anthony S. Lora*

- Agent
- Addressee

B. Received by (Printed Name)

Anthony S. Lora

C. Date of Delivery

6/15/16

- D. Is delivery address different from item 1?** Yes
 If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

UNITED STATES POSTAL SERVICE
 SANTA ANA
 CA 92705
 15 JUN '16
 PM 5 L



First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box•

Fair Political Practices Commission
 Attn: Tanya Smith
 428 J Street, Ste. 620
 Sacramento, CA 95814-2329

USPS TRACKING#



4232970 9590 9403 0234 5146 5233 78

RECEIVED
 FAIR POLITICAL
 PRACTICES COMMISSION

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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For delivery information, visit our website at www.usps.com®.

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Certified Mail Fee

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Extra Services & Fees (check box, add fee as appropriate)

- Return Receipt (hardcopy) \$ _____
- Return Receipt (Electronic) \$ _____
- Certified Mail Restricted Delivery \$ _____
- Adult Signature Required \$ _____
- Adult Signature Restricted Delivery \$ _____

Postmark
Here

Postage

\$ _____

Total Postage and Fees

\$ _____

Sent To

Frank Guzman c/o Pomona USD

Street and Apt. No., or PO Box No.

800 South Garey Ave

City, State, ZIP+4®
Pomona CA 91766

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

7016 0340 0000 4006 8267

Exhibit A-3



FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

June 13, 2016

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. Frank Guzman and Committee to Elect Frank Guzman to Pomona USD School Board 2011
c/o Pomona Unified School District
800 South Garey Ave.
Pomona, CA 91766

**In the Matter of: Frank Guzman and Committee to Elect Frank Guzman to Pomona USD
School Board 2011; FPCC No. 15/625**

Dear Mr. Guzman:

The Enforcement Division of the Fair Political Practices Commission is proceeding with an administrative action against you for your failure to comply with the filing and disclosure provisions of the Political Reform Act (the "Act"), as described in our previous correspondence dated January 28, 2015 and April 22, 2015. The enclosed Report in Support of a Finding of Probable Cause (the "Report") contains a summary of the alleged violations and the relevant law and evidence. The report has been filed with the Commission's General Counsel (the "Hearing Officer") and is now being served upon you.

You have the right to file a written response to the Report. That response may contain any information you think is relevant and that you wish to bring to the attention of the Commission's General Counsel or her designee (the "Hearing Officer"). In your response, please indicate whether you would like the Hearing Officer to make a determination of probable cause based on the written materials alone (the Report and your response) or request a conference, during which you may orally present your case to the Hearing Officer.

Probable cause conferences are held in our office which is located at 428 J Street, Ste. 620, Sacramento, CA 95814. You may appear at the conference in person or by telephone and you are entitled to be represented by counsel. *If you wish to submit a written response or request a probable cause conference, it must be filed with the Commission Assistant, Sheva Tabatabainejad, at the address listed above within 21 days from the date of service of this letter.* You can reach Ms. Tabatabainejad at (916) 327-8269.

Please note: probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether there is probable cause to believe that the Act was violated. However, settlement discussions are encouraged by the Enforcement Division and

may take place at any time except during a probable cause conference. *If you are interested in reaching a settlement in this matter, please contact me at (916) 322-5021 or at tsmith@fppc.ca.gov*

Finally, you have the right to request discovery of the evidence in possession of, and relied upon by, the Enforcement Division. *This request must also be filed with Ms. Tabatabainejad within 21 days from the date of service of this letter.* Should you request discovery, the Enforcement Division will provide the evidence by service of process or certified mail. From the date you are served with the evidence, you would have an additional 21 days to file a written response to the Report, just as described above.

Should you take no action within 21 days from the date of service of this letter, your rights to respond and to request a conference are automatically waived and the Enforcement Division will independently pursue the issuance of an accusation.

For your convenience, I have enclosed a fact sheet on probable cause proceedings and copies of the most relevant statutes and regulations.

Sincerely,



Tanya Smith
Commission Counsel
Enforcement Division

Enclosures

PROBABLE CAUSE FACT SHEET

INTRODUCTION

The Fair Political Practices Commission is required by law to determine whether probable cause exists to believe that the Political Reform Act (the "Act") was violated before a public administrative accusation may be issued.

The probable cause proceedings before the Fair Political Practices Commission are unique, and most respondents and their attorneys are unfamiliar with them. Therefore, we have prepared this summary to acquaint you with the process.

THE LAW

Government Code sections 83115.5 and 83116 set forth the basic requirement that a finding of probable cause be made in a "private" proceeding before a public accusation is issued and a public hearing conducted in accordance with the Administrative Procedure Act.

The Commission has promulgated regulations further defining the probable cause procedure and delegating to the General Counsel (the "Hearing Officer" for purposes of these proceedings) the authority to preside over such proceedings and decide probable cause. A copy of these statutes and regulations are attached for your convenience.

In summary, the statutes and regulations entitle you to the following:

- a) A written probable cause report containing a summary of the law alleged to have been violated, and a summary of the evidence, including any exculpatory and mitigating information and any other relevant material and arguments;
- b) The opportunity to request discovery, respond in writing, and to request a probable cause conference within 21 days of service of the probable cause report;
- c) If the Commission met to consider whether a civil lawsuit should be filed in this matter, a copy of any staff memoranda submitted to the Commission and a transcript of staff discussions with the Commission at any such meeting; and
- d) If a timely request was made, a non-public conference with the General Counsel and the Enforcement Division staff to consider whether or not probable cause exists to believe the Act was violated.

THE PROCEDURE

Probable Cause Report

Administrative enforcement proceedings are commenced with the service, by registered or certified mail or in person, of a probable cause report. The report will contain a summary of the law and the evidence, including any exculpatory and mitigating information of which the staff has knowledge and any other relevant material and arguments. It is filed with the Hearing Officer.

Discovery

Within 21 calendar days following the service of the probable cause report, you may request discovery of the evidence in the possession of the Enforcement Division. This is not a right to full discovery of the Enforcement Division file, but to the evidence relied upon by the Division along with any exculpatory or mitigating evidence¹.

This request must be sent by registered or certified mail to the Commission Assistant.

Response to Probable Cause Report

Within 21 calendar days following the service of the probable cause report (or, if you timely requested discovery, within 21 calendar days from the service of the evidence) you may submit a response to the Report. By regulation, the written response may contain, "... a summary of evidence, legal arguments, and any mitigating or exculpatory information." (Cal. Code Regs., tit. 2, § 18361.4, subd. (c).)

You must file your response with the Commission Assistant and provide a copy, by service of process or registered or certified mail with return receipt requested, to all other proposed respondents listed in the probable cause report.

Staff Reply

Within 10 calendar days following the date the response was filed with the Commission Assistant, Commission staff may submit any evidence or argument in rebuttal. You will be served with a copy of any such reply.

Probable Cause Conference

Probable cause conferences are held at the offices of the Fair Political Practices Commission, which is located at 428 J Street, Ste. 620, Sacramento, CA 95814. You may appear at the conference in person or by telephone. The proceedings are not public unless all proposed respondents agree to open the conference to the public. Otherwise, the probable cause report, any written responses, and the probable cause conference itself are confidential.

Unless the probable cause conference is public, the only persons who may attend are the staff of the Commission, any proposed respondent and his or her attorney or representative, and, at the discretion of the Hearing Officer, witnesses.

The Hearing Officer may, but need not, permit testimony from witnesses. Probable cause conferences are less formal than court proceedings. The rules of evidence do not apply. The conferences will be recorded and a copy of the recording will be provided upon request.

Since it has the burden of proof, the Enforcement Division is permitted to open and close the conference presentations. The Hearing Officer may also hold the record open to receive additional evidence or arguments.

Probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether or not there is probable cause to believe that the

¹ But see Title 2, California Code of Regulations, Section 18362, which states that the Commission provides access to complaints, responses to complaints, and investigative files and information in accordance with the requirements of the Public Records Act. (Govt. Code § 6250, et seq.)

Political Reform Act was violated. Anyone who wishes to discuss settlement with the Enforcement Division may do so before or after the probable cause conference but not during the conference.

Pursuant to Title 2, California Code of Regulations, Section 18361.4, subdivision (e), the Hearing Officer will find probable cause "if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation."

Ordinarily, probable cause determinations are made based upon the written probable cause report, any written response by the respondent, any written reply by the Enforcement Division, and the oral arguments presented at the conference. Timely written presentations are strongly recommended.

Probable Cause Order and Accusation

Once the matter is submitted to the Hearing Officer, the probable cause decision will normally be made within ten days. If the Hearing Officer finds probable cause, he will issue a Finding of Probable Cause, which will be publicly announced at the next Commission Meeting. An accusation will be issued soon after the Finding of Probable Cause is publicly announced.

Continuances

Every reasonable effort is made to accommodate the schedules of parties and counsel. However, once a date has been set it is assumed to be firm and will not be continued except upon the order of the Hearing Officer after a showing of good cause. Settlement negotiations will be considered good cause only if the Hearing Officer is presented with a fully executed settlement, or is convinced that settlement is imminent.

Settlements

Settlement discussions may take place at any time except during the probable cause conference. In order to open settlement discussions, a proposed respondent or his or her counsel or representative should present a written offer to settle stating, where appropriate, the violations to be admitted, and the monetary penalty or other remedy to be tendered.

The Enforcement Division attorney assigned to the case will negotiate any potential settlement on behalf of the Fair Political Practices Commission, and will draft the language of the settlement agreement. The Hearing Officer will not directly participate in the negotiations, but will be represented by Enforcement Division attorneys. Staff attorneys will present settlement offers to the Hearing Officer for his/her approval.

CONCLUSION

This fact sheet was intended to give you a brief summary of the probable cause process at the Fair Political Practices Commission. Such a summary cannot answer every question that might arise in such proceedings. Therefore, if you have any questions that are not addressed by this fact sheet or the copies of the law and regulations we have attached, feel free to contact the attorney whose name appears on the probable cause report.

Attachments: Relevant Sections of (1) California Government Code , and (2) Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations.

CALIFORNIA GOVERNMENT CODE

Probable Cause Statutes

§ 83115.5. Probable cause; violation of title; notice of violation; summary of evidence; notice of rights; private proceedings

No finding of probable cause to believe this title has been violated shall be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of his right to be present in person and represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the commission a written request that the proceeding be public.

§ 83116. Violation of title; probable cause; hearing; order

When the Commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The Commission shall have all the powers granted by that chapter. When the Commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

- (a) Cease and desist violation of this title.
- (b) File any reports, statements, or other documents or information required by this title.
- (c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

**REGULATIONS OF THE FAIR POLITICAL PRACTICES COMMISSION
TITLE 2, DIVISION 6 OF THE CALIFORNIA CODE OF REGULATIONS**

Probable Cause Regulations

§ 18361 (b). Delegation by the Executive Director Pertaining to Enforcement Proceedings and Authority to Hear Probable Cause Proceedings.

