

1 GALENA WEST  
Chief of Enforcement  
2 THERESA GILBERTSON  
Commission Counsel  
3 Fair Political Practices Commission  
1102 Q Street, Suite 3000  
4 Sacramento, CA 95811

5 Telephone: (916) 323-6421  
6 Facsimile: (916) 322-1932

7 Attorneys for Complainant

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

11 In the Matter of:

12 PANDYA FOR MAYOR 2018 AND  
13 AMIT PANDYA,

14 Respondents.

FPPC Case No. 18/0982

STIPULATION, DECISION AND ORDER

15  
16 **INTRODUCTION**

17 Respondent Amit Pandya (“Pandya”) was a candidate for Mayor of Salinas in the November 6,  
18 2018 General Election. Respondent “Pandya for Mayor 2018” (“Committee”) is Pandya’s candidate-  
19 controlled committee. Pandya also served as the Committee’s treasurer. The Committee and Pandya  
20 violated the Political Reform Act<sup>1</sup> (“Act”) by failing to timely file two pre-election campaign statements.

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27 <sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections  
28 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission  
are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references  
are to this source.

1 **SUMMARY OF THE LAW**

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

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

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

11 **Duty to File Campaign Statements**

12 The Act requires candidates and their controlled committees to file campaign statements at specific  
13 times disclosing information regarding contributions received and expenditures made by the campaign  
14 committees.<sup>7</sup>

15 **Duty to File Pre-Election Campaign Statements**

16 A candidate-controlled committee must file pre-election campaign statements prior to elections in  
17 which the candidate appears on the ballot.<sup>8</sup> Whenever the deadline falls on a Saturday, Sunday or official  
18 state holiday, the filing deadline for a statement shall be extended to the next regular business day.<sup>9</sup> For  
19 the November 6, 2018 General Election, a candidate-controlled committee was required to file pre-election  
20 campaign statements for the period ending September 22, 2018, no later than September 27, 2018, and for  
21 the period ending October 20, 2018, no later than October 25, 2018.<sup>10</sup>

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25 <sup>2</sup> Section 81001, subdivision (h).

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

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

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

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

<sup>7</sup> Section 84200, *et seq.*

<sup>8</sup> Section 84200.5, subdivision (b).

<sup>9</sup> Regulation 18116, subdivision (a).

<sup>10</sup> Section 84200.8.

1                     **Joint and Several Liability of Committee, Candidate, and Treasurer**

2                     It is the duty of a committee treasurer and the candidate to ensure that the committee complies with  
3 the Act's campaign reporting.<sup>11</sup> A treasurer and candidate may be held jointly and severally liable with the  
4 committee for violations committed by the committee.<sup>12</sup>

5                                     **SUMMARY OF THE FACTS**

6                     Pandya was unsuccessful in the November 6, 2018 General Election in which he was a candidate  
7 of Mayor for the City of Salinas. Pandya ran unsuccessfully in 2016 and re-designated his 2016 committee  
8 for the purpose of running again in 2018.

9                     The Committee was referred by the local filing officer for failure to timely file a second pre-election  
10 statement. The Committee was contacted by the Enforcement Division, filed the missing second pre-  
11 election statement and amended the first pre-election statement five days prior to the election.

12                     The Committee filed the first pre-election statement eight days late on October 5, 2018. In that  
13 statement, the Committee reported a \$10,000 loan from Green Phoenix Automotive, Pandya's S-Corp, and  
14 no expenditures. Though the Committee was required to file a 24-hour contribution report to disclose the  
15 loan, the Committee failed to do so. On November 1, 2018, the Committee later filed an amended statement  
16 for this reporting period to add a \$3,397 expenditure. The Committee filed the second pre-election  
17 statement seven days late on November 1, 2018. The Committee reported \$4,056 in contributions and  
18 \$4,651 in expenditures. The Committee was required to file a 24-hour contribution report to disclose the  
19 late contribution of \$3,456 from Green Phoenix Automotive, but the Committee failed to do so. For  
20 settlement purposes and because these contributions were from his own business and were reported on the  
21 pre-election statements filed before the election, this is not being charged as a separate violation, but will  
22 instead be considered as aggravation for the other non-filing charges.

