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

10 In the Matter of:

FPPC Case No. 17/00620

11 ALICIA CRUZ 4 SCHOOL BOARD 2016
AND ALICIA CRUZ

STIPULATION, DECISION AND ORDER

12 Respondents.
13

14 **INTRODUCTION**

15 Respondent Alicia Cruz (“Cruz”) was the successful candidate for Board Member with the
16 Washington Unified School District Board of Education. Respondent Alicia Cruz 4 School Board 2016
17 (“Committee”) was the candidate-controlled committee for the 2016 General Election. Cruz served as
18 the treasurer. This case involves violations of the Political Reform Act (the “Act.”)¹ The Respondents
19 violated the Act by failing to file required campaign statements and by failing to establish a campaign
20 bank account.

21 **SUMMARY OF THE LAW**

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

23 When enacting the Political Reform Act, the people of California found and declared that
24 previous laws regulating political practices suffered from inadequate enforcement by state and local
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27 _____
28 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 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 authorities.² Thus, it was decreed that the Act “should be liberally construed to accomplish its
2 purposes.”³ One purpose of the Act is to promote transparency by ensuring that receipts and expenditures
3 in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
4 practices are inhibited.⁴ Another purpose of the Act is to provide adequate enforcement mechanisms so
5 that the Act will be “vigorously enforced.”⁵

6 **Pre-election Campaign Statements**

7 A controlled committee must file two pre-election campaign statements before the election in
8 which the candidate is listed on the ballot.⁶ For a general election in 2016, a committee must file a first
9 pre-election campaign statement for the period 45 days before the election, no later than 40 days before
10 the election.⁷ A committee must also file a second pre-election campaign statement for the period
11 ending 17 days before the election no later than 12 days before the election.⁸ Whenever the deadline
12 falls on a Saturday, Sunday, or official state holiday, the filing deadline for a statement shall be
13 extended to the next regular business day.⁹

14 **Semi-Annual Campaign Statements**

15 A controlled committee must file two semi-annual campaign statements each year no later than
16 July 31 for the period ending June 30 and no later than January 31 for the period ending December 31.¹⁰
17 Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a
18 statement shall be extended to the next regular business day.¹¹

19 **One Designated Campaign Bank Account**

20 A candidate-controlled committee must establish a campaign bank account and make all
21 campaign expenditures from the committee’s designated bank account.¹² Any loans to the candidate or

22 ² Section 81001, subdivision (h).

23 ³ Section 81003.

24 ⁴ Section 81002, subdivision (a).

25 ⁵ Section 81002, subdivision (f).

26 ⁶ Section 84200.5.

27 ⁷ Section 84200.8.

28 ⁸ Section 84200.8.

⁹ Regulation 18116, subdivision. (a).

¹⁰ Section 84200, subdivision. (a).

¹¹ Regulation 18116, subdivision. (a).

¹² Section 85201, subdivisions (a) and (e).

1 committee shall be deposited in the campaign bank account before being utilized.¹³ Any personal funds
2 a candidate intends to spend on campaign-related expenses must first be deposited in the campaign bank
3 account before the expenditure is made.¹⁴

4 **Treasurer Liability**

5 Every committee must have a treasurer.¹⁵ It is the duty of the treasurer to ensure the committee
6 complies with the requirements of the Act concerning the receipt and expenditure of funds and the
7 reporting of such funds.¹⁶ A committee's treasurer may be held jointly and severally liable with the
8 committee for any reporting violations.¹⁷

9 10 **SUMMARY OF THE FACTS**

11 Cruz is a current Board member for the Washington Unified School District. Cruz ran for the
12 position successfully in 2012 and again in 2016. In the 2016 election, Cruz had the 2nd most votes and
13 won one of the three open seats.

14 Cruz filed a Statement of Organization for the Committee on or about August 12, 2016 and
15 indicated that the committee did not yet qualify. The Committee qualified on October 6, 2016 upon
16 receiving contributions of \$2,000 or more. The Committee failed to file any campaign statements
17 disclosing contributions or expenditures until this case was opened by the Enforcement Division, well
18 after the election. The first and only campaign statement was filed on July 19, 2017 and purported to
19 cover the period of June 1, 2016 through December 31, 2016. On that statement, the Committee
20 reported receiving \$4,126 in contributions and making \$5,668 in expenditures.

21 As a committee supporting a candidate on the 2016 General Election ballot, the Committee was
22 required to file a pre-election statement. The Committee first qualified on or around October 6, 2016
23 and therefore it should have filed a pre-election statement for the period January 1, 2016 through
24 October 22, 2016. This statement was due October 27, 2016. The Committee was also required to file a
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26 ¹³ Section 85201, subdivision (c).

