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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

9 STATE OF CALIFORNIA

10
11 In the Matter of:

12 COMMITTEE TO IMPROVE
GONZALES SCHOOLS – YES ON N
13 AND RUTILIA BALTAZAR,

14 Respondents.

FPPC Case No. 2018-1307

15 STIPULATION, DECISION, AND ORDER

16 INTRODUCTION

17 Respondent Committee to Improve Gonzales Schools – Yes On N (“Committee”) was a primarily
18 formed ballot measure committee supporting Measure N in the June 3, 2014 election. Rutilia Baltazar
19 (“Baltazar”) serves as treasurer of the Committee. Measure N, a school bond measure, was defeated.

20 The Committee and Baltazar violated the Political Reform Act (the “Act”)¹ by failing to timely file
21 semiannual campaign statements.

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28 ¹ The 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 **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 One purpose
6 of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are
7 fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.⁴ Along
8 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 A committee must file two semi-annual campaign statements each year no later than July 31
15 for the period ending June 30 and no later than January 31 for the period ending December 31.⁸ Whenever
16 the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a statement shall
17 be extended to the next regular business day.⁹

18 **Candidate and Treasurer Liability**

19 Under the Act, it is the duty of the candidate and treasurer of a controlled committee to ensure that
20 the committee complies with all the requirements of the Act concerning the receipt, expenditure, and
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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 Sections 84200, *et seq.*

⁸ Section 84200, subdivision. (a).

⁹ Regulation 18116, subdivision. (a).

1 reporting of funds.¹⁰ The candidate and treasurer may be held jointly and severally liable, along with the
2 committee, for violations committed by the committee.¹¹

3 **SUMMARY OF THE FACTS**

4 This case was opened pursuant to a referral from the filing officer, Monterey County, for failure to
5 timely file campaign statements. The committee has remained open and continues to incur a filing
6 obligation but will terminate as part of this settlement. On June 9, 2019, the Enforcement Division sent a
7 letter to the Committee and Baltazar regarding the failure to file the semiannual campaign statement for
8 the reporting periods of July 1, 2017 – December 31, 2017, January 1, 2018 - June 30, 2018, and July 1,
9 2018 – December 31, 2018. The Committee and Baltazar filed the missing statements on June 21, 2019,
10 between 141 and 506 days late.

11 Previously, the Committee and Baltazar paid a streamline penalty for failure to timely file
12 semiannual campaign statements and 24-hour reports. *In the Matter of Committee to Improve Gonzales*
13 *Schools – Yes On N and Rutilia Baltazar*, FPPC Case No. 2017-0409, the Commission imposed a \$1,696
14 penalty for eight counts between May 18, 2014 through December 31, 2016.

15 **VIOLATIONS**

16 Failure to Timely File Semiannual Campaign Statements

17 The Committee and Baltazar failed to timely file semiannual campaign statements for the reporting
18 periods of July 1, 2017 through December 31, 2017, January 1, 2018 through June 30, 2018, and July 1,
19 2018 through December 31, 2018, in violation of Section 84200.

20 **PROPOSED PENALTY**

21 This matter consists of one count. The maximum penalty that may be imposed is \$5,000.¹²

22 In determining the appropriate penalty for a particular violation of the Act, the Commission
23 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission
24 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention
25 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)

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¹⁰ Sections 81004, 84100 84213, and Regulation 18427.

¹¹ Sections 83116.5 and 91006.

¹² Section 83116, subd. (c).

1 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were
2 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.¹³

3 In this case, the facts suggest that the failure to timely file the campaign statements appear to be
4 negligent, as opposed to intentional or with an intent to conceal. However, there is a pattern of failing to
5 fulfill the duty of candidate and treasurer to file timely campaign statements. The Committee and Baltazar
6 have a prior record of violations, as mentioned above but have been cooperative when notified of the
7 missing filings and have terminated the committee.

8 A recent similar case approved by the Commission at the June 13, 2019 Commission meeting was
9 *In the Matter of Harold Fong for School Board 2016 and Harold Fong*; FPPC No. 18/744. Harold Fong
10 was a successful candidate for re-election as Trustee to the Sacramento County Board of Education in the
11 November 8, 2016 General Election. Harold Fong for School Board 2016 is his candidate-controlled
12 committee. The Committee and Fong failed to timely file two semiannual campaign statements for the
13 reporting period of January 1, 2018 through June 30, 2018 and July 1, 2018 through December 31, 2018,
14 and had been previously prosecuted by the Commission through the streamline program with a \$400
15 penalty for failure to timely file the semiannual campaign statement for the reporting period of July 1, 2016
16 through December 31, 2016. The statements reported no activity. The Commission approved a penalty of
17 \$2,000 for the two late-filed statements.

18 As in *Fong*, there appears to be low public harm as there was minimal campaign activity to report
19 on the late-filed campaign statements – between \$72 (bank fees) and \$684 (bank fees and annual fees and
20 penalties). Although in this case, there are three semi-annuals filed late, the overall activity is very similar
21 to the *Fong* case as that case included other statements not charged, therefore, a comparable fine is
22 recommended.

23 CONCLUSION

24 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
25 respondents the Committee and Baltazar hereby agree as follows:

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

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¹³ Regulation 18361.5, subd. (d).

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

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

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

13 5. Respondents agree to the issuance of the decision and order set forth below. Also,
14 Respondents agree to the Commission imposing against it an administrative penalty in the amount of
15 \$2,000. One or more payments totaling this amount—to be paid to the General Fund of the State of
16 California—is/are submitted with this stipulation as full payment of the administrative penalty described
17 above, and same shall be held by the State of California until the Commission issues its decision and order
18 regarding this matter.

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

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