Probable cause proceedings under Regulation 18361.4 shall be heard by the General Counsel or an attorney from the Legal Division. The General Counsel may delegate the authority to hear probable cause proceedings, in writing, to an administrative law judge.

§ 18361.4. Probable Cause Proceedings

(a) Probable Cause Report. If the Chief of the Enforcement Division decides to commence probable cause proceedings pursuant to Sections 83115.5 and 83116, he or she shall direct the Enforcement Division staff to prepare a written report, hereafter referred to as “the probable cause report.” The probable cause report shall contain a summary of the law and evidence gathered in connection with the investigation, including any exculpatory and mitigating information of which the staff has knowledge and any other relevant material and arguments. The evidence recited in the probable cause report may include hearsay, including declarations of investigators or others relating the statements of witnesses or concerning the examination of physical evidence.

(b) No probable cause hearing will take place until at least 21 calendar days after the Enforcement Division staff provides the following, by service of process or registered or certified mail with return receipt requested, to all proposed respondents:

- (1) A copy of the probable cause report;
- (2) Notification that the proposed respondents have the right to respond in writing to the probable cause report and to request a probable cause conference at which the proposed respondent may be present in person and represented by counsel, and;
- (3) If the Commission met in executive session on this matter pursuant to Regulation 18361.2, a copy of any staff memoranda submitted to the Commission at that time along with the recording of any discussion between the Commission and the staff at the executive session as required in subdivision (b) of Regulation 18361.2.

(c) Response to Probable Cause Report.

- (1) Each proposed respondent may submit a written response to the probable cause report. The response may contain a summary of evidence, legal arguments, and any mitigating or exculpatory information. A proposed respondent who submits a response must file it with the Commission Assistant who will forward the response to the General Counsel or an attorney in the Legal Division (the “hearing officer”) and provide a copy, by service of process or registered or certified mail with return receipt requested, to all other proposed respondents listed in the probable cause report not later than 21 days following service of the probable cause report.
- (2) Within 21 calendar days following the service of the probable cause report, a proposed

respondent may request discovery of evidence in the possession of the Enforcement Division. This request must be sent by registered or certified mail to the Commission Assistant. Upon receipt of the request, the Enforcement Division shall provide discovery of evidence relied upon by the Enforcement Division sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation, along with any exculpatory or mitigating evidence. This is not a right to full discovery of the Enforcement Division file. The Enforcement Division shall provide access to documents for copying by the Respondent, or upon agreement among the parties, the Enforcement Division will provide copies of the requested documents upon payment of a fee for direct costs of duplication. The Enforcement Division shall provide such evidence by service of process or registered or certified mail with return receipt requested to all respondents, with a copy to the Commission Assistant. A respondent may submit a written response to the probable cause report described in subsection (1) no later than 21 calendar days after service of discovery.

- (3) The Commission staff may submit any evidence or argument in rebuttal to the response. When the Commission staff submits evidence or argument in rebuttal to the response, it shall provide a copy, by service of process or registered or certified mail with return receipt requested, to all proposed respondents listed in the probable cause report not later than 10 calendar days following the date the response was filed with the Commission Assistant. The hearing officer may extend the time limitations in this section for good cause. At any time prior to a determination of probable cause, the hearing officer may allow additional material to be submitted as part of the initial response or rebuttal.

(d) Probable Cause Conference. Any proposed respondent may request a probable cause conference. The request shall be served upon the Commission Assistant and all other proposed respondents not later than 21 days after service of the probable cause report unless the hearing officer extends the time for good cause. The Commission Assistant shall fix a time for the probable cause conference and the hearing officer shall conduct the conference informally. The conference shall be closed to the public unless a proposed respondent requests and all other proposed respondents agree to a public conference. If the conference is not public, only members of the Commission staff, any proposed respondent and his or her legal counsel or representative shall have the right to be present and participate. The hearing officer may allow witnesses to attend and participate in part or all of the probable cause conference. In making this determination, the hearing officer shall consider the relevancy of the witness' proposed testimony, whether the witness has a substantial interest in the proceedings, and whether fairness requires that the witness be allowed to participate. Representatives of any civil or criminal prosecutor with jurisdiction may attend the conference at the discretion of the hearing officer if they agree to respect the confidential nature of the proceedings. If the conference is not open to the public and none of the parties and the presiding officer object, the conference may be conducted in whole or in part by telephone. The probable cause conference shall be recorded. The hearing officer may determine whether there is probable cause based solely on the probable cause report, any responses or rebuttals filed and any arguments presented at the probable cause conference by the interested parties. If the hearing officer requires additional information before determining whether there is probable cause, he or she may permit any party to submit additional evidence at the probable cause conference.

(e) Finding of Probable Cause. The hearing officer may find there is probable cause to believe a violation has occurred if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation. A finding of probable cause by the hearing officer does not constitute a finding that a violation has actually occurred. The hearing officer shall not make a finding of probable cause if he or she is presented with clear and convincing evidence that, at a time prior to the alleged violation, the violator consulted with the staff of the Commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice of the staff or because of the staff's failure to provide advice. If the hearing officer makes a finding of probable cause, the Enforcement Division shall prepare an Accusation pursuant to Section 11503 and have it served upon the person or persons who are subjects of the probable cause finding. The hearing officer shall publicly announce the finding of probable cause. The announcement shall contain a summary of the allegations and a cautionary statement that the respondent is presumed to be innocent of any violation of the Act unless a violation is proved in a subsequent proceeding. The Chief of the Enforcement Division shall be responsible for the presentation of the case in support of the Accusation at an administrative hearing held pursuant to Section 83116.

§ 18362. Access to Complaint Files

(a) Access to complaints, responses thereto, and investigative files and information shall be granted in accordance with the requirements of the Public Records Act (Government Code Section 6250, et seq.).

(b) When release of material is requested pursuant to subdivision (a), the Executive Director, or his or her designee, shall review the material prior to its release or prior to a claim of exemption to determine that the requirements of the Public Records Act have been satisfied.

(c) Any person requesting copies of material pursuant to subdivision (a) shall reimburse the Commission \$0.10 per page for each page copied or supply copying equipment and make copies in the offices of the Commission. Documents may not be removed from the offices of the Commission. If the request is for copies totaling ten pages or less, the copies shall be provided without charge for copying since the administrative costs do not warrant collection of \$1.00 or less. If the request is for copies totaling more than ten pages, reimbursements of copying costs shall include the cost for the first ten pages. Charges imposed pursuant to this subdivision are for the purpose of recovering the cost of copying.

(d) Requests for access and copies pursuant to subdivision (a) shall be made in writing and shall specifically identify the documents sought.

§ 18361.2. Memorandum Respecting Civil Litigation.

(a) If the Executive Director concludes civil litigation should be initiated, he or she shall submit to the Commission a written memorandum, which shall be first reviewed by the General Counsel, or an attorney from the Legal Division, summarizing the facts and the applicable law of the case and recommending the initiation of a lawsuit. The memorandum shall include all exculpatory and mitigating information known to the staff.

(b) The Commission shall review the memorandum at an executive session. The General Counsel, or an attorney from the Legal Division, and the Commission Assistant shall be in attendance. No other member of the staff may be present unless the Commission meets with a member of the staff for that person to answer questions. The Commission may not resume its deliberations until the person is no longer present. Any communication between the Commission and the person during the executive session shall be recorded. After review of the memorandum, the Commission may direct the Executive Director to do any of the following:

- (1) Initiate civil litigation.
- (2) Decide whether probable cause proceedings should be commenced pursuant to 2 Cal. Code of Regulations Section 18361.4.
- (3) Return the matter to the staff for further investigation.
- (4) Take no further action on the matter or take any other action it deems appropriate.

(c) If the Commission decides to initiate civil litigation, the Commission may then permit other members of the staff to attend the executive session.

(d) If the Executive Director deems it necessary, he or she may call a special meeting of the Commission to review a staff memorandum recommending the initiation of civil litigation.

(e) It is the intent of the Commission in adopting this section to preserve for the members of the Commission the authority to decide whether alleged violations should be adjudicated in administrative hearings or in civil litigation, while at the same time avoiding the possibility that discussions with members of the staff might cause members of the Commission to prejudge a case that might be heard by the Commission under Government Code Section 83116.

Exhibit A-4

DEFAULT DECISION AND ORDER FPPC NO. 15/625

GALENA WEST
Chief of Enforcement
TANYA SMITH
Commission Counsel
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814
Telephone: (916) 322-5021
Facsimile: (916) 322-1932

Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of	) FPPC No. 15/625
)
FRANK C. GUZMAN and 2011	) EX PARTE REQUEST FOR A FINDING OF
COMMITTEE TO ELECT FRANK	) PROBABLE CAUSE AND AN ORDER THAT
GUZMAN TO PUSD GOVERNING	) AN ACCUSATION BE PREPARED AND
BOARD MEMBER aka COMMITTEE TO	) SERVED
ELECT FRANK GUZMAN TO POMONA)
USD SCHOOL BOARD 2011,	) Gov. Code § 83115.5
)
Respondents.)

TO THE HEARING OFFICER OF THE FAIR POLITICAL PRACTICES COMMISSION:

Pursuant to Section 83115.5 of the Political Reform Act (the "Act")¹ and Regulation 18361.4, Respondents 2011 Committee to Elect Frank Guzman to PUSD Governing Board Member aka Committee to Elect Frank Guzman to Pomona USD School Board 2011 ("Committee") and Frank C. Guzman ("Guzman") were served with a copy of a report in support of a finding of probable cause ("Report") in the above-entitled matter.² The Report, attached as "Exhibit A," was part of a packet of materials, including a cover letter and a memorandum describing probable cause proceedings, which was sent to Guzman's school district address on June 13, 2016, by certified mail, with a return receipt requested, and received by Guzman's school district office on June 15, 2016. A copy of Guzman's signed return receipt is attached as "Exhibit B."

¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Gov. Code § 83115.5; Cal. Code Reg., tit. 2, § 18361.4.

1 In the cover letter dated June 13, 2016, and the attached materials, Guzman was advised that he
2 could respond in writing to the Report and orally present the case to the Hearing Officer at a probable
3 cause conference to be held in Sacramento. Guzman was further advised that in order to have a probable
4 cause conference, he needed to make a written request for one on or before 21 days of the date he
5 received the Report. Additionally, Guzman was advised that if he did not request a probable cause
6 conference, such a conference would not be held and probable cause would be determined based solely
7 on the Report and any written response that he submitted within 21 days of the date he was served with
8 the Report. To date, Guzman has not submitted a written response to the Report, nor has he requested a
9 probable cause conference.

10 WHEREFORE, based on the attached Report, the Enforcement Division requests a finding by
11 the Hearing Officer that probable cause exists to believe that Guzman committed violations of the Act,
12 stated as follows:

13 Count 1: The Committee and Guzman failed to timely file a semi-annual campaign statement due
14 by July 31, 2014 for the reporting period ending June 30, 2014, in violation of Section
15 84200.

