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8  
9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11 In the Matter of:

FPPC Case No. 18/124

12 **R. PACHECO FOR BALDWIN PARK**  
13 **CITY COUNCIL 2015, RICARDO**  
14 **PACHECO, and GILBERT PACHECO,**

**STIPULATION, DECISION AND ORDER**

15 Respondents.

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17 **INTRODUCTION**

18 Respondent, Ricardo Pacheco (“Pacheco”), was a successful candidate for City Council in the  
19 City of Baldwin Park in the November 3, 2015 election and left office on June 11, 2020.<sup>1</sup> Respondent,  
20 R. Pacheco for Baldwin Park City Council 2015 (ID# 1373511) (the “Committee”), was Pacheco’s  
21 controlled committee. Respondent, Gilbert Pacheco (“Gilbert”), served as the Committee’s treasurer.

22 The Political Reform Act (the “Act”)<sup>2</sup> requires candidates, committees, and treasurers to timely  
23 file certain campaign statements and reports to disclose contributions received and expenditures made.

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26 <sup>1</sup> Term for this office was extended as part of the action of the City Council in November 2016 to realign Baldwin  
Park Municipal Elections to occur in November of even numbered years moving forward.

27 <sup>2</sup> The Political Reform Act – sometimes simply referred to as the Act – is contained in Government Code sections  
28 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 Pacheco, the Committee, and Gilbert violated the Act by failing to timely file certain campaign  
2 statements and reports.

### 3 **SUMMARY OF THE LAW**

4 The Act and its regulations are amended from time to time. The violations in this case occurred  
5 in 2015, 2016, and 2017. For this reason, all legal references and discussions of law pertain to the Act’s  
6 provisions as they existed at that time.

#### 7 **Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act**

8 When enacting the Act, the people of California found and declared that previous laws regulating  
9 political practices suffered from inadequate enforcement by state and local authorities.<sup>3</sup> Thus, it was  
10 decreed the Act “should be liberally construed to accomplish its purposes.<sup>4</sup> A central purpose of the Act  
11 is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully  
12 and truthfully disclosed so that voters are fully informed and improper practices are inhibited.<sup>5</sup> Another  
13 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously  
14 enforced.”<sup>6</sup>

#### 15 **Controlled Committee**

16 A controlled committee means a committee that is controlled directly or indirectly by a  
17 candidate.<sup>7</sup> A candidate controls a committee if he has a significant influence on the actions or decisions  
18 of the committee.<sup>8</sup>

#### 19 **Semi-Annual Campaign Statements**

20 Candidates and their controlled committees shall file semi-annual campaign statements each year  
21 no later than July 31 for the period ending June 30, and no later than January 31 for the period ending  
22 December 31.<sup>9</sup>

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26 <sup>3</sup> Section 81001, subdivision (h).

27 <sup>4</sup> Section 81003.

28 <sup>5</sup> Section 81002, subdivision (a).

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

<sup>7</sup> Section 82016.

<sup>8</sup> *Id.*

<sup>9</sup> Section 84200.

1 **Pre-Election Campaign Statements**

2 All candidates for offices being voted upon on a date other than June or November of an even-  
3 numbered year and their controlled committees shall file pre-election campaign statements.<sup>10</sup> The first  
4 pre-election campaign statement, for the period ending 45 days before the election, shall be filed no later  
5 than 40 days before the election.<sup>11</sup> The second pre-election campaign statement, for the period ending 17  
6 days before the election, shall be filed no later than 12 days before the election.<sup>12</sup>

7 **24-Hour Contribution Reports**

8 A “late contribution” is a contribution that totals in the aggregate \$1,000 or more and is made to  
9 or received by a candidate, a controlled committee, or a committee formed or existing primarily to  
10 support or oppose a candidate or measure within 90 days before the date of the election at which the  
11 candidate or measure is to be voted on.<sup>13</sup> Each candidate or committee that makes or receives a late  
12 contribution shall report the late contribution within 24 hours of the time it is made or received.<sup>14</sup>

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

14 It is the duty of a committee treasurer to ensure the committee complies with the Act.<sup>15</sup> A  
15 treasurer may be held jointly and severally liable, along with the committee and candidate, for violations  
16 committed by the committee.<sup>16</sup>

17 **Liability for Violations**

18 Any person who violates any provision of the Act, who purposely or negligently causes any  
19 other person to violate any provision of the Act, or who aids and abets any other person in the violation  
20 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.<sup>17</sup>

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25 <sup>10</sup> Section 84200.5, subdivision (c).

26 <sup>11</sup> Section 84200.8, subdivision (a).

27 <sup>12</sup> Section 84200.8, subdivision (b).

28 <sup>13</sup> Section 82036, subdivision (a).

<sup>14</sup> Section 84203, subdivisions (a)-(b).

<sup>15</sup> Sections 81004, 84100, and Regulation 18427.

<sup>16</sup> Sections 83116. 5 and 91006.

<sup>17</sup> Sections 83116 and 83116. 5.

