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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
STATE OF CALIFORNIA

10 In the Matter of:

11 KARINA ONOFRE FOR CA STATE  
12 ASSEMBLY 74TH DISTRICT and  
13 KARINA ONOFRE,

14 Respondents.

FPPC Case No. 16/649

STIPULATION, DECISION AND ORDER

15  
16 **INTRODUCTION**

17 This matter arose from a non-filer referral from the Secretary of State. Respondent Karina Onofre  
18 for CA State Assembly 74th District 2016 (“Committee”) was the candidate-controlled committee formed  
19 to support Respondent Karina Onofre (“Onofre”) in her unsuccessful run for State Assembly in the  
20 November 8, 2016 General Election. Onofre acted as her own treasurer. The Committee and Onofre  
21 violated the Political Reform Act<sup>1</sup> by failing to timely file pre-election campaign statements and made  
22 personal use of campaign funds.

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28 <sup>1</sup> 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 **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> 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.<sup>4</sup> Along  
8 these lines, the Act includes a comprehensive campaign reporting system.<sup>5</sup> Another purpose of the Act is  
9 to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”<sup>6</sup>

10 **Pre-election Campaign Statements**

11 A controlled committee must file two pre-election campaign statements before the election in  
12 which the candidate is listed on the ballot.<sup>7</sup> A committee must file the first pre-election campaign  
13 statement for the period 45 days before the election, no later than 40 days before the election.<sup>8</sup> A  
14 committee must also file a second pre-election campaign statement for the period ending 17 days before  
15 the election no later than 12 days before the election.<sup>9</sup> Whenever the deadline falls on a Saturday, Sunday,  
16 or official state holiday, the filing deadline for a statement shall be extended to the next regular business  
17 day.<sup>10</sup>

18 **Prohibition Against Personal Use of Committee Funds**

19 The Act holds that contributions deposited into a campaign bank account are held in trust for  
20 expenses associated with the election of the candidate or for expenses associated with holding office.<sup>11</sup>  
21 An expenditure to seek office is lawful if it is reasonably related to a political purpose.<sup>12</sup> Expenditures that  
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24 <sup>2</sup> Section 81001, subdivision (h).

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

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

27 <sup>5</sup> Sections 84200, et seq.

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

<sup>7</sup> Section 84200.5.

<sup>8</sup> Section 84200.8, subdivision. (a).

<sup>9</sup> Section 84200.8, subdivision. (b).

<sup>10</sup> Regulation 18116, subdivision. (a).

<sup>11</sup> Section 89510.

<sup>12</sup> Section 89512, subdivision (a).

1 confer a substantial personal benefit must be directly related to a political, legislative, or governmental  
2 purpose.<sup>13</sup> “Substantial personal benefit” is defined as an expenditure of campaign funds that results in a  
3 direct personal benefit with a value of more than two hundred dollars (\$200) to an elected official.<sup>14</sup> A  
4 qualifying personal benefit would include any time the candidate actually makes personal use of an asset  
5 obtained as a result of the committee expenditure.<sup>15</sup> The Act states that campaign funds shall not be used  
6 for business or casual clothing, except specialty clothing that is not suitable for everyday use, including,  
7 but not limited to, formal wear, if this attire is to be worn by the candidate or elected office and is directly  
8 related to a political, legislative, or governmental purpose.<sup>16</sup>

9 Campaign funds cannot be used for the payment or reimbursement for the purchase, lease, or  
10 refurbishment of any appliance or equipment, where the legal title resides, in whole or in part, in a  
11 candidate or elected official, or a member of his or her immediate family.<sup>17</sup> If the committee holds the  
12 title of the appliance or equipment, the use must be directly related to a political legislative or  
13 governmental purposes and any other usage must be only incidental.<sup>18</sup>

#### 14 **Joint and Several Liability of Committee and Treasurer**

15 Under the Act, it is the duty of the candidate and treasurer of a controlled committee to ensure that  
16 the committee complies with all the requirements of the Act concerning the receipt, expenditure, and  
17 reporting of funds.<sup>19</sup> The candidate and treasurer may be held jointly and severally liable, along with the  
18 committee and candidate, for violations committed by the committee.<sup>20</sup>

#### 19 **SUMMARY OF THE FACTS**

20 The Committee filed an initial statement of organization with the Secretary of State on June 16,  
21 2016, indicating that it did not yet qualify. Onofre listed another individual as the treasurer of her  
22 committee, however, this individual did not sign the statement of organization, nor any of the campaign  
23 statements filed by the Committee. Onofre signed on both the candidate line and the line for the named  
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25 <sup>13</sup> Section 89512.