16 Count 2: The Committee and Guzman failed to timely file a semi-annual campaign statement due
17 by February 2, 2015 for the reporting period ending December 31, 2014, in violation of
18 Section 84200.

19 Count 3: The Committee and Guzman failed to timely file a semi-annual campaign statement due
20 by February 1, 2016 for the reporting period ending December 31, 2015, in violation of
21 Section 84200.

22 Count 4: The Committee and Guzman failed to timely pay a \$50 annual committee fee to the
23 Secretary of State, due by January 15, 2013, in violation of Section 84101.5, subdivision
24 (c)(1).

25 Count 5: The Committee and Guzman failed to timely pay a \$50 annual committee fee to the
26 Secretary of State, due by January 15, 2014, in violation of Section 84101.5, subdivision
27 (c)(1).

28 Count 6: The Committee and Guzman failed to timely pay a \$50 annual committee fee to the
Secretary of State, due by January 15, 2015, in violation of Section 84101.5, subdivision
(c)(1).

1 Count 7: The Committee and Guzman failed to timely pay a \$50 annual committee fee to the
2 Secretary of State, due by January 15, 2016, in violation of Section 84101.5, subdivision
3 (c)(1).

4 Additionally, after finding probable cause exists, the Enforcement Division requests an order by
5 the Hearing Officer that an accusation be prepared against Guzman and the Committee and served upon
6 them.³

7 A copy of this Request was mailed via U.S. Mail to Guzman and the Committee on August 12,
8 2016 at their last known addresses, as follows:

9 Frank C. Guzman
10 [REDACTED]

11 Boardmember Frank Guzm [REDACTED]
12 c/o Pomona Unified School District
13 800 South Garey Ave.
14 Pomona, CA 91766

15 Dated: Aug. 12, 2016

16 Respectfully Submitted,

17 **FAIR POLITICAL PRACTICES COMMISSION**

18 Galena West
19 Chief of Enforcement

20 

21 By: Tanya Smith
22 Commission Counsel
23 Enforcement Division

24
25
26
27 ³ Gov. Code § 11503.

Exhibit A

EX PARTE REQUEST FOR A FINDING OF PROBABLE CAUSE AND AN ORDER RE:
FPPC NO. 15/625

1 GALENA WEST
Chief of Enforcement
2 TANYA SMITH
Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5021
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant
Enforcement Division of the Fair Political Practices Commission
7

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

11 In the Matter of) FPPC No. 15/625
12)
13) **REPORT IN SUPPORT OF A FINDING OF**
FRANK GUZMAN AND COMMITTEE) **PROBABLE CAUSE**
14 TO ELECT FRANK GUZMAN TO)
POMONA USD SCHOOL BOARD) Conference Date: TBA
15 2011,) Conference Time: TBA
Respondents.) Conference Location: Commission Offices
16) 428 J Street, Suite 620
Sacramento, CA 95814

17 **INTRODUCTION**

18
19 Respondent Committee to Elect Frank Guzman to Pomona USD School Board 2011 (“the
20 Committee”) is a candidate-controlled committee organized to support respondent Frank Guzman
21 (“Guzman”), who ran unopposed for the school board in the November 2015 election. Guzman is also
22 the committee’s treasurer.

23 The Political Reform Act (the “Act”)¹ required candidate-controlled committees to file semi-
24 annual campaign statements by no later July 31, 2014 for the period ending June 30. Additionally, the

25
26 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
27 are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2
of the California Code of Regulations, and all regulatory references are to this source.

1 Act required candidate-controlled committees to file semi-annual campaign statements by no later than
2 February 2, 2015 and February 1, 2016 for the periods ending December 31 in 2014 and 2015,
3 respectively. Lastly, the Act requires candidate-controlled committees to annually pay the Office of the
4 Secretary of State a \$50 committee fee.

5 The Committee failed to timely file three semi-annual campaign statements and failed to timely
6 pay its \$50 annual committee fee to the Secretary of State for four years.

8 SUMMARY OF THE LAW

9 All legal references and discussions of law pertain to the Act's provisions as it they existed in
10 2014 and 2015.

11 Jurisdiction

12 The Fair Political Practices Commission (the "Commission") has administrative jurisdiction to
13 enforce the provisions of the Act.²

14 Probable Cause Proceedings

15 Prior to the Enforcement Division commencing an administrative action, the General Counsel of
16 the Commission or her designee (the "hearing officer"), must make a finding that there is probable
17 cause to believe the respondent has violated the Act.³ After a finding of probable cause, the
18 Commission may hold a noticed hearing in accordance with the Administrative Procedure Act⁴ to
19 determine whether violations occurred, and levy an administrative penalty of up to \$5,000 for each
20 violation.⁵

21 ///

22 ///

23 ///

25 ² Section 83116.

26 ³ Section 83115.5, and Regulations 18361 and 18361.4.

27 ⁴ Section 11500, et seq.

28 ⁵ Section 83116, and Regulation 18361.4, subd. (e).

1 Standard for Finding Probable Cause

2 To make a finding of probable cause, the hearing officer must be presented with sufficient
3 evidence to lead a person of ordinary caution and prudence to believe, or entertain a strong suspicion
4 that a respondent committed or caused a violation.⁶

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

6 When enacting the Political Reform Act, the people of the state of California found and declared
7 that previous laws regulating political practices suffered from inadequate enforcement by state and local
8 authorities.⁷ To that end, the Act must be liberally construed to achieve its purposes.⁸

9 There are many purposes of the Act. Among these purposes are to ensure voters are fully
10 informed and improper practices are inhibited by requiring all political candidates, as well as the
11 committees that support or oppose them, to disclose all contributions and expenditures made
12 throughout a campaign.⁹ Another is to provide adequate enforcement mechanisms so that the Act will
13 be "vigorously enforced."¹⁰

14 Semi-Annual Campaign Statements

15 The Act requires a candidate-controlled committee to file semi-annual campaign statements by
16 July 31 for the period ending June 30 and by January 31 for the period ending December 31.¹¹ If a due
17 date falls on a weekend or holiday, the next regular business day becomes the due date for filing semi-
18 annual campaign statements.¹²

19 Annual Committee Fee

20 Additionally, the Act requires a candidate-controlled committee to pay the Office of the
21 Secretary of State a \$50 annual committee fee.¹³ If the annual fee is not timely paid, a late penalty of
22

23 ⁶ Section 18361.4, subdivision (e).

24 ⁷ Section 81001, subdivision (h).

25 ⁸ Section 81003.

26 ⁹ Section 81002, subdivision (a).

27 ¹⁰ Section 81002, subdivision (f).

28 ¹¹ Section 84200, subdivision (a).

¹² Regulation 18116, subdivision (a).

¹³ Section 84101.5, subdivision (a).

1 \$150 is assessed by the Secretary of State, in addition to the \$50 annual fee.¹⁴ The Commission
2 enforces the late penalty assessed when committees fail to timely pay their annual fees to the Secretary
3 of State.¹⁵

4 SUMMARY OF THE EVIDENCE

5 The Committee re-designated itself as a 2011 committee on or about August 8, 2011. Guzman
6 was unsuccessful in the 2011 election for school board, but ran unopposed for the school board in the
7 November 2015 election.

8 The Committee failed to timely file its semi-annual campaign statement for the period ending
9 June 30, 2014 by the July 31, 2014 deadline. The Committee also failed to timely file its semi-annual
10 campaign statement for the period ending December 31, 2014 by the February 2, 2015 deadline. The
11 Committee also failed to timely file its semi-annual campaign statement for the period ending
12 December 31, 2015 by the February 1, 2016 deadline.

13 The Los Angeles County Registrar-Recorder called Guzman and corresponded with Guzman
14 sixteen times between August 7, 2014 and March 2, 2016 regarding the missing semi-annual campaign
15 statements.

16 Additionally, the Committee failed to timely pay its \$50 annual committee fee with the Office
17 of the Secretary of the State in 2013, 2014, 2015, and 2016. The Secretary of State corresponded with
18 Guzman six times from November 2012 through November 2015 regarding his annual committee fees.

19 In January and April 2015, Enforcement Division wrote to Guzman regarding his semi-annual
20 campaign statement that had not been filed by July 31, 2014. Both letters informed Guzman that he
21 would incur additional penalties if he did not file by specified dates. He did not respond to either letter.
22 In July 2015, Enforcement Division called Guzman to discuss the semi-annual campaign statements
23 that had not been filed by July 31, 2014 and by February 2, 2015. He filed the two statements on July
24 31, 2015, but did not respond regarding his penalties for late filing.

25
26 ¹⁴ Section 84101.5, subdivision (d)(1).

¹⁵ Section 84101.5, subdivision (d)(2).

1 As of May 25, 2016, the Committee had not filed a semi-annual campaign statement due by
2 February 1, 2016, had not paid its annual fees from 2013 through 2016 to the Secretary of State. The
3 Committee had not been terminated as of May 25, 2016.

4 5 VIOLATIONS

6 Count 1: Failure to Timely File Semi-Annual Campaign Statement due by July 31, 2014

7 The Committee and Guzman failed to timely file a semi-annual campaign statement due by July
8 31, 2014 for the reporting period ending June 30, 2014, in violation of Section 84200.

9 Count 2: Failure to Timely File Semi-Annual Campaign Statement due by February 2, 2015

10 The Committee and Guzman failed to timely file a semi-annual campaign statement due by
11 February 2, 2015 for the reporting period ending December 31, 2014, in violation of Section 84200.

12 Count 3: Failure to Timely File Semi-Annual Campaign Statement due by February 1, 2016

13 The Committee and Guzman failed to timely file a semi-annual campaign statement due by
14 February 1, 2016 for the reporting period ending December 31, 2015, in violation of Section 84200.

15 Count 4: Failure to Timely Pay \$50 Annual Committee Fee - 2013

16 The Committee and Guzman failed to timely pay a \$50 annual committee fee with the Secretary
17 of State, due by January 15, 2013, in violation of Section 84101.5, subdivision (c)(1).

18 Count 5: Failure to Timely Pay \$50 Annual Committee Fee - 2014

19 The Committee and Guzman failed to timely pay a \$50 annual committee fee with the Secretary
20 of State, due by January 15, 2014, in violation of Section 84101.5, subdivision (c)(1).

21 Count 6: Failure to Timely Pay \$50 Annual Committee Fee - 2015

22 The Committee and Guzman failed to timely pay a \$50 annual committee fee with the Secretary
23 of State, due by January 15, 2015, in violation of Section 84101.5, subdivision (c)(1).

24 Count 7: Failure to Timely Pay \$50 Annual Committee Fee - 2016

25 The Committee and Guzman failed to timely pay a \$50 annual committee fee with the Secretary
26 of State, due by January 15, 2016, in violation of Section 84101.5, subdivision (c)(1).