**SUMMARY OF THE FACTS**

Pacheco was successful in his bid for City Council in the City of Baldwin Park in the November 3, 2015 election and left office on June 11, 2020. On November 7, 2014, the Committee timely filed a statement of organization with the Secretary of State, reporting the Committee qualified as a committee on October 30, 2014. The Committee remained open after the election and according to campaign statements, between January 1, 2015 and December 31, 2017, the Committee reported approximately \$21,876 in contributions and \$38,406 in expenditures. On September 24, 2018, the Committee filed a statement of organization with the Secretary of State and the City of Baldwin Park reporting the Committee had terminated as of December 31, 2017.

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

Since Pacheco appeared on the November 3, 2015 election ballot, Pacheco, the Committee, and Gilbert were required to file pre-election campaign statements prior to the election. Additionally, Pacheco, the Committee, and Gilbert were required to file semi-annual campaign statements until the Committee was terminated. For the reporting periods between January 1, 2015 and December 31, 2017, Pacheco, the Committee, and Gilbert filed pre-election and semi-annual campaign statements as follows:

STATEMENT	REPORTING PERIOD	DUE DATE	DATE FILED	AMOUNT REPORTED
Semi-Annual	01/01/2015 – 06/30/2015	07/31/2015	08/26/2015 (26 days late)	CTB = \$6,200 EXP = \$7,322
First Pre-Election	07/01/2015 – 09/19/2015	09/24/2015	11/02/2015 (39 days late)	CTB = \$4,000 EXP = \$4,596
Second Pre-Election	09/20/2015 – 10/17/2015	10/22/2015	11/02/2015 (11 days late)	CTB = \$5,500 EXP = \$8,185
Semi-Annual	10/18/2015 – 12/31/2015	02/01/2016	02/10/2016 (9 days late)	CTB = \$10,000 EXP = \$13,926
Semi-Annual	01/01/2016 – 06/30/2016	08/01/2016	09/12/2016 (42 days late)	CTB = \$5,800 EXP = \$3,516
Semi-Annual	07/01/2016 – 12/31/2016	01/31/2017	02/13/2017 (13 days late)	CTB = \$376 EXP = \$431
Semi-Annual	01/01/2017 – 06/30/2017	07/31/2017	02/05/2018 (189 days late)	CTB = \$0 EXP = \$427
Semi-Annual	07/01/2017 – 12/31/2017	01/31/2018	02/05/2018 (5 days late)	CTB = \$0 EXP = \$3

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1 **Failure to Timely File 24-Hour Contribution Reports**

2 The 90-day period preceding the November 3, 2015 election began on August 5, 2015 and ended  
3 on November 2, 2015. The Committee’s filed campaign statements revealed contributions that required  
4 24-hour reports.

5 Pacheco, the Committee, and Gilbert failed to timely file three 24-hour contribution reports for  
6 six late contributions received totaling \$9,500. All of the late contributions were reported on the  
7 Committee’s pre-election campaign statements filed prior to the election. However, both pre-election  
8 campaign statements were filed on November 2, 2015, one day before the election. The late  
9 contributions are as follows:

DUE DATE	CONTRIBUTOR	AMOUNT
09/13/2015	Market Share Media	\$4,000
09/29/2015	William Chavez	\$1,000
09/29/2015	Herman Mayorga	\$1,000
10/03/2015	Market Share Media	\$1,500
10/03/2015	Advanced Applied Engineering, Inc.	\$1,000
10/03/2015	Cal 35 Partners, LLC	\$1,000
	<b>TOTAL:</b>	<b>\$9,500</b>

16 **VIOLATIONS**

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

18 Pacheco, the Committee, and Gilbert failed to timely file a pre-election campaign statement for  
19 the reporting period ending September 19, 2015 by the September 24, 2015 due date, and failed to  
20 timely file semi-annual campaign statements for the reporting periods ending June 30, 2015, December  
21 31, 2015, and June 30, 2016 by the respective due dates of July 31, 2015, February 1, 2016, August 1,  
22 2016, in violation of Government Code Sections 84200.5 and 84200.

23 **Count 2: Failure to Timely File Pre-Election and Semi-Annual Campaign Statements**

24 Pacheco, the Committee, and Gilbert failed to timely file a pre-election campaign statement for  
25 the reporting period ending October 17, 2015 by the October 22, 2015 due date, and failed to timely file  
26 semi-annual campaign statements for the reporting periods ending December 31, 2016, June 30, 2017,  
27 and December 31, 2017 by the respective due dates of January 31, 2017, July 31, 2017, and January 31,  
28 2018, in violation of Government Code Sections 84200.5 and 84200.

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

2 Prior to the November 3, 2015 election, Pacheco, the Committee, and Gilbert failed to timely file  
3 three 24-hour contribution reports for six late contributions received totaling \$9,500, in violation of  
4 Government Code Section 84203.

5 **PROPOSED PENALTY**

6 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per  
7 count. Thus, the maximum penalty that may be imposed here is \$15,000.<sup>18</sup>

8 In determining the appropriate penalty for a particular violation of the Act, the Commission  
9 considers the facts of the case, the public harm involved, and the purposes of the Act. Further, the  
10 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
11 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
12 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
13 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
14 record of violations.<sup>19</sup>

15 The public harm inherent in campaign reporting violations is that the public is deprived of  
16 important, time-sensitive information regarding campaign activity. The reporting violations committed  
17 here are mitigated because the Committee’s campaign activity was reported on campaign statements  
18 filed prior to the election. However, the Committee’s pre-election campaign statements were both filed  
19 only one day prior to the pertinent election, thereby minimizing the disclosure the voters received prior  
20 to the election.