26 <sup>14</sup> Section 89511, subdivision (b)(3).

27 <sup>15</sup> Reg. 18960.

28 <sup>16</sup> Section 89513, subdivision (b).

<sup>17</sup> Section 89517, subdivision (a).

<sup>18</sup> Section 89517, subdivision (c).

<sup>19</sup> Sections 81004, 84100, 84213, and Regulation 18427.

<sup>20</sup> Sections 83116.5 and 91006.

1 treasurer on the statement of organization. Onofre signed for and filed all campaign statements filed on  
2 behalf of the Committee. Therefore, Onofre acted as her own treasurer.

3 According to campaign records, the Committee qualified on or about September 1, 2016 after  
4 receiving \$2,000 in contributions. Onofre, after successfully winning the primary, was unsuccessful in the  
5 November 8, 2016 General Election.<sup>21</sup> The Committee was terminated on May 16, 2018. As part of an  
6 investigation into the Committee's campaign activity, the Enforcement Division obtained committee  
7 records, including bank statements, invoices, contributor checks, and receipts.

### 8 Failure to File Pre-Election Statements

9 Onofre was listed on the November ballot and therefore, the Committee was required to file two  
10 pre-election statements. The Committee failed to timely file the first pre-election statement for the period  
11 of July 1, 2016 to September 24, 2016 due on September 29, 2016. The Committee filed this statement  
12 on August 30, 2018, nearly two years late. The Committee reported \$2,246 in contributions and \$3,953 in  
13 expenditures. The Committee failed to timely file the second pre-election statement for the period of  
14 September 25, 2016 to October 22, 2016 due on October 27, 2016. The Committee filed this statement on  
15 August 30, 2018, nearly two years late. The Committee reported \$2,000 in contributions and \$4,680 in  
16 expenditures.

17 The Committee was not terminated after the election until May of 2018 and had a continuing  
18 obligation to file campaign statements. Instead, the Committee filed a semiannual campaign statement for  
19 the reporting period of October 23, 2016 through February 23, 2018. This statement was filed on August  
20 30, 2018, causing many of the \$6,680 in contributions and \$4,680 in expenditures to be reported late.

### 21 Personal Use

22 Committee records indicate that Onofre withdrew large sums of cash from the committee bank  
23 account and then used this cash, in part, to purchase a computer that conferred substantial personal benefit  
24 to the candidate. Onofre reported this expenditure as a campaign expenditure. Onofre provided a receipt  
25 dated October 29, 2016 for a MacBook Pro laptop computer, paying \$1,321.68 in cash to the Apple Store.  
26 Though a committee can purchase office equipment, the title of the equipment must be held in the name  
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<sup>21</sup> Onofre opened a separate committee for the primary election and filed a short form indicating that she raised and spent less than \$2,000. The committee was terminated June 6, 2016.

1 of the committee. In addition, the candidate must show that the purchase was directly related to a political  
2 purpose and any personal use cannot be more than incidental. Onofre lost the election 10 days after making  
3 the purchase, thereby ending any direct political purpose the computer may have had. There is no indication  
4 that Onofre purchased the computer from the Committee or that the Committee otherwise properly  
5 disposed of the computer after the Committee terminating, indicating that Onofre used the computer for  
6 her personal benefit in a more than incidental manner.

7 In addition, Onofre reported on campaign statements and provided a receipt for an expenditure  
8 made at Macy's Department Store. The description for the purchase is "Election Day Victory Suit" and  
9 was purchased on November 4<sup>th</sup>, 2016, four days prior to the election and was a purchase in the amount of  
10 \$411.49 for two items. This purchase violates the Act because a business suit is not a permissible campaign  
11 purchase under the Act.

## 12 VIOLATIONS

### 13 **Count 1: Failure to Timely File Pre-Election Statements**

14 The Committee and Onofre failed to timely file two pre-election statements for the reporting period  
15 of July 1, 2016 through September 24, 2016 by the deadline of September 29, 2016 and for the reporting  
16 period of September 25, 2016 through October 22, 2016 by the deadline of October 27, 2016 in violation  
17 of Section 84200.5.