1 **OTHER RELEVANT MATERIAL**

2 The Committee and Guzman have a previous enforcement history for failing to file semi-annual
3 campaign statements. On December 13, 2012, the Commission approved a \$200 streamlined stipulation
4 for the Committee and Guzman's failure to file a semi-annual campaign statement covering the
5 reporting period for the second half of 2011. (FPPC Case No. 12/345).

6 Previously, Enforcement Division issued a warning letter to the Committee and Guzman on
7 January 23, 2012 for their failure to file a semi-annual campaign statement for the first half of 2011.
8 (FPPC Case No. 11/1103). The warning letter informed them that they would be subject to penalties of
9 up to \$5,000 for future failure to timely file their campaign statements.

10 Additionally, the Enforcement Division issued a warning letter to the Committee, Guzman and
11 his former treasurer on December 21, 2010 for their failure to file a semi-annual campaign statement
12 for the first half of 2010. (FPPC Case No. 10/925).

13
14
15 **EXCULPATORY AND MITIGATING INFORMATION**

16 The two statements Guzman filed late on July 31, 2015 showed no campaign activity for the
17 reporting periods ending June 30, 2014 and December 31, 2014. No other exculpatory or mitigating
18 factors are known at this time.

19
20
21 **CONCLUSION**

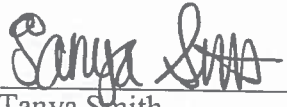
22 Probable cause exists to believe that the Committee and Guzman violated the Act by failing to
23 timely file three semi-annual campaign statements due in 2014, 2015 and 2016. Additionally, probable
24 cause exists to believe that the Committee and Guzman violated the Act by failing to pay their \$50
25 annual committee fees with the Secretary of State for 2013, 2014, 2015, and 2016. The Enforcement
26

1 Division respectfully requests an order finding probable cause pursuant to Section 83115.5 and
2 Regulation 18361.4.

3
4 Dated: June 13, 2016

5
6 Respectfully Submitted,

7 **FAIR POLITICAL PRACTICES COMMISSION**
8 Galena West
9 Enforcement Chief

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11 By: Tanya Smith
12 Commission Counsel
13 Enforcement Division

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SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Boardmember Frank Guzman
 clo Pomona Unif. School Dist.
 800 South Garey Ave.
 Pomona, CA 91766



9590 9403 0234 5146 5233 78

2. Article Number (Transfer from service label)

7016 0340 0000 4006 8287

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Anthony J. Lopez
 B. Received by (Printed Name)
 Anthony J. Lopez

- Agent
- Addressee

C. Date of Delivery

6/15/16

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

UNITED STATES POSTAL SERVICE
 SANTA ANA
 CA 926
 15 JUN '16
 PM 5 L



First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box•

Fair Political Practices Commission
 Attn: Tanya Smith
 428 J Street, Ste. 620
 Sacramento, CA 95814-2329

6 JUN 20 PM 2:42
 RECEIVED
 FAIR POLITICAL
 PRACTICES COMMISSION

USPS TRACKING#



1232970 9590 9403 0234 5146 5233 78

Exhibit B

EX PARTE REQUEST FOR A FINDING OF PROBABLE CAUSE AND AN ORDER RE:
 FPPC NO. 15/625

Exhibit A-5

DEFAULT DECISION AND ORDER FPPC NO. 15/625

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of	) FPPC No. 15/625
)
FRANK C. GUZMAN and 2011)
COMMITTEE TO ELECT FRANK	) FINDING OF PROBABLE CAUSE AND
GUZMAN TO PUSD GOVERNING	) ORDER TO PREPARE AND SERVE AN
BOARD MEMBER aka COMMITTEE TO	) ACCUSATION
ELECT FRANK GUZMAN TO POMONA)
USD SCHOOL BOARD 2011,	) Gov. Code § 83115.5
)
Respondents.)

By means of an Ex Parte Request for an Order Finding Probable Cause and an Order that an Accusation be Prepared and Served, the Enforcement Division submitted the above-entitled matter to the Hearing Officer for a determination of Probable Cause. As set forth in the Ex Parte Request For a Finding of Probable Cause and an Order that an Accusation be Prepared and Served (Ex Parte Request), the Enforcement Division served a Report in Support of a Finding of Probable Cause (PC Report) on Respondents Frank C. Guzman (Guzman) and 2011 Committee to Elect Frank Guzman to PUSD Governing Board Member aka Committee to Elect Frank Guzman to Pomona USD School Board 2011 (Committee) concerning this matter on June 15, 2016, by certified mail, return receipt requested. Accompanying the PC Report was a packet of materials that informed Guzman and the Committee of their right to file a written response to the PC Report and to request a probable cause conference within 21 days following service of the PC Report. During the 21 days that followed service of the PC Report, neither Guzman nor the Committee filed a response to the PC Report or requested a probable cause conference. Pursuant to California Code of Regulations title 2, section 18361.4, determination of probable cause may be made solely on papers submitted when the respondent does not request a probable cause conference.¹

In making a probable cause determination, it is the duty of the Hearing Officer of the Fair Political Practices Commission to determine whether probable cause exists to believe that a respondent

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.

1 violated the Political Reform Act as alleged by the Enforcement Division in the PC Report served on the
2 respondent.

3 Probable cause to believe a violation has occurred can be found to exist when "the evidence is
4 sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion
5 that the proposed respondent(s) committed or caused a violation."²

6 The PC Report served on Guzman and the Committee and the subsequent Ex Parte Request in
7 this matter alleges violations of the Political Reform Act were committed, as follows:

8 Count 1: The Committee and Guzman failed to timely file a semi-annual campaign statement due
9 by July 31, 2014 for the reporting period ending June 30, 2014, in violation of Section
10 84200.

11 Count 2: The Committee and Guzman failed to timely file a semi-annual campaign statement due
12 by February 2, 2015 for the reporting period ending December 31, 2014, in violation of
13 Section 84200.

14 Count 3: The Committee and Guzman failed to timely file a semi-annual campaign statement due
15 by February 1, 2016 for the reporting period ending December 31, 2015, in violation of
16 Section 84200.

17 Count 4: The Committee and Guzman failed to timely pay a \$50 annual committee fee to the
18 Secretary of State, due by January 15, 2013, in violation of Section 84101.5, subdivision
19 (c)(1).

20 Count 5: The Committee and Guzman failed to timely pay a \$50 annual committee fee to the
21 Secretary of State, due by January 15, 2014, in violation of Section 84101.5, subdivision
22 (c)(1).

23 Count 6: The Committee and Guzman failed to timely pay a \$50 annual committee fee to the
24 Secretary of State, due by January 15, 2015, in violation of Section 84101.5, subdivision
25 (c)(1).

26 Count 7: The Committee and Guzman failed to timely pay a \$50 annual committee fee to the
27 Secretary of State, due by January 15, 2016, in violation of Section 84101.5, subdivision
28 (c)(1).

Based on the Ex Parte Request given to me, I find that notice has been given to Guzman and the
Committee.³ I further find, based on the PC Report and the Ex Parte Request, that there is probable

² Cal. Code Reg., tit. 2, § 18361.4, subd. (e).

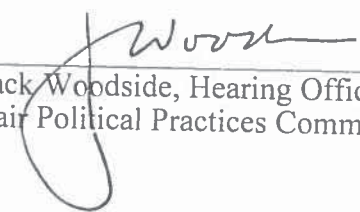
³ Government Code § 83115.5; Cal. Code Reg., tit. 2, § 18361.4, subd. (b).

1 cause to believe Guzman and the Committee violated the Political Reform Act as alleged in Counts 1-7,
2 as identified above.

3
4 I therefore direct that the Enforcement Division issue an accusation against Guzman and the
5 Committee in accordance with this finding.

6 IT IS SO ORDERED.

7
8
9 Dated: 8-24-16


10 Jack Woodside, Hearing Officer
11 Fair Political Practices Commission

FPPC No. 15/625, In the matter of Frank Guzman and 2011 Committee to Elect Frank Guzman to
PUSD Governing Board Member aka Committee to Elect Frank Guzman to Pomona USD School
Board 2011

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is
Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814. On the date below,
I served the following document:

FINDING OF PROBABLE CAUSE AND ORDER TO PREPARE AND SERVE AN ACCUSATION

MANNER OF SERVICE

(U.S. Mail) By causing a true copy thereof to be served on the parties in this action through the U.S. Mail
and addressed as listed below. I am familiar with the procedure of the Fair Political Practices
Commission for collection and processing of correspondence for mailing with the United States Postal
Service, and the fact that the correspondence would be deposited with the United States Postal Service
that same day in the ordinary course of business.

SERVICE LIST

Boardmember Frank Guzman
c/o Pomona Unified School District
800 South Garey Avenue
Pomona, CA 91766

(By Personal Service) On Monday, August 29, 2016, at approximately 1:15 p.m., I personally
served:

Galena West, Chief of Enforcement, at 428 J Street, Suite 700, Sacramento, CA 95814.
Tanya Smith, Commission Counsel, at 428 J Street, Suite 700, Sacramento, CA 95814.

I declare under penalty of perjury under the laws of the State of California that the above is true and
correct and that this document is executed at Sacramento, California, on August 29, 2016.


Sheva Tabatabaiejad

Exhibit A-6

DEFAULT DECISION AND ORDER FPPC NO. 15/625

GALENA WEST
Chief of Enforcement
AMANDA KELLY
Commission Counsel
FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 620
Sacramento, CA 95814
Telephone: (916) 322-5021
Facsimile: (916) 322-1932

Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of) FPPC No. 15/625
FRANK GUZMAN AND 2011)
COMMITTEE TO ELECT FRANK)
GUZMAN TO PUSD GOVERNING) **ACCUSATION**
BOARD MEMBER AKA COMMITTEE TO)
ELECT FRANK GUZMAN TO POMONA)
USD SCHOOL BOARD 2011,)
Respondents.) (Gov. Code §11503)

Complainant, the Enforcement Division of the Fair Political Practices Commission, after a finding of probable cause made pursuant to Government Code section 83115.5, hereby alleges the following:

JURISDICTION

1. Complainant is the Enforcement Division of the Fair Political Practices Commission and makes this Accusation in its official capacity and in the public interest.

2. The authority to bring this action is derived from California Code of Regulations, title 2, sections 18361 and 18361.4, subdivision (e), and the statutory law of the State of California, including Government Code sections 83111, 83116, and 91000.5, which assign to the Enforcement Division the duty to administer, implement, and enforce the provisions of the Political Reform Act, found at Government Code sections 81000 through 91014.