21 In this case, there was no evidence to support an intent to conceal, deceive or mislead the public  
22 as to the Committee’s receipts and expenditures. However, the violations appear to be negligent as  
23 Pacheco is sophisticated with the Act as Pacheco has prior campaign experience. Thus, Pacheco knew,  
24 or should have known, of the required filing schedule for campaign statements and reports. Pacheco, the  
25 Committee, and Gilbert do not have a prior enforcement history.

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28 <sup>18</sup> Section 83116, subdivision (c).

<sup>19</sup> Regulation 18361. 5, subdivision (d).

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

3 *In the Matter of Dan Medina For Gardena Mayor 2017, Dan Medina, and Susana Weltz*  
4 *Medina*; FPPC No. 15/2256. Respondents, an unsuccessful candidate for Mayor of the City of Gardena,  
5 his controlled committee and its treasurer, failed to timely file certain campaign statements and reports.  
6 Specifically, Respondents failed to timely file one pre-election campaign statement and three semi-  
7 annual campaign statements (Count 1) and 24-hour contribution reports for ten late contributions  
8 received totaling \$11,973 (Count 2). During the year of this election, the committee reported raising  
9 \$21,189 in contributions and spending \$24,538 in expenditures. Medina had prior campaign experience  
10 as he was an officeholder for the Gardena City Council. In mitigation, the late contributions that  
11 required 24-hour contribution reports were reported on the pre-election campaign statements filed prior  
12 to the election. In aggravation, Respondents failed to timely report \$2,100 in contributions and \$825 in  
13 expenditures. On February 20, 2020, the Commission approved a total penalty of \$4,000; \$2,500 for  
14 Count 1 and \$1,500 for Count 2.

15 A similar penalty than that approved in *Medina* is recommended. Similar to *Medina*, the  
16 Committee, Pacheco, and Gilbert failed to timely file pre-election and semi-annual campaign statements  
17 (Counts 1-2) and 24-hour contribution reports (Count 2). Also, similar to *Medina*, the late contributions  
18 that required 24-hour contribution reports were reported on pre-election campaign statements filed prior  
19 to the election. In aggravation, Pacheco failed to timely file a Form 470 following the termination of the  
20 Committee, for calendar years 2018, 2019, and 2020. In mitigation, Pacheco cooperated with  
21 Enforcement and filed the necessary amendments and outstanding statements. Also, Pacheco and Gilbert  
22 signed a tolling agreement to toll any statute of limitations. Therefore, a total penalty of \$6,500 is  
23 recommended; \$2,500 for Count 1; \$2,500 for Count 2; and \$1,500 for Count 3.

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

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<b>Count</b>	<b>Violation</b>	<b>Penalty</b>
1	Failure to Timely File Pre-Election and Semi-Annual Campaign Statements	\$2,500
2	Failure to Timely File Pre-Election and Semi-Annual Campaign Statements	\$2,500
3	Failure to Timely File 24-Hour Contribution Reports	\$1,500
	<b>TOTAL:</b>	<b>\$6,500</b>

### CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondents, R. Pacheco for Baldwin Park City Council 2015, Ricardo Pacheco, and Gilbert Pacheco, hereby agree as follows:

1. Respondents violated the Act as described in the foregoing pages, which are a true and accurate summary of the facts in this matter.
2. This stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting – or as soon thereafter as the matter may be heard.
3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose of reaching a final disposition without the necessity of holding an administrative hearing to determine the liability of Respondents pursuant to Section 83116.
4. Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to the right to appear personally at any administrative hearing held in this matter, to be represented by an attorney at Respondents’ own expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially reviewed.
5. Respondents agree to the issuance of the decision and orders set forth below. Also, Respondents agree to the Commission imposing against them an administrative penalty in the amount of \$6,500. One or more cashier’s checks or money orders totaling said amount – to be paid to the General Fund of the State of California – is/are submitted with this stipulation as full payment of the administrative penalty described above, and same shall be held by the State of California until the Commission issues its decision and order regarding this matter.



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

8 7. The parties to this agreement may execute their respective signature pages separately. A  
9 copy of any party’s executed signature page, including a hardcopy of a signature page  
10 transmitted via fax or as a PDF email attachment, is as effective and binding as the original.  
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12 Dated: \_\_\_\_\_  
13 \_\_\_\_\_  
14 Galena West, Chief of Enforcement  
15 Fair Political Practices Commission

16 Dated: \_\_\_\_\_  
17 \_\_\_\_\_  
18 Ricardo Pacheco, individually and on behalf of  
19 R. Pacheco for Baldwin Park City Council 2015,  
20 Respondents

21 Dated: \_\_\_\_\_  
22 \_\_\_\_\_  
23 Gilbert Pacheco, Treasurer, Respondent  
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