### 18 **Count 2: Personal Use of Campaign Funds**

19 Onofre made a payment with campaign funds for a personal laptop and personal clothing that was  
20 not related to a political, legislative, or governmental purpose, in violation of Sections 89512, 89513,  
21 subdivision (d), and 89517.

## 22 PROPOSED PENALTY

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

25 In determining the appropriate penalty for a particular violation of the Act, the Commission  
26 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission  
27 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention  
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<sup>22</sup> See Section 83116, subdivision (c).

1 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)  
2 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were  
3 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.<sup>23</sup>

4 Here, the violations show a negligent disregard for basic campaign accounting and reporting rules  
5 and involves personal use of campaign funds. Respondents have no prior history of violations. Respondents  
6 have filed the outstanding campaign statements. In further aggravation, the Committee and Onofre failed  
7 to comply with the Act's requirements to file 24-hour reports (3 reports for a total of \$5,500 in  
8 contributions), to maintain complete records, to utilize a single, designated campaign bank account for all  
9 committee expenditures, and Onofre failed to fully disclose her income on a candidate Statement of  
10 Economic Interests. In consideration for entering into a settlement and taking into account the small size  
11 of the unsuccessful campaign and the limited experience of the candidate, these violations are not being  
12 charged separately but will be considered only as an aggravating factor.

13 The Commission considers penalties in prior cases with the same or similar violations and  
14 comparable facts.

15 With respect to Count 1: *In the Matter of Bluff Cove Homeowners' Association Measure E*  
16 *Opposition Committee, Jennifer Hope, and Robert T. Chapman Jr.*; FPPC Case No. 18/188. The  
17 committee, a primarily formed local ballot measure committee failed to timely file two pre-election  
18 statements disclosing approximately \$10,431 in expenditures and approximately \$2,032 in contributions.  
19 In October 2018, the Commission approved a penalty of \$1,500 for this count. Onofre failed to disclose a  
20 similar amount of activity prior to the election, including \$4,246 in contributions and \$6,246 in  
21 expenditures. In aggravation, Onofre failed to timely file a semiannual campaign statement to report the  
22 remainder of her 2016 activity. In light of the additional potential reporting violations, a penalty of \$2,500  
23 is justified.

24 With respect to Count 2: *In the Matter of Jackie Wong for School Board 2016 and Jackie Wong*;  
25 FPPC No. 17/621, the respondents spent \$1,466 from five purchases for office equipment, software, and  
26 smartphones that were not related to a political, legislative, or governmental purpose. The Commission  
27 imposed a penalty of \$3,000. Here, Onofre purchased a personal computer for \$1,321 and a suit for an  
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<sup>23</sup> Regulation 18361.5, subdivision (d).

1 election day campaign event during the final stretch of the campaign and kept the computer after the  
2 election without purchasing it from the committee. Her purchase of clothing, personal use of the computer  
3 and failure to reimburse the committee is a violation of the Act. Therefore, a penalty of \$3,000 is  
4 recommended against Onofre.

5 After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant  
6 facts, a penalty of \$2,500 is recommended for the Committee and Onofre and a penalty of \$3,000 is  
7 recommended for Onofre. The total penalty in this matter is \$5,500.

### 8 CONCLUSION

9 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
10 Respondents Karina Onofre for CA State Assembly 74th District and Karina Onofre hereby agree as  
11 follows:

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

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

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

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

26 5. Respondents agree to the issuance of the decision and order set forth below. Also,  
27 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
28 \$5,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General

1 Fund of the State of California—is/are submitted with this stipulation as full payment of the administrative  
2 penalty described above, and same shall be held by the State of California until the Commission issues its  
3 decision and order regarding this matter.

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

10 7. The parties to this agreement may execute their respective signature pages separately. A  
11 copy of any party’s executed signature page, including a hardcopy of a signature page transmitted via fax  
12 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: \_\_\_\_\_

\_\_\_\_\_ Karina Onofre, individually and on behalf of the  
Committee, Karina Onofre for CA State Assembly 74<sup>th</sup>  
District

1           The foregoing stipulation of the parties “Karina Onofre for CA State Assembly 74th District and  
2 Karina Onofre,” FPPC Case No. 16-649, is hereby accepted as the final decision and order of the Fair  
3 Political Practices Commission, effective upon execution below by the Chair.

4           IT IS SO ORDERED.

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6 Dated: \_\_\_\_\_

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Richard C. Miadich, Chair  
Fair Political Practices Commission

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