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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of:

FPPC Case No. 18/1352

NATIONAL UNITED FARM
WORKERS POLITICAL ACTION
COMMITTEE and ARMANDO
ELENES,

STIPULATION, DECISION AND ORDER

Respondents.

INTRODUCTION

Respondent, National United Farm Workers Political Action Committee (ID#782630) (the “Committee”), is a state general purpose committee. Respondent, Armando Elenes (“Elenes”), serves as the Committee’s treasurer.

The Political Reform Act (the “Act”)¹ requires committees and treasurers to timely file certain campaign statements and reports to disclose contributions received and expenditures made. The Committee and Elenes violated the Act by failing to timely file certain pre-election and semi-annual campaign statements and 24-hour independent expenditure reports.

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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 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred
3 in 2016, 2017 and 2018. For this reason, all legal references and discussions of law pertain to the Act’s
4 provisions as they 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 Thus, it was
8 decreed the Act “should be liberally construed to accomplish its purposes.”³

9 A central purpose of the Act is to promote transparency by ensuring that receipts and
10 expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed
11 and improper practices are inhibited.⁴ Another purpose of the Act is to provide adequate enforcement
12 mechanisms so that the Act will be “vigorously enforced.”⁵

13 **Committee**

14 “Committee” includes any person or combination of persons who directly or indirectly receives
15 contributions totaling \$2,000 or more in a calendar year.⁶ This type of committee is generally referred to
16 as a recipient committee.

17 **General Purpose Committee**

18 “General purpose committee” means a recipient committee which is formed or exists primarily
19 to support or oppose more than one candidate or ballot measure, and it does not qualify as a primarily
20 formed committee.⁷ A “state general purpose committee” is a committee to support or oppose candidates
21 or measures voted on in a state election, or in more than one county.⁸

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25 _____
26 ² Section 81001, subdivision (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subdivision (a).

⁵ Section 81002, subdivision (f).

⁶ Section 82013, subdivision (a).

⁷ Section 82027.5, subdivision (a).

⁸ Section 82027.5, subdivision (b).

1 **Campaign Statements; Where/How to File**

2 State general purpose committees must file campaign statements, in paper format, with the
3 Secretary of State.⁹ If the committee has received contributions or made expenditures exceeding \$25,000
4 then the committee must file electronically with the Secretary of State as well as in paper format.¹⁰

5 **Period Covered**

6 “Period covered” by a campaign statement means the period beginning the day after the closing
7 date of the most recent campaign statement which was required to be filed and ending with the closing
8 date of the statement in question.¹¹ If a person has not previously filed a campaign statement within the
9 calendar year, the period covered begins on January 1.¹²

10 **Pre-Election Campaign Statements**

11 A state general purpose recipient committee shall file the applicable pre-election campaign
12 statements if it makes contributions or independent expenditures totaling \$500 or more in connection
13 with the statewide primary or general election during the period covered by the pre-election campaign
14 statements.¹³

15 The first pre-election campaign statement, for the period ending 45 days before the election, shall
16 be filed no later than 40 days before the election.¹⁴ The second pre-election campaign statement, for the
17 period ending 17 days before the election, shall be filed no later than 12 days before the election.¹⁵

18 **Semi-Annual Campaign Statements**

19 Recipient committees shall file semi-annual campaign statements each year no later than July 31
20 for the period ending June 30, and no later than January 31 for the period ending December 31.¹⁶

21 **24-Hour Independent Expenditure Reports**

22 A “late independent expenditure” is an independent expenditure that totals in the aggregate
23 \$1,000 or more and is made for or against a specific candidate or measure involved in an election during
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25 ⁹ *Id.*

26 ¹⁰ Section 84605.

27 ¹¹ Section 82046, subdivision (b).

28 ¹² *Id.*

¹³ Section 84200.5, subdivision (c).

¹⁴ Section 84200.8, subdivision (a).

¹⁵ Section 84200.8, subdivision (b).

¹⁶ Section 84200.

