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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

FPPC No. 10/269

STIPULATION, DECISION AND ORDER

12 MICHAEL RAMOS, COMMITTEE TO
13 RE ELECT MIKE RAMOS SAN
14 BERNARDINO COUNTY DISTRICT
ATTORNEY -2010, MARVIN REITER,

15 Respondents.

16
17 **STIPULATION**

18 Complainant Roman G. Porter, Executive Director of the Fair Political Practices Commission,
19 and the above-captioned Respondents hereby agree that this Stipulation will be submitted for
20 consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

21 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
22 matter and to reach a final disposition without the necessity of holding an additional administrative
23 hearing to determine the liability of Respondents.

24 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
25 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of
26 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to
27 appear personally at any administrative hearing held in this matter, to be represented by an attorney at
28 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to

1 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
2 the hearing as a hearing officer, and to have the matter judicially reviewed.

3 As described in Exhibit 1, it is further stipulated and agreed that Respondents Michael Ramos,
4 Committee to Re Elect Mike Ramos San Bernardino County District Attorney -2010, and Marvin Reiter
5 failed to disclose required vendor information for nine credit card expenditures of \$100 or more, totaling
6 approximately \$8,619, on a semi-annual campaign statement for the reporting period of July 1 through
7 December 31, 2009, in violation of Government Code section 84211, subdivision (k) (1 count). Exhibit
8 1, which is attached hereto and incorporated by reference as though fully set forth herein, is a true and
9 accurate summary of the facts in this matter.

10 Respondents agree to the issuance of the Decision and Order, which is attached hereto, and
11 Respondents agree to the Commission imposing upon them an administrative penalty in the amount of
12 \$2,500. A cashier's check or money order from one or more Respondents totaling said amount, made
13 payable to the "General Fund of the State of California," is/are submitted with this Stipulation as full
14 payment of the administrative penalty and shall be held by the State of California until the Commission
15 issues its Decision and Order regarding this matter. The parties agree that in the event the Commission
16 refuses to accept this Stipulation, it shall become null and void, and within fifteen (15) business days
17 after the Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents
18 in connection with this Stipulation shall be reimbursed. Respondents further stipulate and agree that in
19 the event the Commission rejects the Stipulation and a full evidentiary hearing before the Commission

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1 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
2 disqualified because of prior consideration of this Stipulation.

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4 Dated: _____

Roman G. Porter, Executive Director
Fair Political Practices Commission

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7 Dated: _____

Michael Ramos, Individually and on Behalf of
Committee to Re Elect Mike Ramos San
Bernardino County District Attorney -2010,
8 Respondents

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11 Dated: _____

Marvin Reiter, Respondent

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13 **DECISION AND ORDER**

14 The foregoing Stipulation of the parties “In the Matter of Michael Ramos, Committee to Re Elect
15 Mike Ramos San Bernardino County District Attorney -2010, and Marvin Reiter,” FPPC No. 10/269,
16 including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political
17 Practices Commission, effective upon execution below by the Chairman.

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19 **IT IS SO ORDERED.**

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21 Dated: _____

Dan Schnur
Chairman

EXHIBIT 1

INTRODUCTION

At all relevant times, Respondent Michael Ramos was the San Bernardino County District Attorney, Respondent Committee to Re Elect Mike Ramos San Bernardino County District Attorney -2010 was his controlled committee, and Respondent Marvin Reiter was the committee treasurer.

Also, at all relevant times, Respondent Michael Ramos was seeking re-election as the San Bernardino County District Attorney. He won the election on June 8, 2010.

The Political Reform Act (the "Act")¹ requires candidates, their controlled committees, and their treasurers to file campaign statements disclosing, among other things, information about expenditures made by the committee.

For purposes of this Stipulation, Respondents' violations of the Act are set forth as follows:

COUNT 1: Respondents Michael Ramos, Committee to Re Elect Mike Ramos San Bernardino County District Attorney -2010, and Marvin Reiter failed to disclose required vendor information for nine credit card expenditures of \$100 or more, totaling approximately \$8,619, on a semi-annual campaign statement for the reporting period of July 1 through December 31, 2009, in violation of Section 84211, subdivision (k).

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act's provisions as they existed at the time of the violation in question.

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

When the Political Reform Act was enacted, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities. (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

One of the purposes of the Act is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper

¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the 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.

practices are inhibited. (Section 81002, subd. (a).) Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.” (Section 81002, subd. (f).)

Definition of Controlled Committee

Section 82013, subdivision (a), defines a “committee” to include any person or combination of persons who receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient committee.” Under Section 82016, a recipient committee which is controlled directly or indirectly by a candidate, or which acts jointly with a candidate in connection with the making of expenditures, is a “controlled committee.” A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee. (Section 82016, subd. (a).)

