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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

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11 In the Matter of:

12 HERNANDEZ FOR BALDWIN PARK
CITY COUNCIL 2018, PAUL C.
13 HERNANDEZ, AND YOLANDA
MIRANDA,

14 Respondents.

FPPC Case No. 18/998

STIPULATION, DECISION AND ORDER

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16 INTRODUCTION

17 Hernandez for Baldwin Park City Council 2018 (the “Committee”) is the candidate-controlled
18 committee of Paul C. Hernandez (“Hernandez”), created in conjunction with his campaign for Baldwin
19 City Council in the November 6, 2018 General Election. The treasurer of the Committee is Yolanda
20 Miranda (“Miranda”).

21 Respondents committed numerous violations of the Political Reform Act (the “Act”),¹ including a
22 failure to timely report certain contributions and expenditures on two preelection campaign statements,
23 and a failure to timely file three 24-hour contribution reports.

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27 ¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the
28 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 The Act and its regulations are amended from time to time. The violations in this case occurred in
3 2018. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
4 existed at that time.

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

6 When enacting the Act, the people of California found and declared that previous laws regulating
7 political practices suffered from inadequate enforcement by state and local authorities.² To that end, the
8 Act is to be construed liberally to accomplish its purposes.³

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

14 Disclosure of Contributions and Expenditures

15 A committee must disclose on campaign statements the total amount of all contributions
16 received and expenditures made. For contributions and expenditures of \$100 or more, the statements
17 must provide certain identifying information about the source of a contribution and the recipient of an
18 expenditure.⁷

19 Duty to File 24-Hour Contribution Reports

20 Each candidate or committee that makes or receives a late contribution must file a report within
21 24 hours of making or receiving the contribution.⁸ For nonmonetary contributions, the late contribution
22 report is due within 48 hours of receipt of the contribution.⁹ A “late contribution” includes a contribution
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24 ² Section 81001, subd. (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subd. (a).

27 ⁵ Sections 84200, *et seq.*

28 ⁶ Section 81002, subd. (f).

⁷ Section 84211, subds. (a), (b), (c), (f), (i), and (k).

⁸ Section 84203.

⁹ Section 84203.3, subd. (b).

1 aggregating \$1,000 or more that is made to or received by a candidate, controlled committee, or
2 primarily formed committee within 90 days before the date of the election at which the pertinent
3 candidate or measure is to be voted on.¹⁰

4 Joint and Several Liability of Candidate, Committee, and Treasurer

5 It is the duty of a committee treasurer to ensure that the committee complies with the campaign
6 reporting provisions of the Act.¹¹ A treasurer may be held jointly and severally liable, along with the
7 candidate and the committee, for violations committed by the committee.¹²

8 **SUMMARY OF THE FACTS**

9 Hernandez was successful in his bid for the Baldwin Park City Council in the November 6, 2018
10 General Election, receiving approximately 23 percent of the vote. In 2018, the Committee reported
11 receiving \$35,824.97 in contributions and making \$30,811.25 in expenditures.

12 The Committee failed to timely report certain financial activity on its campaign statements filed
13 in 2018, as follows:

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Statement Type	Reporting Period	Amount of Contributions/ Expenditures Unreported
Preelection	7/1/18 – 9/22/18	\$2,000/\$261.26
Preelection	9/23/18 – 10/20/18	\$2,525/\$24.74

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19 \$3,600 of the total unreported contributions were nonmonetary contributions that were otherwise
20 reported on 24-hour contribution reports timely filed prior to the election.

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27 ¹⁰ Section 82036.

¹¹ Sections 81004, 84100, 84104, and 84213; Regulation 18427.

28 ¹² Sections 83116.5 and 91006.

1 The Committee also failed to timely file certain 24-hour contribution reports for nonmonetary
2 contributions received, as follows:

3 Statement/ Report Type	Payment Date	Due Date	Date Filed	Contribution Amount
4 24-Hour Contribution (nonmonetary)	5 9/21/18	9/24/18	10/26/18	\$2,000
6 24-Hour Contribution (nonmonetary)	7 10/11/18	10/15/18	10/26/18	\$1,600
8 24-Hour Contribution (nonmonetary)	9 10/21/18	10/23/18	10/26/18	\$1,600

11 **VIOLATIONS**

12 Count 1: Failure to Timely Report Financial Activity on Campaign Statements

13 The Committee, Hernandez, and Miranda failed to timely report \$2,000 in contributions and
14 \$261.26 in expenditures on the Committee's preelection campaign statement for the reporting period of
15 July 1, 2018 to September 22, 2018, and \$2,525 in contributions and \$24.74 in expenditures on the
16 Committee's preelection campaign statement for the reporting period of September 23, 2018 to October
17 20, 2018, in violation of Section 84211, subdivisions (a), (b), (c), (d), (f), (i), and (j).

18 Count 2: Failure to Timely File 24-Hour Contribution Reports

19 The Committee, Hernandez, and Miranda failed to timely file three 24-hour contribution reports
20 for \$5,200 in late contributions, in violation of Sections 84203 and 84203.3.