1 the 90-day period preceding the date of the election or on the date of the election.¹⁷ A committee that
2 makes a late independent expenditure shall report the late independent expenditure within 24 hours of
3 the time it is made.¹⁸ If a late independent expenditure is required to be reported to the Secretary of
4 State, the report to the Secretary of State shall be by online or electronic transmission only.¹⁹ A
5 committee that makes a late independent expenditure shall file a late independent expenditure report in
6 the places where it would be required to file campaign statements as if it were formed or existing
7 primarily to support or oppose the candidate or measure for which it is making the late independent
8 expenditure.²⁰

9 **Joint and Several Liability of Committee and Treasurer**

10 It is the duty of a committee treasurer to ensure the committee complies with the Act.²¹ A
11 treasurer may be held jointly and severally liable, along with the committee and candidate, for violations
12 committed by the committee.²²

13 **Liability for Violations**

14 Any person who violates any provision of the Act is liable for administrative penalties up to
15 \$5,000 per violation.²³

16 **SUMMARY OF THE FACTS**

17 This case was opened in response to referrals from the Secretary of State for the Committee and
18 Elenes' failure to file certain campaign statements electronically and in paper format.

19 According to campaign statements filed between January 1, 2016 and December 31, 2019, the
20 Committee raised and spent \$0 in contributions and \$51,151 in expenditures.

21 **Failure to Timely File Pre-Election and Semi-Annual Campaign Statements**

22 The Committee was required to file semi-annual campaign statements twice a year until the
23 Committee was terminated. If the Committee made contributions or independent expenditures totaling
24 \$500 or more in connection with the Primary or General Elections during the pre-election reporting

25 ¹⁷ Section 82036.5.

26 ¹⁸ Section 84204.

27 ¹⁹ *Id.*

28 ²⁰ Section 84204, subdivision (c).

²¹ Sections 81004, 84100, and Regulation 18427.

²² Sections 83116. 5 and 91006.

²³ Sections 83116 and 83116. 5.

1 periods, then the Committee and Elenes were required to file those pre-election campaign statements.
 2 The Committee had previously reached the \$25,000 threshold and was required to file all campaign
 3 statements electronically as well as in paper format. For the reporting periods between January 1, 2016
 4 and December 31, 2019, the Committee and Elenes filed the following campaign statements:

STATEMENT	REPORTING PERIOD	DUE DATE	PAPER FILED	ELECTRONIC FILED	ACTIVITY REPORTED
Semi-Annual	01/01/2016 - 06/30/2016	08/01/2016	10/21/2016 (81 days late)	03/30/2020 (1337 days late)	CTB = \$0 EXP = \$3,437
Pre-Election	07/01/2016 - 10/22/2016	10/27/2016	10/24/2016	03/30/2020 (1250 days late)	CTB = \$0 EXP = \$30,182
Semi-Annual	10/23/2016 - 12/31/2016	01/31/2017	Not Filed	03/30/2020 (1154 days late)	CTB = \$0 EXP = \$1,070
Semi-Annual	01/01/2017 - 06/30/2017	07/31/2017	Not Filed	03/30/2020 (973 days late)	CTB = \$0 EXP = \$581
Semi-Annual	07/01/2017 - 12/31/2017	01/31/2018	01/31/2018	03/30/2020 (789 days late)	CTB = \$0 EXP = \$1,992
Semi-Annual	01/01/2018 - 06/30/2018	07/31/2018	07/30/2018	03/30/2020 (608 days late)	CTB = \$0 EXP = \$13,338
Semi-Annual	07/01/2018 - 12/31/2018	01/31/2019	Not Filed	03/30/2020 (424 days late)	CTB = \$0 EXP = \$190
Semi-Annual	01/01/2019 - 06/30/2019	07/31/2019	Not Filed	03/30/2020 (243 days late)	CTB = \$0 EXP = \$121
Semi-Annual	07/01/2019 - 12/31/2019	01/31/2020	02/03/2020 (3 days late)	03/30/2020 (59 days late)	CTB = \$0 EXP = \$240

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 19 **Failure to Timely File 24-Hour Independent Expenditure Reports**

20 The 90-day period preceding the November 8, 2016 General Election began on August 10, 2016.
 21 The 90-day period preceding the June 5, 2018 Primary Election began on March 7, 2018. The
 22 Committee’s campaign statements revealed 24-hour independent expenditure reports that were required
 23 to be filed with the Secretary of State as follows:

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DUE DATE	TO SUPPORT/OPOSE	AMOUNT	DATE FILED
10/11/2016	Bill Dodd	\$13,500	10/19/2016 (8 days late)
10/11/2016	Joaquin Arambula	\$13,500	10/19/2016 (8 days late)
06/06/2018	Prop 68	\$1,087	Not Filed
06/06/2018	Prop 69	\$1,087	Not Filed
06/06/2018	Prop 70	\$1,087	Not Filed
06/06/2018	Prop 71	\$1,087	Not Filed
06/06/2018	Prop 72	\$1,087	Not Filed
06/06/2018	Alex Padilla	\$1,087	Not Filed
06/06/2018	Betty Yee	\$1,087	Not Filed
06/06/2018	Antonio Villaraigosa	\$1,087	Not Filed
06/06/2018	Ricardo Lara	\$1,087	Not Filed
06/06/2018	Anne Caballero	\$1,087	Not Filed
06/06/2018	Alejandro Chavez	\$1,087	Not Filed
TOTAL:		\$38,957	

The independent expenditures to support/oppose Bill Dodd and Joaquin Arambula were disclosed on a pre-election campaign statement and 24-hour independent expenditure reports filed prior to the election. However, these 24-hour independent expenditure reports reported the amount of the independent expenditures as \$15,000 instead of \$13,500 as reported on the Committee's pre-election campaign statement.

VIOLATIONS

Count 1: Failure to Timely File Pre-Election and Semi-Annual Campaign Statements

The Committee and Elenes failed to timely file three semi-annual campaign statements electronically and in paper format for the reporting periods ending June 30, 2016, December 31, 2016, June 30, 2017, by the August 1, 2016, January 31, 2017, and July 31, 2017, due dates, respectively, and failed to timely file a pre-election campaign statement electronically for the reporting period ending October 22, 2016, by the October 27, 2016 due date, in violation of Government Code Sections 84200, 84200.5, 84200.8, and 84605.

Count 2: Failure to Timely Semi-Annual Campaign Statements

The Committee and Elenes failed to timely file three semi-annual campaign statements electronically and in paper format for the reporting periods ending December 31, 2018, June 30, 2019, and December 31, 2019, by the January 31, 2019, July 31, 2019, and January 31, 2020 due dates,

1 respectively, and failed to timely file two semi-annual campaign statements electronically for the
2 reporting periods ending December 31, 2017 and June 30, 2018, by the January 31, 2018 and July 31,
3 2018 due dates, respectively, in violation of Government Code Sections 84200 and 84605.

4 **Count 3: Failure to Timely File 24-Hour Independent Expenditure Reports**

5 The Committee and Elenes failed to timely file 24-hour independent expenditure reports for 13
6 late independent expenditures made on October 10, 2016 and June 5, 2018 totaling \$38,957, by the
7 October 11, 2016 and June 6, 2018 due dates, respectively, in violation of Government Code Section
8 84204.

9 **PROPOSED PENALTY**

10 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
11 count. Thus, the maximum penalty that may be imposed here is \$15,000.²⁴

12 In determining the appropriate penalty for a particular violation of the Act, the Commission
13 considers the facts of the case, the public harm involved, and the purposes of the Act. Further, the
14 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
15 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
16 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
17 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
18 record of violations.²⁵

19 The public harm inherent in campaign reporting violations is that the public is deprived of
20 important, time-sensitive information regarding campaign activity. Here, the Committee and Elenes’
21 failure to timely file a pre-election campaign statement and 24-hour independent expenditure reports
22 prior to the November 8, 2016 General Election is mitigated because the pre-election campaign
23 statement was timely filed in paper format and the 24-hour independent expenditure reports were filed
24 prior to the election. Also, the Committee and Elenes’ failure to timely file 24-hour independent
25 expenditure reports in connection with the June 5, 2018 Primary Election is mitigated because the 24-
26 hour independent expenditure reports were not due until after the election.

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28 ²⁴ Section 83116, subdivision (c).

²⁵ Regulation 18361. 5, subdivision (d).

1 In this case, there was no evidence to support an intent to conceal, deceive or mislead the public
2 as to the Committee's receipts and expenditures. However, the violations appear to be negligent as the
3 Committee has been open and active since 1978. The violations committed here appear to be part of a
4 pattern of late-filing violations, although the Committee does not have prior enforcement history within
5 the last five years.