Duty to File Semi-Annual Campaign Statements

At the core of the Act’s campaign reporting system is the requirement set forth in Section 84200, subdivision (a), that a recipient committee file semi-annual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

Joint and Several Liability of Candidate and Treasurer

Under Sections 81004, 84100, 84213, and Regulation 18427, it is the duty of a candidate and the treasurer of his or her controlled committee to ensure that the committee complies with the Act. A candidate and the treasurer of his or her controlled committee may be held jointly and severally liable, along with the committee, for violations committed by the committee. (See Sections 83116.5 and 91006.)

Duty to Itemize Expenditures of \$100 or More

Section 82025 defines “expenditure” as a payment, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. “An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.” (Section 82025.)

Section 84211, subdivisions (b) and (i), require candidates and their controlled committees to disclose on each campaign statement: (1) the total amount of expenditures made during the period covered by the campaign statement; and (2) the total amount of expenditures made during the period covered by the campaign statement to persons who have received \$100 or more.

Pursuant to Section 84211, subdivision (k), for each person to whom an expenditure of \$100 or more has been made during the period covered by the campaign statement, the following

information must be disclosed on the campaign statement: (1) the recipient's full name; (2) the recipient's street address; (3) the amount of each expenditure; and (4) the description of the consideration for which each expenditure was made.

SUMMARY OF THE FACTS

At all relevant times, Respondent Michael Ramos was the San Bernardino County District Attorney, Respondent Committee to Re Elect Mike Ramos San Bernardino County District Attorney -2010 was his controlled committee, and Respondent Marvin Reiter was the committee treasurer.

Also, at all relevant times, Respondent Michael Ramos was seeking re-election as the San Bernardino County District Attorney. He won the election on June 8, 2010.

Count 1: Failure to Itemize Credit Card Expenditures of \$100 or More

On or about January 29, 2010, Respondents filed a semi-annual campaign statement for the reporting period of July 1 through December 31, 2009. On page 18, the statement disclosed a payment in the amount of \$12,478.33 to Bankcard Center First California Bank. The description of the payment was reported as: "No Credit Card Payees Over \$100."

However, the following nine credit card payees each were paid more than \$100:

| Payee | Amount |
|--|-------------------|
| Embassy Suites Hotel | \$901.20 |
| Institute for Advancement of Criminal Justice (IACJ) | \$300.00 |
| U. S. Airways | \$795.40 |
| JW Marriott Hotel | \$1,011.76 |
| Oak Quarry Golf Club | \$135.00 |
| Hyatt Regency Hotel | \$224.49 |
| Tartan Restaurant of Redlands | \$149.08 |
| Double Tree Hotel | \$4,102.01 |
| Farm Artisan Foods | \$1,000.00 |
| Total: | \$8,618.94 |

The foregoing payments comprise approximately 7.9% of the expenditures reported for the period in question.

By failing to itemize the expenditures described above, Respondents Michael Ramos, Committee to Re Elect Mike Ramos San Bernardino County District Attorney -2010, and Marvin Reiter committed one violation of Section 84211, subdivision (k).

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of \$5,000.

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in the context of the following factors set forth in Regulation 18361.5, subdivision (d)(1)-(6):

- (1) The seriousness of the violation;
- (2) The presence or absence of any intention to conceal, deceive or mislead;
- (3) Whether the violation was deliberate, negligent or inadvertent;
- (4) Whether the violator demonstrated good faith by consulting the Commission staff or any other government agency in a manner not constituting a complete defense under Government Code section 83114(b);
- (5) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
- (6) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

The public harm inherent in campaign reporting violations is that the public is deprived of time-sensitive information regarding the sources and amounts of contributions and expenditures made in support of a candidate.

Administrative penalties for violations of the Act vary depending upon the specific facts of each case. In this case, the following aggravating and mitigating factors are present.

Factors in Aggravation

Respondents reported the unitemized expenditures in question with the following incorrect description: “No Credit Card Payees Over \$100.”

Respondents’ failure to itemize the expenditures in question deprived the public of information that it was entitled to receive prior to the election that was held on June 8, 2010. Although Respondents ultimately filed an amendment to correct the situation, this was done in response to a communication from the Enforcement Division, and the amendment was not filed until after the election.

Respondent Michael Ramos had prior experience with the requirements of the Political Reform Act. In January 2010, he was fined \$200 by the Enforcement Division of the Fair Political Practices Commission for a violation involving his 2008 annual statement of economic interests.

Factors in Mitigation

Respondents cooperated with the Enforcement Division by agreeing to an early settlement of this matter well in advance of the Probable Cause Conference that otherwise would have been held.

Respondents maintain that the violation was an unintentional mistake by the committee and there was no intention to avoid disclosure, as the small percentage of undisclosed subvendors bears to total expenditures. Also, the violation pertains solely to a failure to itemize—not any sort of misuse of funds.

Penalty

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of the agreed upon penalty of \$2,500.