1 year for the semi-annual reporting period ending December 31.⁶ When a filing deadline falls on a Saturday,
2 Sunday, or official state holiday, the filing deadline is extended to the next business day.⁷

3 **B. Duty to Pay the Annual Fee**

4 11. Each committee required to file a statement of organization was required to pay an annual
5 fee to the Secretary of State (“SOS”) beginning in 2013. The annual fee for 2013 was due by February 15,
6 2013. In subsequent years, each committee has been required to pay the \$50 annual fee by January 15
7 each year until the termination of the committee.⁸ A committee that fails to timely pay the annual fee is
8 subject to a penalty equal to three times the amount of the fee. The Commission is required to enforce this
9 provision of the Act.⁹

10 **C. Factors to be Considered by the Fair Political Practices Commission**

11 12. In framing a proposed order following a finding of a violation pursuant to Section 83116,
12 the Commission and the administrative law judge shall consider all the surrounding circumstances
13 including but not limited to: (1) The seriousness of the violation; (2) The presence or absence of any
14 intention to conceal, deceive or mislead; (3) Whether the violation was deliberate, negligent or inadvertent;
15 (4) Whether the violator demonstrated good faith by consulting the Commission staff or any other
16 government agency in a manner not constituting a complete defense under Section 83114(b); (5) Whether
17 the violation was isolated or part of a pattern and whether the violator has a prior record of violations of
18 the Act or similar laws; and (6) Whether the violator, upon learning of a reporting violation, voluntarily
19 filed amendments to provide full disclosure.¹⁰

20 **GENERAL FACTS**

21 13. Guzman was first elected to the Pomona Unified School District Board on November 8,
22 2011. Because he ran unopposed for his seat when his first term ended, he did not appear on the 2015
23 ballot, but was re-elected on November 3, 2015.

24
25
26 ⁶ Section 84200, subd. (a).

⁷ Regulation 18116.

⁸ Section 84101.5, subd. (c).

⁹ Section 84101.5, subd. (d).

¹⁰ Regulation 18361.5, subd. (d).

1 22. On July 31, 2015, Guzman and the Committee filed the semi-annual campaign statement
2 for the period of January 1, 2014 through June 30, 2014, approximately one year late and filed the semi-
3 annual campaign statement for the period of July 1, 2014 through December 31, 2014, approximately six
4 months late.

5 23. Guzman and the Committee timely filed the semi-annual campaign statement for the period
6 of January 1, 2015 through June 30, 2015 on July 31, 2015.

7 24. Guzman and the Committee failed to timely file a semi-annual campaign statement for the
8 period of July 1, 2015 through December 31, 2015 by February 1, 2016.

9 25. The Los Angeles Registrar-Recorder/County Clerk attempted to contact Guzman and the
10 Committee four times regarding the statement due February 1, 2016, sending letters on February 8, 2016
11 and February 23, 2016, and leaving voicemails February 4, 2016 and March 2, 2016. Guzman and the
12 Committee failed to respond, and the Los Angeles Registrar-Recorder/County Clerk referred the matter
13 to the Enforcement Division.

14 26. Guzman and the Committee filed a semi-annual campaign statement for the period of July
15 1, 2015 through December 31, 2016 approximately six months late on July 14, 2016.

16 27. Guzman and the Committee failed to pay the \$50 annual fee to SOS for the years of 2013,
17 2014, 2015, and 2016 by the deadline each year. They also failed to pay the subsequent penalties for
18 failing to pay the annual fee.

19 28. SOS sent Guzman and the Committee at least six letters notifying them of the \$50 annual
20 fee and the \$150 penalty when the annual fee was not paid timely. Guzman and the Committee did not
21 respond or pay the annual fees and penalties, so SOS referred the matter to the Enforcement Division.

22 29. As of January 4, 2017, Guzman and the Committee have not paid the \$50 annual fee and
23 subsequent late penalties to SOS for the years of 2013, 2014, 2015, and 2016.

24 30. As of January 4, 2017, the Committee is still active.

25 ///

26 ///

27 ///

28

1 PROCEDURAL HISTORY

2 31. The Enforcement Division attempted to contact Guzman and the Committee by mail on
3 January 28, 2015, April 22, 2015, and August 9, 2016; by email on April 8, 2015, August 3, 2015, July
4 22, 2016, and July 29, 2016; and by telephone on April 8, 2015, April 22, 2015, and July 29, 2015.

5 32. The Enforcement Division initiated this administrative action against Guzman and the
6 Committee by serving them with a packet containing a cover letter, a Report in Support of a Finding of
7 Probable Cause ("PC Report"), a fact sheet regarding probable cause proceedings, selected sections of the
8 Government Code regarding probable cause proceedings for the Commission, and selected regulations of
9 the Commission regarding probable cause proceedings.

10 33. Guzman and the Committee were served with the PC Report via certified mail on June 15,
11 2016. The information contained in the PC Report packet advised Guzman and the Committee that they
12 had 21 days in which to request a probable cause conference and/or to file a written response to the PC
13 Report. As of the date of this Accusation, Guzman and the Committee have not responded to the PC
14 Report.

15 34. By means of an Ex Parte Request for an Order Finding Probable Cause and an Order that
16 an Accusation Be Prepared and Served ("Ex Parte Request"), dated August 12, 2016, the Enforcement
17 Division submitted the matter to the Hearing Officer for a determination of probable cause.

18 35. On or about August 24, 2016, the Hearing Officer issued an order finding, based on the Ex
19 Parte Request and the PC Report, that there was probable cause to believe Guzman and the Committee,
20 violated the Act and directed the Enforcement Division to issue an accusation against Guzman and the
21 Committee in accordance with the finding.

22 36. As of January 4, 2017, Guzman and the Committee have failed to pay their delinquent
23 annual fees and penalties, and have not terminated the Committee.

24 VIOLATIONS

25 37. Guzman and the Committee committed seven violations of the Act, as follows:

26 ///

27 ///

1 **Count 1**

2 **Failure to Timely File a Semi-Annual Campaign Statement**

3 38. Complainant incorporates paragraphs 1 – 37 of this Accusation, as though completely set
4 forth herein.

5 39. As a candidate and committee, Guzman and the Committee had a duty to file a semi-annual
6 campaign statement for the period of January 1, 2014 through June 30, 2014 by July 31, 2014.

7 40. Guzman and the Committee failed to timely file a semi-annual campaign statement for the
8 period of January 1, 2014 through June 30, 2014.

9 41. By failing to file the semi-annual campaign statement by July 31, 2014, Guzman and the
10 Committee violated Section 84200.

11 **Count 2**

12 **Failure to Timely File a Semi-Annual Campaign Statement**

13 42. Complainant incorporates paragraphs 1 – 41 of this Accusation, as though completely set
14 forth herein.

15 43. As a candidate and committee, Guzman and the Committee had a duty to file a semi-annual
16 campaign statement for the period of July 1, 2014 through December 31, 2014 by February 2, 2015.

17 44. Guzman and the Committee failed to timely file a semi-annual campaign statement for the
18 period of July 1, 2014 through December 31, 2014.

19 45. By failing to file the semi-annual campaign statement by February 2, 2015, Guzman and
20 the Committee violated Section 84200.

21 **Count 3**

22 **Failure to Timely File a Semi-Annual Campaign Statement**

23 46. Complainant incorporates paragraphs 1 – 45 of this Accusation, as though completely set
24 forth herein.

25 47. As a candidate and committee, Guzman and the Committee had a duty to file a semi-annual
26 campaign statement for the period of July 1, 2015 to December 31, 2015 by February 1, 2016.

1 48. Guzman and the Committee failed to timely file a semi-annual campaign statement for the
2 period of July 1, 2015 to December 31, 2015.

3 49. By failing to file the semi-annual campaign statement by February 1, 2016, Guzman and
4 the Committee violated Section 84200.

5 **Count 4**

6 **Failure to Timely Pay the 2013 Annual Fee and Penalty**

7 50. Complainant incorporates paragraphs 1 – 49 of this Accusation, as though completely set
8 forth herein.

9 51. As a candidate and committee, Guzman and the Committee had a duty to pay a \$50 annual
10 fee to the Secretary of State by February 15, 2013.

11 52. Guzman and the Committee failed to pay the \$50 annual committee fee to the Secretary of
12 State by February 15, 2013.

13 53. Guzman and the Committee also failed to pay the resulting late payment penalty of \$150
14 levied by the Secretary of State.

15 54. By failing to timely pay their \$50 annual committee fee by February 15, 2013, and failing
16 to pay the late penalty, Guzman and the Committee violated Section 84101.5, subdivisions (c) and (d).

17 **Count 5**

18 **Failure to Timely Pay the 2014 Annual Fee and Penalty**

19 55. Complainant incorporates paragraphs 1 – 54 of this Accusation, as though completely set
20 forth herein.

21 56. As a candidate and committee, Guzman and the Committee had a duty to pay a \$50 annual
22 fee to the Secretary of State by January 15, 2014.

23 57. Guzman and the Committee failed to pay the \$50 annual committee fee to the Secretary of
24 State by January 15, 2014.

25 58. Guzman and the Committee also failed to pay the resulting late payment penalty of \$150
26 levied by the Secretary of State.

1 59. By failing to timely pay their \$50 annual committee fee by January 15, 2014, and failing
2 to pay the late penalty, Guzman and the Committee violated Section 84101.5, subdivisions (c) and (d).

3 Count 6

4 Failure to Timely Pay the 2015 Annual Fee and Penalty

5 60. Complainant incorporates paragraphs 1 – 59 of this Accusation, as though completely set
6 forth herein.

7 61. As a candidate and committee, Guzman and the Committee had a duty to pay a \$50 annual
8 fee to the Secretary of State by January 15, 2015.

9 62. Guzman and the Committee failed to pay the \$50 annual committee fee to the Secretary of
10 State by January 15, 2015.

11 63. Guzman and the Committee also failed to pay the resulting late payment penalty of \$150
12 levied by the Secretary of State.

13 64. By failing to timely pay their \$50 annual committee fee by January 15, 2015, and failing
14 to pay the late penalty, Guzman and the Committee violated Section 84101.5, subdivisions (c) and (d).

15 Count 7

16 Failure to Timely Pay the 2016 Annual Fee and Penalty

17 65. Complainant incorporates paragraphs 1 – 64 of this Accusation, as though completely set
18 forth herein.

19 66. As a candidate and committee, Guzman and the Committee had a duty to pay a \$50 annual
20 fee to the Secretary of State by January 15, 2016.

21 67. Guzman and the Committee failed to pay the \$50 annual committee fee to the Secretary of
22 State by January 15, 2016.

23 68. Guzman and the Committee also failed to pay the resulting late payment penalty of \$150
24 levied by the Secretary of State.

25 69. By failing to timely pay their \$50 annual committee fee by January 15, 2016, and failing
26 to pay the late penalty, Guzman and the Committee violated Section 84101.5, subdivisions (c) and (d).

27 ///

1 MITIGATING OR EXCULPATORY FACTORS

2 70. Guzman and the Committee did not report any activity on the three late-filed semi-annual
3 campaign statements.

4 AGGRAVATING FACTORS AND OTHER RELEVANT MATERIALS

5 71. Guzman and the Committee received a warning letter (FPPC No. 10/925) from the
6 Enforcement Division on December 21, 2010 for their failure to timely file a semi-annual campaign
7 statement in 2010.