23                     For the period ending October 20, 2018, the Committee reported a total of \$14,056 in contributions  
24 and made \$8,448 in expenditures.

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<sup>11</sup> Sections 81004, 84100, 84104, and Regulation 18427.

<sup>12</sup> Sections 83116.5 and 91006.

1 **VIOLATIONS**

2 **Count 1**

3 Failure to Timely File Pre-Election Statements

4 The Committee and Pandya failed to timely file pre-election statements for the period ending  
5 September 22, 2018 and due on September 27, 2018 and for the period ending October 20, 2018 and due  
6 on October 25, 2018, in violation of Section 84200.5.

7 **PROPOSED PENALTY**

8 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per count.<sup>13</sup>

9 In determining the appropriate penalty for a particular violation of the Act, the Commission  
10 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission  
11 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention  
12 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)  
13 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were  
14 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.<sup>14</sup>

15 Here, the actions of the Committee appear to be the result of negligence. There is no evidence of  
16 deliberate omission or attempts to conceal. However, the Committee and Pandya have prior enforcement  
17 history. On October 19, 2017, the Committee and Pandya entered into a streamline settlement agreement,  
18 case number 16/19811, for failure to report expenditures and contributions on two statements filed in  
19 connection with Pandya’s 2016 campaign. Respondents paid a total penalty of \$503. This was respondents’  
20 first violation and the Commission found no evidence of intent to conceal.

21 Additionally, the Commission considers penalties in prior cases with comparable violations. *In the*  
22 *Matter of Bluff Cove Homeowners’ Association Measure E Opposition Committee, Jennifer Hope, and*  
23 *Robert L. Chapman, Jr.*, FPPC No. 18/188 (The Commission approved a stipulated decision on October  
24 18, 2018.) In *Bluff Cove*, the committee failed to timely file two pre-election campaign statements. One  
25 statement was filed a few days late, while the other was over a month late. The two statements reported  
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28 <sup>13</sup> See Section 83116, subdivision (c).

<sup>14</sup> Regulation 18361.5, subdivision (d).

1 \$2,032.18 in contributions and \$10,431 in expenditures. The Commission imposed a penalty of \$1,500, in  
2 addition to finding violations related to advertisement disclosures.

3 This case is analogous because like in *Bluff Cove*, the pre-election statement was filed only a few  
4 days late, there was disclosure made prior to the election, and the committees are close in size. In  
5 aggravation, Pandya has prior enforcement history and has prior experience campaigning and should have  
6 been aware of his filing obligations. In further aggravation, Pandya and the Committee also failed to file  
7 two 24-hour contribution reports to disclose contributions from Green Phoenix Automotive.

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

### 10 CONCLUSION

11 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
12 Respondents Pandya for Mayor 2018 and Amit Pandya, hereby agree as follows:

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

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

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

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

27 5. Respondents agree to the issuance of the decision and order set forth below. Also,  
28 Respondents agree to the Commission imposing against them an administrative penalty in the amount of

1 \$2,000. One or more payments totaling said amount—to be paid to the General Fund of the State of  
2 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
3 above, and same shall be held by the State of California until the Commission issues its decision and order  
4 regarding this matter.

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

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

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15 Dated: \_\_\_\_\_

\_\_\_\_\_ Galena West, Chief of Enforcement  
Fair Political Practices Commission

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18 Dated: \_\_\_\_\_

\_\_\_\_\_ Amit Pandya, individually and on behalf of Pandya for  
Mayor 2018

1           The foregoing stipulation of the parties “Pandya for Mayor 2018 and Amit Pandya,” FPPC Case  
2 No. 18/0982 is hereby accepted as the final decision and order of the Fair Political Practices  
3 Commission, effective upon execution below by the Chair.

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5           IT IS SO ORDERED.

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7           Dated: \_\_\_\_\_

\_\_\_\_\_ Alice T. Germond, Chair  
Fair Political Practices Commission