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8
9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

10 In the Matter of:

11 ANTHONY ARAIZA FOR WEST
12 VALLEY WATER DISTRICT 2017 AND
13 ANTHONY ARAIZA,

14 Respondents.

FPPC Case No. 2017/01218

STIPULATION, DECISION AND ORDER

15
16 **INTRODUCTION**

17 Respondent Anthony Araiza (“Araiza”) was an unsuccessful candidate for the West Valley Water
18 District during the local consolidated election held on November 7, 2017. Anthony Araiza for West Valley
19 Water District 2017 (“Committee”) was his candidate-controlled committee. Araiza and the Committee
20 violated the Political Reform Act¹ (“Act”) by sending two negative mass mailings with false and
21 misleading sender identification and making contributions and expenditures outside the designated
22 campaign bank account.

23 **SUMMARY OF THE LAW**

24 All statutory references and discussions of law pertain to the Act’s provisions as they existed at the
25 time of the violations.

26
27 _____
28 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 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 **Candidate Liability**

2 Under the Act, it is the duty of the candidate of a controlled committee to ensure that the committee
3 complies with all the requirements of the Act, including disclosure statements on advertisements and mass
4 mailings.¹³ Any person who violates the Act may be held liable, provided they have filing or reporting
5 obligations, such as a candidate.¹⁴ The candidate may be held jointly and severally liable, along with the
6 committee, for violations committed by the committee.¹⁵

7 **SUMMARY OF THE FACTS**

8 Araiza was a candidate for the West Valley Water District Board (“Board”) during a local
9 consolidated election held on November 7, 2017. This was his second time running, having previously lost
10 in 2015. During the election, his candidate-controlled committee reported \$16,165 in contributions and
11 reported \$15,657 in expenditures. In 2017, there were three open seats for the Board, two full-term (5
12 years) seats and one short-term (2 years) seat. The candidates for the full-term seats were Linda Gonzalez,
13 Anthony Araiza, Clifford Young, and Michael Taylor. Two candidates were running for the short-term
14 seat, including Robert J. Bourland and Kyle Crowther.

15 On or around October 11, 2017, the first of two negative mass mailings were distributed to
16 approximately 744 residences in the jurisdiction. The first mailing targeted three candidates, including
17 Clifford Young, Michael Taylor, and Kyle Crowther, and encouraged the reader to vote against these
18 candidates. The second negative mass mailing, sent out in two batches of mailings in October 2017, was
19 distributed to approximately 2,774 recipients. The mailing targeted incumbent Clifford Young, alleging
20 that he was costly to the district and that the mailing was a “potential fraud alert.” Both mass mailings
21 purported to be paid for by “Clean Water for Fontana FPPC #2178643,” however, this is not a committee
22 name registered with the Secretary of State and the number is not associated with any registered committee.

23 During the investigation, Araiza has admitted to paying to have these mailings produced and sent.
24 Araiza was required to include a true and correct sender identification on the mass mailings. Araiza
25 admitted to making a cash payment of about \$4,500 to \$5,000 to have mass mailings sent out that opposed
26 several candidates up for election to the Board. The mass mailings should have read, “Paid for by Anthony
27

28 ¹³ Sections 81004, 84100, 84213, and Regulation 18427.

¹⁴ Section 83116.5.

¹⁵ Sections 83116.5 and 91006.

1 Araiza for West Valley Water District 2017.” Araiza lost the election and his opponents, Clifford Young,
2 Michael Taylor, and Kyle Crowther were successful.

3 **VIOLATIONS**

4 Count 1: Failure to Disclose the True Sender of a Mass Mailing

5 The Committee and Araiza sent a mass mailing to approximately 744 recipients on or around
6 October 11, 2017 that included a false sender identification instead of the name and address of the
7 Committee in violation of Government Code section 84305.

8 Count 2: Failure to Disclose the True Sender of a Mass Mailing

9 The Committee and Araiza sent a mass mailing to approximately 2,774 recipients in the month of
10 October 2017 that included a false sender identification instead of the name and address of the Committee,
11 in violation of Government Code section 84305.