8 72. Guzman and the Committee received a second warning letter (FPPC No. 11/1103) from
9 the Enforcement Division on January 23, 2012 for their failure to timely file a semi-annual campaign
10 statement in 2011.

11 73. Guzman and the Committee previously reached a one-count stipulated agreement with the
12 Enforcement Division for their failure to file a semi-annual campaign statement for the period of July 1,
13 2011 through December 31, 2011, which the Commission approved on December 13, 2012 (FPPC No.
14 12/345).

15 74. Guzman and the Committee filed a semi-annual campaign statement for the period of July
16 1, 2013 through December 31, 2013 on April 7, 2014, 66 days late.

17 75. Guzman is currently in office and the Committee has not been terminated.

18 PRAYER

19 WHEREFORE, Complainant prays as follows:

- 20 1. That the Fair Political Practices Commission hold a hearing pursuant to Section 83116 and
21 regulation 18361.5, and at such hearing find that Guzman and the Committee violated the
22 Act as alleged herein;
- 23 2. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
24 order Guzman and the Committee to pay a monetary penalty of at least Two Thousand
25 Dollars (\$2,000) and not more than Five Thousand Dollars (\$5,000) for the violation of the
26 Act alleged in **Count 1**;
- 27

- 1 3. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
2 order Guzman and the Committee to pay a monetary penalty of at least Two Thousand
3 Dollars (\$2,000) and not more than Five Thousand Dollars (\$5,000) for the violation of the
4 Act alleged in **Count 2**;
- 5 4. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
6 order Guzman and the Committee to pay a monetary penalty of at least Two Thousand
7 Dollars (\$2,000) and not more than Five Thousand Dollars (\$5,000) for the violation of the
8 Act alleged in **Count 3**;
- 9 5. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
10 order Guzman and the Committee to pay a monetary penalty of at least Two Thousand
11 Dollars (\$2,000) and not more than Five Thousand Dollars (\$5,000) for the violation of the
12 Act alleged in **Count 4**;
- 13 6. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
14 order Guzman and the Committee to pay a monetary penalty of at least Two Thousand
15 Dollars (\$2,000) and not more than Five Thousand Dollars (\$5,000) for the violation of the
16 Act alleged in **Count 5**;
- 17 7. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
18 order Guzman and the Committee to pay a monetary penalty of at least Two Thousand
19 Dollars (\$2,000) and not more than Five Thousand Dollars (\$5,000) for the violation of the
20 Act alleged in **Count 6**;
- 21 8. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
22 order Guzman and the Committee to pay a monetary penalty of at least Two Thousand
23 Dollars (\$2,000) and not more than Five Thousand Dollars (\$5,000) for the violation of the
24 Act alleged in **Count 7**;
- 25 9. That the Fair Political Practices Commission, pursuant to Regulation 18361.5, subdivision
26 (d), consider the following factors in framing a proposed order following a finding of a
27 violation pursuant to Section 83116: (1) the seriousness of the violation; (2) the presence

1 or absence of any intention to conceal, deceive or mislead; (3) whether the violation was
2 deliberate, negligent or inadvertent; (4) whether the violator demonstrated good faith by
3 consulting the Commission staff or any other government agency in a manner not
4 constituting a complete defense under section 83114(b); (5) whether the violation was
5 isolated or part of a pattern and whether the violator has a prior record of violations of the
6 Act or similar laws; and (6) whether the violator, upon learning of a reporting violation,
7 voluntarily filed amendments to provide full disclosure.

8 10. That the Fair Political Practices Commission grant such other and further relief as it deems
9 just and proper.

10
11
12 Dated:

11 Jan 17



Galena West
Chief of Enforcement
Fair Political Practices Commission

Exhibit A-7

DEFAULT DECISION AND ORDER FPPC NO. 15/625



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

STATEMENT TO RESPONDENT

[Government Code Section 11505, subdivision (b)]

***Frank Guzman and 2011 Committee to Elect Frank Guzman to PUSD Governing Board
Member AKA Committee to Elect Frank Guzman to Pomona USD School Board 2011
FPPC Case No. 15/625***

Enclosed is an Accusation, which was filed with the Fair Political Practices Commission (the "FPPC") and which is hereby served upon you, along with two copies of a Notice of Defense and Government Code Sections 11506 through 11508.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the FPPC within 15 days after the Accusation was served on you, the FPPC may proceed upon the Accusation without a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled Notice of Defense, or by delivering or mailing a notice of defense as provided by Section 11506 of the Government Code to the Commission Assistant at the FPPC.

You may, but need not, be represented by counsel at any or all stages of these proceedings.

If you desire a list of the names and addresses of witnesses against you, or an opportunity to inspect and copy the items mentioned in Section 11507.6 of the Government Code that are in the possession, custody, or control of this agency, or if you wish to discuss the possibility of resolving this matter without a formal hearing, you may contact Amanda Kelly, Commission Counsel, Enforcement Division, at (916) 322-7771 or at akelly@fppc.ca.gov.

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the FPPC or, if an administrative law judge has been assigned to the hearing, the Office of Administrative Hearings, within 10 working days after you discover the good cause. Failure to give notice within 10 days will deprive you of a postponement.

After a hearing, the FPPC will consider the following factors in determining whether to assess a penalty (Title 2, California Code of Regulations, Section 18361.5, subdivision (d).):

1. The seriousness of the violation;
2. The presence or absence of any intention to conceal, deceive, or mislead;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the violator demonstrated good faith by consulting Commission staff or any other government agency in a manner not constituting a complete defense under Government Code Section 83114, subdivision (b);
5. Whether the violation was isolated or part of a pattern;
6. Whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
7. Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.



Before the Fair Political Practices Commission

State of California

In the Matter of

FRANK GUZMAN AND 2011
COMMITTEE TO ELECT FRANK
GUZMAN TO PUSD GOVERNING
BOARD MEMBER AKA COMMITTEE
TO ELECT FRANK GUZMAN TO
POMONA USD SCHOOL BOARD
2011,

) NOTICE OF DEFENSE
) (Pursuant to Gov. Code § 11506)
)
) FPPC Case No. 15/625
)
)
)
)
)
)
)
)

Respondents.

2011 Committee to Elect Frank Guzman to PUSD Governing Board member, a.k.a. Committee to Elect Frank Guzman to Pomona USD School Board 2011, a respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

GROUNDNS FOR NOTICE OF DEFENSE

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
 - a) I admit the Accusation in whole.
 - b) I admit the Accusation in part as indicated below:

- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: _____

Respondent

Print Name

Mailing Address

City, State, Zip



Before the Fair Political Practices Commission

State of California

In the Matter of

FRANK GUZMAN AND 2011
COMMITTEE TO ELECT FRANK
GUZMAN TO PUSD GOVERNING
BOARD MEMBER AKA COMMITTEE
TO ELECT FRANK GUZMAN TO
POMONA USD SCHOOL BOARD
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If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

GROUND FOR NOTICE OF DEFENSE

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
 - a) I admit the Accusation in whole.
 - b) I admit the Accusation in part as indicated below:

- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: _____

Respondent

Print Name

Mailing Address

City, State, Zip



Before the Fair Political Practices Commission

State of California

In the Matter of	)	NOTICE OF DEFENSE
	)	(Pursuant to Gov. Code § 11506)
)	
FRANK GUZMAN AND 2011	)	FPPC Case No. 15/625
COMMITTEE TO ELECT FRANK)	
GUZMAN TO PUSD GOVERNING)	
BOARD MEMBER AKA COMMITTEE)	
TO ELECT FRANK GUZMAN TO)	
POMONA USD SCHOOL BOARD)	
2011,)	

Respondents.

Frank Guzman, a respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

GROUNDNS FOR NOTICE OF DEFENSE

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
 - a) I admit the Accusation in whole.
 - b) I admit the Accusation in part as indicated below:

- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: _____

Respondent

Print Name

Mailing Address

City, State, Zip



Before the Fair Political Practices Commission

State of California

In the Matter of

FRANK GUZMAN AND 2011
COMMITTEE TO ELECT FRANK
GUZMAN TO PUSD GOVERNING
BOARD MEMBER AKA COMMITTEE
TO ELECT FRANK GUZMAN TO
POMONA USD SCHOOL BOARD
2011,

) NOTICE OF DEFENSE
) (Pursuant to Gov. Code § 11506)
)
) FPPC Case No. 15/625
)
)
)
)
)
)
)

Respondents.

Frank Guzman, a respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

GROUND FOR NOTICE OF DEFENSE

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
 - a) I admit the Accusation in whole.
 - b) I admit the Accusation in part as indicated below:

- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: _____

Respondent

Print Name

Mailing Address

City, State, Zip

California Government Code sections 11506 through 11508

§ 11506. Filing of notice of defense or notice of participation; Contents; Right to hearing on the merits

(a) Within 15 days after service of the accusation or District Statement of Reduction in Force the respondent may file with the agency a notice of defense, or, as applicable, notice of participation, in which the respondent may:

(1) Request a hearing.

(2) Object to the accusation or District Statement of Reduction in Force upon the ground that it does not state acts or omissions upon which the agency may proceed.

(3) Object to the form of the accusation or District Statement of Reduction in Force on the ground that it is so indefinite or uncertain that the respondent cannot identify the transaction or prepare a defense.

(4) Admit the accusation or District Statement of Reduction in Force in whole or in part.

(5) Present new matter by way of defense.

(6) Object to the accusation or District Statement of Reduction in Force upon the ground that, under the circumstances, compliance with the requirements of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights.

(b) Within the time specified the respondent may file one or more notices of defense, or, as applicable, notices of participation, upon any or all of these grounds but all of these notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense or notice of participation, and the notice shall be deemed a specific denial of all parts of the accusation or District Statement of Reduction in Force not expressly admitted. Failure to file a notice of defense or notice of participation shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in paragraph (3) of subdivision (a), all objections to the form of the accusation or District Statement of Reduction in Force shall be deemed waived.

(d) The notice of defense or notice of participation shall be in writing signed by or on behalf of the respondent and shall state the respondent's mailing address. It need not be verified or follow any particular form.

(e) As used in this section, "file," "files," "filed," or "filing" means "delivered or mailed" to the agency as provided in Section 11505.

HISTORY: Added Stats 1945 ch 867 § 1. Amended Stats 1963 ch 931 § 1; Stats 1982 ch 606 § 1; Stats 1986 ch 951 § 20; Stats 1995 ch 938 § 29 (SB 523), operative July 1, 1997; Stats 2013 ch 90 § 5 (SB 546), effective January 1, 2014.

§ 11507. Amended or supplemental accusation or District Statement of Reduction in Force; Objections

At any time before the matter is submitted for decision, the agency may file, or permit the filing of, an amended or supplemental accusation or District Statement of Reduction in Force. All parties shall be notified of the filing. If the amended or supplemental accusation or District Statement of Reduction in Force presents new charges, the agency shall afford the respondent a reasonable opportunity to prepare his or her defense to the new charges, but he or she shall not be entitled to file a further pleading unless the agency in its discretion so orders. Any new charges shall be deemed controverted, and any objections to the amended or supplemental accusation or District Statement of Reduction in Force may be made orally and shall be noted in the record.

