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

11 In the Matter of:

12 FRIENDS OF MARICELA CRUZ FOR
13 TRUSTEE 2018, MARICELA CRUZ, and
DAISY S. MARTINEZ,

14 Respondents.

FPPC Case No. 18/1200

STIPULATION, DECISION AND ORDER

15
16 **INTRODUCTION**

17 Respondent Maricela Cruz (“Cruz”) was a candidate for Alisal Union School District Governing
18 Board Trustee, Area 2 in the November 6, 2018 General Election. Respondent “Friends of Maricela Cruz
19 for Trustee 2018” (“Committee”) is Cruz’s candidate-controlled committee. Daisy S. Martinez
20 (“Martinez”) is the treasurer. The Committee, Cruz, and Martinez violated the Political Reform Act¹
21 (“Act”) by failing to timely file pre-election campaign statements.

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

1 **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.²
5 Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”³

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.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵
9 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
10 “vigorously enforced.”⁶

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.⁷

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

16 A candidate and candidate-controlled committees must file pre-election campaign statements prior
17 to elections in which the candidate appears on the ballot.⁸ Whenever the deadline falls on a Saturday,
18 Sunday or official state holiday, the filing deadline for a statement shall be extended to the next regular
19 business day.⁹ For the November 6, 2018 General Election, a candidate-controlled committee was required
20 to file pre-election campaign statements for the period ending September 22, 2018, no later than September
21 27, 2018, and for the period ending October 20, 2018, no later than October 25, 2018.¹⁰ If a candidate
22 intends to spend or receive less than \$2,000, they have the option of filing a Form 470 to indicate this.¹¹

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24 ² Section 81001, subdivision (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subdivision (a).

27 ⁵ Sections 84200, *et seq.*

28 ⁶ Section 81002, subdivision (f).

⁷ Section 84200, *et seq.*

⁸ Section 84200.5, subdivision (b).

⁹ Regulation 18116, subdivision (a).

¹⁰ Section 84200.8.

¹¹ Section 84206.

1 This statement must be filed before or on the deadline of the first campaign statement.

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

3 It is the duty of a committee treasurer and the candidate to ensure that the committee complies with
4 the Act’s campaign reporting.¹² A treasurer and candidate may be held jointly and severally liable with the
5 committee for violations committed by the committee.¹³

6 **SUMMARY OF THE FACTS**

7 Cruz was first elected in 2013 for to the Alisal Union School District Board of Trustees for Area 2.
8 She was unsuccessful in the November 6, 2018 General Election. Cruz filed a statement of organization
9 with local county election officials on or around September 20, 2018, indicating that the committee had
10 not yet qualified. A statement of organization was filed with the Secretary of State on October 1, 2018.

11 The Committee was referred by the local filing officer for failure to timely file its first and second
12 pre-election statements, due September 27, 2018 and October 25, 2018, respectively. After being contacted
13 by the Enforcement Division, the Committee filed a campaign statement for the period of January 1, 2018
14 through October 20, 2018 on October 30, 2018.

15 As a candidate on the ballot, Cruz was required to file a pre-election statement due on September
16 27 and October 25. Though the campaign statement shows that the Committee did not qualify until October
17 17, when the Committee reported receiving over \$2,000 in campaign contribution, Cruz was required to
18 file either a full campaign statement or a short-form, Form 470, by the deadline of September 27. Cruz
19 failed to file either pre-election statement until contacted by the Enforcement Division. The Committee
20 reported receiving \$2,450 in contributions and made \$7,343 in expenditures, with most of the expenditures
21 in the form of accrued expenses.

22 **VIOLATIONS**

23 **Count 1**

24 Failure to Timely File Pre-Election Statements

25 The Committee, Cruz, and Martinez failed to timely file pre-election statements due on
26 September 27 and October 25, in violation of Section 84200.5.

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¹² Sections 81004, 84100, 84104, and Regulation 18427.

¹³ Sections 83116.5 and 91006.

1 **PROPOSED PENALTY**

2 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per count.¹⁴

3 In determining the appropriate penalty for a particular violation of the Act, the Commission
4 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission
5 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention
6 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)
7 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were
8 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.¹⁵

9 Here, the actions of the Committee appear to be the result of negligence. There is no evidence of
10 deliberate omission or attempts to conceal. However, the Committee does have a prior enforcement history.
11 On January 18, 2018, Cruz, committee treasurer Omar Perez, and Cruz’s candidate-controlled committee,
12 “Friends of Maricela Cruz for Trustee 2013”, entered into a streamline settlement agreement, case number
13 16/220, for failure to file two 24-Hour Reports and one semi-annual report for the second half of 2013.
14 These statements were filed in connection with Cruz’s initial successful campaign for Trustee. Respondents
15 filed all missing statements and paid a total penalty of \$1,324. This was respondents’ first violation and
16 the Commission found no evidence of intent to conceal.

17 Additionally, the Commission considers penalties in prior cases with comparable violations. *In the*
18 *Matter of Bluff Cove Homeowners’ Association Measure E Opposition Committee, Jennifer Hope, and*
19 *Robert L. Chapman, Jr.*, FPPC No. 18/188 (The Commission approved a stipulated decision on October
20 18, 2018.) In *Bluff Cove*, the committee failed to timely file two pre-election campaign statements. One
21 statement was filed a few days late, while the other was over a month late. The statements reported \$2,032
22 in contributions and \$10,431 in expenditures. The Commission imposed a penalty of \$1,500, in addition
23 to finding violations related to advertisement disclosures.

24 This case is analogous because like in *Bluff Cove*, the pre-election statement was filed five days
25 late and so there was disclosure made prior to the election. In aggravation, Cruz was an incumbent with
26 prior enforcement history who should have been aware of her filing obligations. After considering the
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28 ¹⁴ See Section 83116, subdivision (c).

¹⁵ Regulation 18361.5, subdivision (d).

1 factors listed in Regulation 18361.5 and penalties in prior similar cases, a penalty of \$1,500 is
2 recommended.

3 CONCLUSION

4 Complainant, the Enforcement Division of the Fair Political Practices Commission, and Friends of
5 Maricela Cruz for Trustee 2018, Maricela Cruz, and Daisy S. Martinez hereby agree as follows:

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

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

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

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

20 5. Respondents agree to the issuance of the decision and order set forth below. Also,
21 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
22 \$1,500. One or more payments totaling said amount—to be paid to the General Fund of the State of
23 California—is/are submitted with this stipulation as full payment of the administrative penalty described
24 above, and same shall be held by the State of California until the Commission issues its decision and order
25 regarding this matter.

26 6. If the Commission declines to approve this stipulation—then this stipulation shall become
27 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
28 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to

1 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before
2 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
3 shall be disqualified because of prior consideration of this Stipulation.

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

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8 Dated: _____
9 Galena West, Chief of Enforcement
10 Fair Political Practices Commission

11 Dated: _____
12 Maricela Cruz, individually and on behalf of Friends of
13 Maricela Cruz for Trustee 2018

14 Dated: _____
15 Daisy S. Martinez, individually and on behalf of Friends of
16 Maricela Cruz for Trustee 2018

1 The foregoing stipulation of the parties “Friends of Maricela Cruz for Trustee 2018, Maricela
2 Cruz, And Daisy S. Martinez,” FPPC Case No. 18/1200 is hereby accepted as the final decision and order
3 of the Fair Political Practices 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