12 Count 3: Failure to Use a Designated Campaign Bank Account

13 The Committee and Araiza failed to deposit the candidate’s personal contribution into the campaign
14 bank account and failed to make an expenditure from the campaign bank account, in violation of
15 Government Code section 85201.

16 **PROPOSED PENALTY**

17 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
18 count.¹⁶ Thus, the maximum penalty that may be imposed here is \$15,000.

19 In determining the appropriate penalty for a particular violation of the Act, the Commission
20 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission
21 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention
22 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)
23 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were
24 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.¹⁷

25 The violation at issue is serious, involving the deliberate concealment of the sender of a mass
26 mailing. This deprives the public of important information about the activity of a candidate’s activity
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28 ¹⁶ Section 83116, subdivision (c).

¹⁷ Regulation 18361.5, subdivision (d).

1 during an election. Utilizing the campaign bank account in a necessary requirement to deter fraud and
2 illegal practices. As a candidate, Araiza was required to deposit any contributions to his campaign,
3 including payments for communications that clearly opposed electing candidates during an election, into
4 his designated campaign bank account prior to expenditure.

5 In determining a penalty, the Commission considers penalties in prior cases with comparable
6 violations:

7 A comparable case is *In the Matter of Art Chacon, Art Chacon for Water Board 2014, and*
8 *Californians for Clean Water*, FPPC No. 14/1236. (The Commission approved a stipulation on October
9 19, 2017.) Art Chacon ran successfully for re-election to the Central Basin Municipal Water District Board
10 of Directors in 2014. During the election, Chacon had a candidate-controlled committee, Art Chacon for
11 Water Board 2014, but was also found to have controlled an independent expenditure committee,
12 Californians for Clean Water. As the controlling candidate, the committee name was required to include
13 Chacon's name. The committee, Californians for Clean Water, sent three mass mailings that negatively
14 targeted Chacon's opponents without including true and complete sender identification. In aggravation,
15 Chacon had a history of prior enforcement actions and was in office. The Commission imposed a penalty
16 of \$5,000 for each of the three mailings. In addition, the Commission imposed a penalty of \$5,000 for
17 violating the requirement for a single designated campaign bank account because the expenditures were
18 required to be made by Chacon's candidate-controlled committee but instead were transacted outside of
19 the designated campaign account.

20 Another comparable case is *In the Matter of Dan Roundtree for Thousand Oaks City Council 2015,*
21 *Dan Roundtree, and Darby Levin*, FPPC No. 15/701. (The Commission approved a stipulation on March
22 22, 2018.) Dan Roundtree ran unsuccessfully in 2015 for City Council of Thousand Oaks. The candidate,
23 his candidate-controlled committee, and his campaign manager were found liable for sending a mass
24 mailing in support of Roundtree that was designed to appear like an official election notice and lacked a
25 proper sender identification. The Commission imposed a penalty of \$3,500.

26 This case is more comparable to the *Chacon* matter, as it involves a candidate who sent mailings
27 attacking opponents and failed to include the sender identification that would inform the public that the
28 candidate was responsible. However, unlike *Chacon*, Araiza did not win the election. In addition, more

1 similar to *Roundtree*, Araiza has no prior enforcement history. For settlement purposes and in consideration
2 of mitigating factors, the additional possible charges—including using cash to make expenditures over
3 \$100 and the failure to report the mailings as expenditures on campaign statements and reports—are not
4 being pursued separately. Therefore, a penalty of \$5,000 per count is recommended for the two counts of
5 failing to include proper sender identification and \$4,500 for the violation of the one bank account rule.

6 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases, a
7 total penalty of \$14,500 is recommended.

8 CONCLUSION

9 Respondents Anthony Araiza for West Valley Water District 2017 and Anthony Araiza hereby
10 agree as follows:

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

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

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

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

25 5. Respondents agree to the issuance of the decision and order set forth below. Also,
26 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
27 \$14,500. One or more payments totaling said amount—to be paid to the General Fund of the State of
28 California—is/are submitted with this stipulation as full payment of the administrative penalty described

1 above, and same shall be held by the State of California until the Commission issues its decision and order
2 regarding this matter.

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

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

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13 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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15
16 Dated: _____

Anthony Araiza,
Individually and on behalf of
Anthony Araiza for West Valley Water District 2017