HISTORY: Added Stats 1945 ch 867 § 1. Amended Stats 2013 ch 90 § 6 (SB 546), effective January 1, 2014; Stats 2014 ch 71 § 69 (SB 1304), effective January 1, 2015.

§ 11507.3. Consolidated proceedings; Separate hearings

(a) When proceedings that involve a common question of law or fact are pending, the administrative law judge on the judge's own motion or on motion of a party may order a joint hearing of any or all the matters at issue in the proceedings. The administrative law judge may order all the proceedings consolidated and may make orders concerning the procedure that may tend to avoid unnecessary costs or delay.

(b) The administrative law judge on the judge's own motion or on motion of a party, in furtherance of convenience or to avoid prejudice or when separate hearings will be conducive to expedition and economy, may order a separate hearing of any issue, including an issue raised in the notice of defense or notice of participation, or of any number of issues.

HISTORY: Added Stats 1995 ch 938 § 30 (SB 523), operative July 1, 1997. Amended Stats 2013 ch 90 § 7 (SB 546), effective January 1, 2014.

///

§ 11507.5. Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

HISTORY: Added Stats 1968 ch 808 § 3.

§ 11507.6. Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

HISTORY: Added Stats 1968 ch 808 § 4. Amended Stats 1985 ch 1328 § 5; Stats 1995 ch 938 § 31 (SB 523), operative July 1, 1997.

§ 11507.7. Motion to compel discovery; Order

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of *Section 915 of the Evidence Code* and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become

effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

HISTORY: Added Stats 1968 ch 808 § 5. Amended Stats 1971 ch 1303 § 8; Stats 1980 ch 548 § 2; Stats 1995 ch 938 § 32 (SB 523), operative July 1, 1997.

§ 11508. Time and place of hearing

(a) The agency shall consult the office, and subject to the availability of its staff, shall determine the time and place of the hearing. The hearing shall be held at a hearing facility maintained by the office in Sacramento, Oakland, Los Angeles, or San Diego and shall be held at the facility that is closest to the location where the transaction occurred or the respondent resides.

(b) Notwithstanding subdivision (a), the hearing may be held at either of the following places:

(1) A place selected by the agency that is closer to the location where the transaction occurred or the respondent resides.

(2) A place within the state selected by agreement of the parties.

(c) The respondent may move for, and the administrative law judge has discretion to grant or deny, a change in the place of the hearing. A motion for a change in the place of the hearing shall be made within 10 days after service of the notice of hearing on the respondent.

Unless good cause is identified in writing by the administrative law judge, hearings shall be held in a facility maintained by the office.

HISTORY: Added Stats 1945 ch 867 § 1. Amended Stats 1963 ch 710 § 1; Stats 1967 ch 17 § 39; Stats 1987 ch 50 § 1; Stats 1995 ch 938 § 33 (SB 523), operative July 1, 1997; Stats 2005 ch 674 § 22 (SB 231), effective January 1, 2006.

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814. On 01/12/2017, I served the following document(s):

- 1. Statement to Respondent;
- 2. FPPC Case No. 15/625: Accusation;
- 3. Notice of Defense (Two Copies per Respondent);
- 4. Selected Sections of the California Government Code, Administrative Procedure Act.

By Personal Delivery. I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By personal service. At 10:20 (a.m.)/p.m.:

I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By providing the document(s) listed above with instructions for registered process server to personally deliver the envelope(s) to the person(s) at the address(es) set forth on the service list below. **The signed proof of service by the registered process server will be attached as soon as it is available.**

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

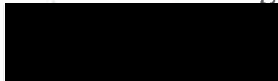
SERVICE LIST

Personal Delivery

Sheva Tabatabaiejad, Commission
Assistant
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

Personal Service

Frank Guzman
2011 Committee to Elect Frank Guzman to
PUSD Governing Board Member



I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on 01/12/2017.

A handwritten signature in black ink, appearing to read 'Roone Peterson'.

Roone Peterson

Exhibit A-8

DEFAULT DECISION AND ORDER FPPC NO. 15/625

PROOF OF SERVICE

FILE No. 15/625

the undersigned declare that I served the Notice (s) below as indicated:

Accusation; Notice Of Defense; Grounds For Notice Of Defense; California Government Code Sections 11506 through 11508

The above described Notice (s) were served on the following named parties in the manner set forth below:

NAME OF OCCUPANT: Frank Guzman on behalf of 2011 Committee To Elect Frank Guzman To PUSD Governing Board Member

Age: 45 | Weight: 200 | Hair: Black | Sex: Male | Height: 5'9" | Eyes: Brown | Ethnicity: Hispanic
Marks: Beard

DATE OF SERVICE: February 4, 2017

TIME OF SERVICE: 12:17 PM

ADDRESS OF PROPERTY: [REDACTED]
(HOME)

- 1. PERSONAL SERVICE By delivering a copy of the Notice(s) on the above named occupant(s)
- 2. CONSTRUCTIVE SERVICE After due and diligent effort, by service of said Notice(s) as authorized by C.C.P. Section 1162 (2,3) on each of the above named parties in the manner set forth below.

Fee for Service:

County: **SAN BERNARDINO**
Registration No.: **1653**
George Sano Investigations & Process Servers
360 E. First St., Suite 773
Tustin, CA 92780
(714) 486-3606
Ref: **Guzman PUSD**

At the time of service, I was at least 18 years of age. I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 6, 2017

Signature: _____
KRISTIN SHABINAW

PROOF OF SERVICE

Exhibit A-9

DEFAULT DECISION AND ORDER FPPC NO. 15/625

Past Due Notice

FILING PERIOD: 1 DUE DATE: 07/31/14 COVERING DATES: 01/01/14 TO 06/30/
ELECTION ID: S714 HELD: 06/30/14
ELECTION NAME: SEMI ANNUAL FILING 2014 FIRST HALF
OFFICE: POMONA UNI SCHOOL DIST GOVERNING BOARD MEMBER PARTY:
R-R CONTROL NO.: 017534

This is a reminder that your campaign statement is PAST DUE.
Your statement was due on July 31, 2014, and you may be
subject to a \$10.00 per day fine (Government Code § 91013). If you
need additional assistance, please call the Campaign Finance
Section at (562) 462-2339.

FRANK C. GUZMAN



HP

CS01

(FILE COPY)
Notice Of Past Due Filing
FILING PERIOD: 1 DUE DATE: 07/31/14 COVERING DATES: 01/01/14 TO 06/30/14
ELECTION ID: S714 HELD: 06/30/14
ELECTION NAME: SEMI ANNUAL FILING 2014 FIRST HALF
OFFICE: POMONA UNI SCHOOL DIST GOVERNING BOARD MEMBER PARTY:
R-R CONTROL NO.: 017534
DATE TO BE REFERRED TO FPPC: 09/25/14

Your campaign statement is PAST DUE. If a statement is filed after any deadline imposed by this act, any person shall, in addition to any other penalties be liable in the amount of \$10 per day until it is received. Your statement must be received within ten days from the date of this written notice. A late filing penalty cannot be waived if the statement is filed after this date (Govt. Code 91013). If it is not received within two weeks from the date of this notice you will be referred to the Fair Political Practices Enforcement Division. (GC § 81010(d)). Send your statement immediately to the Campaign Finance Section or call (562) 462-2339.

FRANK C. GUZMAN



CS02

HP



CAMPAIGN FINANCE DISCLOSURE SECTION CALL REPORT FOR HERBERT

DATE OF CALL: 8/7/2014 Outgoing Call
CALLER NAME: Voicemail
CAND/COMM/MD NAME: Frank Guzman
ELECTION ID: S714
CONTROL NUMBER: 017534
CFD STAFF NAME: Herbert
TYPE OF CALL: Past Due Campaign Statement
SUB-TYPE:
CALL DURATION: 2 MINUTE(S)
CALL SUMMARY: I left a message on Mr. Guzman voicemail regarding his past due campaign statement that was due on July 31, 2014. To stop the penalties from accruing he can fax his statement then mail the original. I provided Campaign Finance fax and phone number.

ACTION/RESOLUTION:



CAMPAIGN FINANCE DISCLOSURE SECTION

CALL REPORT FOR HERBERT

DATE OF CALL: 8/21/2014 Outgoing Call
CALLER NAME: Voicemail
CAND/COMM/MD NAME: Frank Guzman
ELECTION ID: S714
CONTROL NUMBER: 017534
CFD STAFF NAME: Herbert
TYPE OF CALL: Past Due Campaign Statement
SUB-TYPE:
CALL DURATION: 2 MINUTE(S)
CALL SUMMARY: I left a message on Mr. Guzman voicemail regarding his past due campaign statement that was due on July 31, 2014 and soon will be referred to the Fair Political Practices Commissions. To stop the penalties from accruing he can fax his statement then mail the original. I provided Campaign Finance fax and phone number.

ACTION/RESOLUTION:

Exhibit A-10

DEFAULT DECISION AND ORDER FPPC NO. 15/625

LOS ANGELES REGISTRAR-RECORDER/COUNTY CLERK

MAILING DATE: 09/26/14

FAIR POLITICAL PRACTICES COMMISSION REFERRAL REFERRAL NO.: D14079
FILING PERIOD: 1 DUE DATE: 07/31/14 COVERING DATES: 01/01/14 TO 06/30/14
ELECTION ID: S714 HELD: 06/30/14
ELECTION NAME: SEMI ANNUAL FILING 2014 FIRST HALF
R-R CONTROL NO.: 017534 PARTY:

The attached case file is being referred to your office for appropriate action pursuant to Government Code Section 81010 (d). After two requests for compliance, the required campaign statement has not yet been filed.

If you have any questions, please contact the Campaign Finance and Proposition B Section at (562) 462-2339.

FRANK C. GUZMAN
POMONA UNI SCHOOL DIST GOVERNING BOARD MEMBER

[REDACTED]

RECEIVED
FAIR POLITICAL
PRACTICES COMMISSION
14 SEP 29 PM 2:50

CF02

**CAMPAIGN DISCLOSURE STATEMENTS
NON-FILER ENFORCEMENT REFERRAL**

In order to expedite the enforcement referral; please complete the information below

I. Filing Officer

Contact Person: Los Angeles County Registrar-Recorder/County Clerk City/County: Los Angeles County
Address: 12400 Imperial Highway, Room 2003 Telephone: (562) 462-2339
Norwalk 90650 FAX: (562) 651-2548
(City) (Zip)

II. Non-Filer

Name: Frank C. Guzman Office Sought: Pomona Unified School District Governing Board Member
Address: [REDACTED] Telephone: Business [REDACTED]
[REDACTED] [REDACTED] Home [REDACTED] *OK account*
(City) (Zip)

Date of Election: Semi Annual Incumbent: Non-Incumbent:
(If applicable)

Type of Statement: 460 Date Due: 7/31/2014
(Please specify)

Period Covering: 1/1/2014 - 6/30/2014 Number of Prior Filings: 4
(Attach copy of Form 410 and most recent statement filed)
(If applicable)

Number of Prior Late Filings: 4

III. Notifications: (Attach copy of written notifications)

Date: 8/11/2014 Written: (CS01) Date: 8/7/2014 Verbal
9/11/2014 Written: (CS02) 8/21/2014 Verbal

Please Note: Two notifications must be made before referring this matter to the Fair Political Practices Commission Enforcement Division for consideration for formal enforcement action.