21 **PROPOSED PENALTY**

22 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
23 count. Thus, the maximum penalty that may be imposed is \$10,000.¹³

24 In determining the appropriate penalty for a particular violation of the Act, the Commission
25 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
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28 ¹³ Section 83116, subd. (c).

1 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
2 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
3 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
4 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
5 record of violations.¹⁴

6 Here, the Enforcement Division found no evidence that Respondents intended to conceal,
7 deceive, or mislead the public. However, Respondents do have a prior history of violations. In FPPC No.
8 17/1010, *In the Matter of Paul Hernandez*, Hernandez was issued a warning letter on January 30, 2018,
9 for failing to timely file a semiannual campaign statement for the reporting period of January 1, 2017 to
10 June 30, 2017, in conjunction with his position on the board of directors of the Valley County Water
11 District (the “Water Board”), which he held from 2013 to 2019. Further, Miranda also has a history of
12 violations of the Act related to campaign filing and reporting on behalf of other committees.

13 Additionally, the Commission considers penalties in prior cases involving similar violations.
14 Recent similar cases involving a failure to timely report financial activity on campaign statements
15 include the following:

16 • *In the Matter of Citizens for Kain – Assembly ’14, Palmer Kain, Jay Mosley, and Marc Baylen*;
17 FPPC No. 16/467. Respondents, a candidate, his controlled committee, and its two treasurers, failed to
18 timely report a total of \$1,829 in contributions and \$6,267.11 in expenditures on two preelection and two
19 semiannual campaign statements, in violation of Section 84211, subdivisions (a), (b), (c), (d), (f), (i), (j),
20 and (k). In October 2019, the Commission approved a penalty of \$2,000 on one count.

21 As to Count 1, Respondents here are deserving of a penalty lower than that approved in the *Kain*
22 case, given the lower amount of financial activity at issue, and considering that a portion of the missing
23 activity was otherwise reported on timely-filed 24-hour reports.

24 Recent similar cases involving a failure to timely file 24-hour contribution reports include the
25 following:

26 • *In the Matter of Greg Rodriguez for 42nd State Assembly, 2016 and Greg Rodriguez*; FPPC No.
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28 ¹⁴ Regulation 18361.5, subd. (d).

1 18/179. Respondents, a candidate and his controlled committee, failed to timely file three 24-hour
2 contribution reports for contributions totaling \$3,473, in violation of Section 84203. In January 2020, the
3 Commission approved a penalty of \$2,000 on one count.

4 As to Count 2, Respondents are deserving of a penalty similar to that approved in the *Rodriguez*
5 case. Although there was a higher amount of subject contributions here, unlike in *Rodriguez*, the 24-hour
6 reports were ultimately filed prior to the election.

7 In aggravation of all counts, Hernandez committed additional violations of the Act that are not
8 charged herein, in the interest of settlement. In particular, Hernandez failed to timely file a semiannual
9 campaign statement for the reporting period of January 1, 2018 to June 30, 2018, in conjunction with his
10 position on the Water Board. Further, Hernandez failed to timely file a Leaving Office Statement of
11 Economic Interests for his Water Board position, or an Assuming Office Statement of Economic Interests
12 for his position on the City Council. Instead, Hernandez filed an Annual SEI for the year 2018.

13 Based on the foregoing, the following penalties are recommended:

Count	Violation	Proposed Penalty
1	Failure to Timely Report Financial Activity on Campaign Statements	\$1,500
2	Failure to Timely File 24-Hour Contribution Reports	\$2,000

19 CONCLUSION

20 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
21 Respondents, Hernandez for Baldwin Park City Council 2018, Paul C. Hernandez, and Yolanda Miranda,
22 hereby agree as follows:

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

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

27 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
28 of reaching a final disposition without the necessity of holding an administrative hearing to determine the

1 liability of Respondents pursuant to Section 83116.

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

9 5. Respondents agree to the issuance of the decision and order set forth below. Also,
10 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
11 \$3,500. One or more payments totaling this amount, to be paid to the General Fund of the State of
12 California, is/are submitted with this stipulation as full payment of the administrative penalty described
13 above, and they will be held by the State of California until the Commission issues its decision and order
14 regarding this matter.

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

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

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25 Dated: _____
26 Galena West, Chief of Enforcement
27 Fair Political Practices Commission
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Dated: _____
Paul C. Hernandez, individually and on behalf of
Hernandez for Baldwin Park City Council 2018

Dated: _____
Yolanda Miranda, individually and on behalf of
Hernandez for Baldwin Park City Council 2018

1 The foregoing stipulation of the parties “In the Matter of Hernandez for Baldwin Park City Council 2018,
2 Paul C. Hernandez, and Yolanda Miranda,” FPPC Case No. 18/998 is hereby accepted as the final
3 decision and order of the Fair Political Practices Commission, effective upon execution below by the
4 Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____
9 Richard C. Miadich, Chair
10 Fair Political Practices Commission
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