27 ¹⁴ Section 85201, subdivision (d) and Regulation 18524, subdivision (a).

28 ¹⁵ Section 84100.

¹⁶ Sections 81004, 84100, 84104, and 84213, and Regulation 18427.

¹⁷ Sections 83116.5 and 91006.

1 semiannual campaign statement for the period October 23, 2016 to December 31, 2016. This statement
2 was due on January 31, 2017.

3 Cruz also failed to establish a designated campaign bank account for the Committee. During the
4 investigation, Cruz admitted that she never opened a campaign bank account. In cooperating with the
5 investigation, Cruz provided her personal bank statements and credit card statements to corroborate the
6 contributions and expenditures reported in her campaign statement.

7 8 **VIOLATIONS**

9 **Count 1**

10 **Failure to Timely File Campaign Statements**

11 The Committee and Cruz failed to file a pre-election statement and a semiannual campaign
12 statement in violation of Sections 84200, 84200.5, and 84200.8.

13 **Count 2**

14 **Failure to Establish a Dedicated Campaign Bank Account**

15 The Committee and Cruz failed to establish a dedicated campaign bank account in violation of
16 Section 85201.

17 **PROPOSED PENALTY**

18 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
19 count. Thus, the maximum penalty that may be imposed is \$10,000.¹⁸

20 In determining the appropriate penalty for a particular violation of the Act, the Commission
21 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
22 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
23 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
24 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
25 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
26 record of violations.¹⁹ Here, the violations appear largely negligent, but not deliberate. There is no prior

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18 See Section 83116, subdivision (c).

28 ¹⁹ Regulation 18361.5, subdivision (d).

1 enforcement history. The public harm inherent in campaign reporting violations is that the public is
2 deprived of important, time-sensitive information regarding political contributions. Generally, these types
3 of violations are considered to be more serious where the public is deprived of information that was
4 required to be disclosed before an election because this has the potential to affect how votes are cast—so
5 greater public harm is involved, and a higher penalty is warranted.

6 Additionally, the Commission considers penalties in prior cases with comparable violations. With
7 regard to Count 1: *In the Matter of Contra Costa Supervisor John Gioia 2010 Officeholder Account,*
8 *Contra Costa Supervisor John Gioia 2014 Officeholder Account, John Gioia, and Jennifer Peck,* FPPC
9 Nos. 17/84 and 17/86 (The Commission approved a stipulated decision on August 17, 2017.) The two
10 officeholder committees repeatedly filed semi-annual and pre-election statements late over the course of
11 four years. The Commission charged six counts for failure to file semi-annual campaign statements and
12 imposed a \$1,500 penalty for each count. The activity during the semi-annual reporting periods was
13 largely minimal. The committee was also charged one count for failure to timely file pre-election
14 statements. The Commission imposed \$3,000 for this count.

15 Respondents in *Gioia* demonstrated a repeated pattern of disregarding the deadlines for the filing
16 of campaign statements and were charged a count for each year of missed semiannual statements. In
17 *Gioia*, the committee was fined a higher amount for the late pre-election statements where the committee
18 had more reportable activity. In the present matter, the Committee failed to file any campaign statements
19 until well after the election. The voters were deprived of any information pertaining to Cruz’s campaign
20 activities. Therefore, a penalty of \$2,000 is recommended.

21 With regard to Count 2: failure to use a designated campaign bank account: *In the Matter of*
22 *Patricia López, Patty López for Assembly 24, and Carolina Perez,* FPPC Nos. 15/313 and 15/314. (The
23 Commission approved a stipulated decision on March 17, 2016.) The committee made campaign
24 expenditures totaling \$4,698 which were not paid from the campaign bank account, among other
25 violations. López had prior enforcement history, but was a first-time candidate and the treasurer had no
26 prior experience. The overall size of the committee was small. The Commission imposed a penalty of
27 \$1,500. Here, Cruz made expenditures out of her personal bank account in larger amounts and previously
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1 ran for office in 2012, however she has no prior enforcement history and the overall size of the
2 committee was small. Therefore, a penalty of \$1,500 is recommended.

3 After considering the factors listed in Regulation §18361.5 and penalties in prior similar cases, a
4 penalty of \$3,500 is recommended.

6 CONCLUSION

7 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
8 Respondents Cruz 4 School Board 2016 and Alicia Cruz hereby agree as follows:

9 1. Respondents violated the Act as described in the foregoing pages, which are a true and
10 accurate summary of the facts in this matter.

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

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

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

23 5. Respondents agree to the issuance of the decision and order set forth below. Also,
24 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
25 \$3,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General
26 Fund of the State of California—is/are submitted with this stipulation as full payment of the
27 administrative penalty described above, and same shall be held by the State of California until the
28 Commission issues its decision and order regarding this matter.