If you have any questions, please call the Enforcement Division at (916) 322-5660. Return the completed form and attachments to:
Fair Political Practices Commission
Enforcement Division
428 J Street, Suite 620
Sacramento, CA 95814

Exhibit A-11

DEFAULT DECISION AND ORDER FPPC NO. 15/625



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

**Protected Settlement Communication
(Evid. Code §§ 1152, 1154)**

January 28, 2015

Mr. Frank C. Guzman
[REDACTED]
[REDACTED]

RE: FPPC File No. 14/1268; Committee to Elect Frank Guzman to Pomona USD School Board 2013; Frank Guzman

Dear Mr. Guzman:

The Enforcement Division of the Fair Political Practices Commission recently completed its investigation into whether you violated provisions of California's Political Reform Act (the "Act")¹ by failing to file a required campaign statement.

Based on our investigation, it is our determination that you committed one violation of the Act by failing to comply with the campaign reporting provisions of the Act, specifically by failing to file a semi-annual campaign statement for the period January 1, 2014 through June 30, 2014 with the Los Angeles County Registrar of Voters, by the July 31, 2014, deadline.

Having determined that you committed a violation of the Act, the Enforcement Division is authorized to bring an enforcement action against you and may obtain an order that you pay a monetary penalty to the State of California of up to \$5,000 per violation.

We are providing you with the opportunity to settle this matter without the need for an enforcement action through our streamlined settlement procedure where your penalty amount is much lower than what it potentially could be if you do not participate in this program. In order to participate in our streamlined settlement, you must:

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the 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. Complete and file your Form 460, semiannual campaign statement for the period January 1, 2014 through June 30, 2014, with the Los Angeles County Registrar of Voters;
2. Obtain a cashier's check or money order for \$400 made payable to the General Fund of the State of California; and
3. Sign and return the enclosed Stipulation, a date-stamped copy of the semiannual campaign statement, and your cashier's check or money order to the Fair Political Practices Commission **no later than February 18, 2015.**

Please note that the administrative penalty increases for every additional effort required by staff to resolve this matter. If compliance is not met by **February 18, 2015**, the penalty will increase and continue to increase until compliance is met.

If you have any questions, you may contact me at (916) 322-8194.

Sincerely,



Jeanette E. Turvill
Political Reform Consultant
Enforcement Division

/jt
Enclosures



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

Protected Settlement Communication

(Evid. Code §§ 1152, 1154)

April 22, 2015

Mr. Frank C. Guzman

Dear Mr. Guzman:

On January 28, 2015, the Enforcement Division of the Fair Political Practices Commission sent you a letter concerning your failure to file your semi-annual campaign statement for the period January 1, 2014 through June 30, 2014 by the July 31, 2014 deadline. (Letter enclosed). You did not respond to that letter. Today we spoke by telephone and you indicated to me that you sent your campaign statement to Los Angeles County on April 21, 2015, but failed to return the signed Stipulation or your cashier's check or money order in the amount of \$400 for the penalty assessed. In order to prevent that penalty from increasing further, you must:

1. Obtain a cashier's check or money order for \$400 made payable to the General Fund of the State of California; and
2. Sign and return the enclosed Stipulation and your cashier's check or money order to the Fair Political Practices Commission **no later than May 6, 2015.**

Please note that if compliance is not met by **May 6, 2015**, the penalty will increase and continue to increase until compliance is met. If you have any questions, you may contact me at (916) 322-8194.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanette E. Turvill".

Jeanette E. Turvill
Political Reform Consultant
Enforcement Division

/jt
Enclosure



Jeanette Turvill

From: Edline <notify@edline.net>
Sent: Wednesday, April 08, 2015 10:55 AM
To: Jeanette Turvill
Subject: Edline Response for: 'E-MAIL Frank Guzman'
Attachments: response.htm

Thank you for your response to the Form 'E-MAIL Frank Guzman'.

A copy of the response has been attached to this email for your reference.

Thank You,

-Edline Staff

Form: E-MAIL Frank Guzman

(required) 1. NAME:

Jeanette Turvill

(required) 2. EMAIL:

jturvill@fppc.ca.gov

3. COMMENTS:

On January 28, 2015 we sent you a letter and a Stipulation, Decision & Order requiring you pay a fine of \$400 for your failure to file a campaign statement for the period 7.1.13 through 12.31.13. You have not complied with that letter. I'm now in a position to refer this to an attorney for prosecution. Since you have a prior fine for failure to file, the penalty may be substantial. You need to take care of this

Exhibit A-12

DEFAULT DECISION AND ORDER FPPC NO. 15/625

LOS ANGELES REGISTRAR-RECORDER/COUNTY CLERK

MAILING DATE: 02/08/16

(FILE COPY)

Past Due Notice

FILING PERIOD: 3 DUE DATE: 02/01/16 COVERING DATES: 10/18/15 TO 12/31/15

ELECTION ID: 0015 HELD: 11/03/15

ELECTION NAME: LOCAL AND MUNICIPAL CONSOLIDATED ELECTIONS

OFFICE: POMONA UNIFIED SCHOOL

DIST GOVERNING BD MEMBER

PARTY:

R-R CONTROL NO.: 017534

This is a reminder that your campaign statement is PAST DUE. Your statement was due on February 1, 2016, and you may be subject to a \$10.00 per day fine (Government Code § 91013). If you need additional assistance, please call the Campaign Finance Section at (562) 462-2339.

Los Angeles County Registrar-Recorder/County Clerk
Campaign Finance Section
12400 Imperial Highway, Room 2003
Norwalk, California 90650

FRANK C. GUZMAN



CS01

AWJ

3

LOS ANGELES REGISTRAR-RECORDER/COUNTY CLERK

MAILING DATE: 02/23/16
(FILE COPY)

Notice Of Past Due Filing
FILING PERIOD: 3 DUE DATE: 02/01/16 COVERING DATES: 10/18/15 TO 12/31/15
ELECTION ID: 0015 HELD: 11/03/15
ELECTION NAME: LOCAL AND MUNICIPAL CONSOLIDATED ELECTIONS
OFFICE: POMONA UNIFIED SCHOOL DIST GOVERNING BD MEMBER PARTY:
R-R CONTROL NO.: 017534
DATE TO BE REFERRED TO FPFC: 03/08/16

Your campaign statement is PAST DUE. If a statement is filed after any deadline imposed by this act, any person shall, in addition to any other penalties be liable in the amount of \$10 per day until it is received. Your statement must be received within ten days from the date of this written notice. A late filing penalty cannot be waived if the statement is filed after this date (Govt. Code § 91013). If it is not received within two weeks from the date of this notice you will be referred to the Fair Political Practices Enforcement Division. (GC § 81010(d)). Send your statement immediately to the Campaign Finance Section or call (562) 462-2339. (Please see reverse side.)

FRANK C. GUZMAN

CS02

AWU

2



CAMPAIGN FINANCE DISCLOSURE SECTION CALL REPORT FOR AMBER

DATE OF CALL: 3/2/2016 Outgoing Call

CUSTOMER NAME: Frank Guzman

CAND/COMM/MD NAME Frank Guzman

ELECTION ID: 0015

CONTROL NUMBER: 017534

CFD STAFF NAME: Amber

TYPE OF CALL: Past Due Campaign Statement

SUB-TYPE:

CALL DURATION: MINUTE(S)

CALL SUMMARY: I left a message on Mr. Guzman's voicemail informing him that he had a campaign statement that was past due that needed to be submitted as soon as possible. I also left the number to our office in case he had any questions.

ACTION/RESOLUTION:

Exhibit A-13

DEFAULT DECISION AND ORDER FPPC NO. 15/625



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811

September 5, 2017

Frank Guzman
2011 Committee to Elect Frank Guzman to
PUSD Governing Board Member
c/o Natalie Alvarado
Samuel Crowe & Associates
1131 W. Sixth Street, Suite 101
Ontario, CA 91762

NOTICE OF INTENT TO ENTER DEFAULT DECISION AND ORDER

Re: FPPC No. 15/625, In the Matter of Frank Guzman and 2011 Committee to Elect Frank Guzman to PUSD Governing Board Member, a.k.a. Committee to Elect Frank Guzman to Pomona USD School Board 2011

Dear Mr. Guzman:

Enclosed please find a copy of the Default Decision and Order, and accompanying Exhibit and attachments, for the above-referenced matter. The Fair Political Practices Commission (Commission) will consider these papers at its public meeting on **September 21, 2017**, and decide whether to impose an administrative penalty in the amount of \$9,000 against you.

You were previously served a Report in Support of a Finding of Probable Cause, commonly known as a Probable Cause Report, advising you of your right to request a probable cause conference or submit a written response to the probable cause report. You did not request a probable cause conference, nor did you submit anything in writing for the Commission's Hearing Officer to consider in his determination of probable cause.

Following the issuance of a Report in Support of a Finding of Probable Cause, the Commission's Hearing Officer found probable cause that you committed seven violations of the Political Reform Act's campaign provisions. Thereafter, the Hearing Officer issued an Accusation against you on these violations. The Accusation was personally served on you on February 4, 2017. Under the law, you have therefore received adequate notice of these proceedings and the action filed against you. Under the Administrative Procedure Act, you were required to file your Notices of Defense within 15 days after service of the Accusation. After multiple extensions, you failed to file the Notices of Defense forms. As such, your right to an administrative hearing on this matter has been forfeited, and you are in a default position.

You may, but you are not required to, provide a response brief, along with any supporting materials, no later than five calendar days before the Commission hearing at which the default is

scheduled to be heard. Your response brief must be served on the Commission Assistant, at the above address.

Following the issuance of the default order and imposition of the administrative penalty, we will commence legal proceedings to collect this fine, which may include converting the Commission's order to a court judgment. Please be advised that administrative penalties for violations of the Political Reform Act cannot be discharged in bankruptcy proceedings.

This letter is your last opportunity to resolve this matter informally by way of a stipulated settlement, before the default proceedings are commenced. If we do not reach a resolution, the enclosed documents will be placed on the Commission's agenda for the September 21, 2017 meeting. Please contact me if you wish to enter into a negotiated settlement.

You may contact me directly at (916) 323-6302.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Bainbridge", with a long horizontal flourish extending to the right.

Dave Bainbridge
Assistant Chief
Enforcement Division

Enclosures