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

8 **Counts 1-2: Failure to Timely File Pre-Election and Semi-Annual Campaign Statements**

9 *In the Matter of California Conservative PAC and John Fugatt*; FPPC Case No. 15/1301.
10 Respondents, a state general purpose committee and its treasurer, failed to timely file four semi-annual
11 campaign statements (Counts 1 and 3) and one pre-election campaign statement (Count 2), both
12 electronically and in paper format. Additionally, the Committee and Fugatt failed to report certain
13 contributions and expenditures on late-filed semi-annual campaign statements. However, the Committee
14 and Fugatt disclosed most of the campaign activity on 24-hour reports filed prior to the election. During
15 the period between July 1, 2013 through June 30, 2015, the Committee received approximately \$63,750
16 in contributions and spent approximately \$67,850 in expenditures. In aggravation, the Committee and
17 Fugatt had prior enforcement history for failing to timely file semi-annual campaign statements both
18 electronically and in paper format. On August 16, 2018, the Commission approved a total penalty of
19 \$7,500; \$2,500 per Count.

20 A lesser penalty than that approved in *California Conservative PAC* is recommended. Similar to
21 *California Conservative PAC*, the Committee and Elenes failed to timely file eight semi-annual
22 campaign statements and one pre-election campaign statement. However, unlike *California*
23 *Conservative PAC*, two of the semi-annual campaign statements and the pre-election campaign
24 statement were timely filed in paper format. Between January 1, 2016 and December 31, 2019, the
25 Committee raised and spent \$0 in contributions and \$51,151 in expenditures. In mitigation, at least four
26 of the late-filed semi-annual campaign statements had minimal activity to report. Additionally, the
27 Committee and Elenes do not have prior enforcement history within the past five years. Therefore, a
28 total penalty of \$2,000 per Count is recommended for Counts 1 and 2.

1 **Count 3: Failure to Timely File 24-Hour Independent Expenditure Reports**

2 *In the Matter of Friends of Livermore, Leland Younker, and David Jonas*; FPPC Case No.
3 16/19930. Respondents, a city general purpose committee, its principal officer and treasurer, failed to
4 timely file 24-hour independent expenditure reports for 50 late independent expenditures made totaling
5 \$152,516.60. In mitigation, all but one of these reports was filed on November 7, 2016, the day before
6 the election. In aggravation, none of the subject late independent expenditures were otherwise disclosed
7 with complete information on a timely-filed campaign statement. On January 17, 2019, the Commission
8 approved a penalty of \$3,000 for this count.

9 A lesser penalty than that approved in *Friends of Livermore* is recommended. Similar to *Friends*
10 *of Livermore*, the Committee and Elenes failed to timely file 24-hour independent expenditure reports.
11 However, the Committee and Elenes failed to timely file 24-hour independent expenditure reports for
12 only 13 late independent expenditures totaling \$38,957, a far less amount than that at issue in *Friends of*
13 *Livermore*. Further, in mitigation, two of the late independent expenditures totaling \$27,000 were
14 disclosed on a pre-election campaign statement and 24-hour independent expenditure reports filed prior
15 to the election. Therefore, a penalty of \$2,500 is recommended.

16 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
17 in the amount of \$6,500 is justified, as reflected in the chart below:

Count	Violation	Penalty
1-2	Failure to Timely File Pre-Election and Semi-Annual Campaign Statements	\$4,000
3	Failure to Timely File 24-Hour Independent Expenditure Reports	\$2,500
TOTAL:		\$6,500

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23 **CONCLUSION**

24 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
25 Respondents, National United Farm Workers Political Action Committee and Armando Elenes, hereby
26 agree as follows:

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

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
4 purpose of reaching a final disposition without the necessity of holding an administrative hearing
5 to determine the liability of Respondents pursuant to Section 83116.

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

13 5. Respondents agree to the issuance of the decision and orders set forth below.
14 Also, Respondents agree to the Commission imposing against them an administrative penalty in
15 the amount of \$6,500. One or more cashier’s checks or money orders totaling said amount – to
16 be paid to the General Fund of the State of California – is/are submitted with this stipulation as
17 full payment of the administrative penalty described above, and same shall be held by the State
18 of California until the Commission issues its decision and order regarding this matter.

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

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

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

Dated: _____
Armando Elenes, individually and on behalf of
National United Farm Workers Political Action Committee,
Respondents

The foregoing stipulation of the parties “In the Matter of National United Farm Workers Political Action Committee and Armando Elenes,” FPPC Case No. 18/1352, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution by the Chair.

IT IS SO ORDERED.

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