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3 **FAIR POLITICAL PRACTICES COMMISSION**  
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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA  
10  
11

12 In the Matter of ) FPPC No. 11/1054  
13 )  
14 ) STIPULATION, DECISION and  
15 ) ORDER  
16 )  
17 ) Respondents.  
18 )

19 Complainant Gary S. Winuk, Enforcement Chief of the Fair Political Practices Commission, and  
20 Respondents Joe Moreno and the Committee to Re-elect Joe Moreno agree that this Stipulation will be  
21 submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled  
22 meeting.

23 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this  
24 matter and to reach a final disposition without the necessity of holding an administrative hearing to  
25 determine the liability of the Respondent, pursuant to Section 83116 of the Government Code.

26 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural  
27 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1  
28 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,  
the right to personally appear at any administrative hearing held in this matter, to be represented by an

1 attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the  
2 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge  
3 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

4 It is further stipulated and agreed that Respondents Joe Moreno and the Committee to Re-elect  
5 Joe Moreno violated the Political Reform Act by failing to timely file semi-annual campaign statements  
6 in violation of Section 84200, subdivision (b), of the Government Code. This count is described in  
7 Exhibit 1, which is attached hereto and incorporated by reference as though fully set forth herein.  
8 Exhibit 1 is a true and accurate summary of the facts in this matter.

9 Respondents agree to the issuance of the Decision and Order, which is attached hereto.  
10 Respondent also agrees to the Commission imposing upon them an administrative penalty in the amount  
11 of One Thousand Five Hundred Dollars (\$1,500). A cashier's check from Respondents in said amount,  
12 made payable to the "General Fund of the State of California," is submitted with this Stipulation as full  
13 payment of the administrative penalty, to be held by the State of California until the Commission issues  
14 its decision and order regarding this matter. The parties agree that in the event the Commission refuses  
15 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the  
16 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in  
17 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and  
18 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the  
19 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,  
20 shall be disqualified because of prior consideration of this Stipulation.

21  
22 Dated: \_\_\_\_\_

\_\_\_\_\_  
Gary S. Winuk, Chief of Enforcement  
Fair Political Practices Commission

23  
24  
25  
26 Dated: \_\_\_\_\_

\_\_\_\_\_  
Respondent Joe Moreno, Individually  
and on behalf of the Committee  
to Re-elect Joe Moreno, Respondent

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Joe Moreno and the Committee to Re-  
3 elect Joe Moreno,” FPPC No. 11/1054, including all attached exhibits, is hereby accepted as the final  
4 decision and order of the Fair Political Practices Commission, effective upon execution below by the  
5 Chair.

6  
7 IT IS SO ORDERED.

8  
9 Dated: \_\_\_\_\_

\_\_\_\_\_   
Ann Ravel, Chair  
Fair Political Practices Commission

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Committee to Re-Elect Joe Moreno (“Committee”) qualified as a candidate controlled recipient committee on or about July 29, 2003, when it first made expenditures exceeding \$1,000. The Committee is controlled by Joe Moreno, who has served on the Mountain View School District Board of Education since 1992. Respondent Moreno is also the treasurer for the Committee. Semi-annual campaign statements, covering the periods from January 1, 2011 through June 30, 2011 and July 1, 2011 through December 31 2011 were not timely filed with the County of Los Angeles. Respondents violated the Political Reform Act (the “Act”)<sup>1</sup> by failing to comply with campaign reporting requirements.

For the purposes of this Stipulation, Respondents’ violation is stated as follows:

**COUNT 1:** Respondent Joe Moreno and the Committee to Re-Elect Joe Moreno failed to file a semi-annual campaign statement by July 31, 2011 for the reporting period January 1, 2011 through June 30, 2011 and a semi-annual campaign statement by January 31, 2012 for the reporting period July 1, 2011 through December 31, 2011, in violation of section 84200, subdivision (b).

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act, therefore, establishes a campaign reporting system designed to accomplish this purpose of disclosure.

Section 82013, subdivision (b) defines a “committee” as including any person or combination of persons who makes independent expenditures totaling \$1,000 or more in a calendar year.

#### **Duty to File Semi-Annual Campaign Statements**

Candidate controlled committees must file two semi-annual campaign statements each year. Section 84200, subdivision (b) requires a committee to file a semi-annual campaign statement 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, if the committee has made independent expenditures during the six-month period before the closing date of the statement.

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<sup>1</sup>The Political Reform 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.

As stated above, these semi-annual campaign statements must be filed with the elections official of the county in which the candidate or officeholder is domiciled. (Section 84215, subd. (d).)

## **SUMMARY OF THE FACTS**

Respondent Committee to Re-Elect Joe Moreno is Respondent Moreno's candidate controlled committee. Respondent Committee qualified as a candidate controlled committee on or about July 29, 2003, when Respondent Moreno executed a Form 410 Statement of Organization. Respondent Moreno has served on the Mountain View School District Board of Education since 1992, and is currently in office; having most recently been re-elected in the November 3, 2009 election.

### COUNT 1

#### **Failure to File Post-election Semi-annual Campaign Statements**

Respondents Joe Moreno and the Committee to Re-Elect Joe Moreno had a duty to file with the County of Los Angeles Clerk/Registrar, a semi-annual campaign statement by July 31, 2011 for the reporting period January 1, 2011 through June 30, 2011 and a semi-annual campaign statement by January 31, 2012 for the reporting period July 1, 2011 through December 31, 2011. Respondents failed to file the required semi-annual campaign statements. By failing to file a semi-annual campaign statements by the July 31, 2011 and January 31, 2012 due dates, Respondents violated section 84200, subdivision (b). Respondents have now filed the delinquent semi-annual campaign statements.

### **CONCLUSION**

This matter consists of one count, which carries a maximum possible administrative penalty of five thousand dollars (\$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. The Enforcement Division also considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6), which include: the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether upon learning of the violation the Respondent voluntarily filed amendment to provide full disclosure. Additionally, liability under the Act is governed in significant part by the provisions of Section 91001, subdivision (c), which requires the Commission to consider whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith, in applying remedies and sanctions.

Other similar cases regarding a violation of Section 89001 that have been recently approved by the Commission include:

*In the Matter of Rachel Neville, Neville for Water Board, and Mark Neville, Treasurer, FPPC No. 08/120 (Default Decision), had a similar fact pattern; the failure to file semi-annual campaign statement count addressed a failure to file a statement that was due after the relevant election. The commission approved settlement of this case, with a \$1,000 penalty for this violation, on November 12, 2010.*

*In the Matter of Marco Robles, Committee to Elect Marco A. Robles, and Rosa Lira, Treasurer, FPPC No. 08/329 had a similar fact pattern; the failure to file semi-annual campaign statement count addressed a failure to file a statement that was due after the relevant election. The committee cooperated fully with filing obligations and terminated. The commission approved settlement of this case, with a \$1,000 penalty for this violation, on February 11, 2010.*

The failure to file campaign statements is a serious violation of the Act because it deprives the public of important information about a committee's contributors and financial activities. In this matter, Respondent failed to file two consecutive semi-annual campaign statements, and therefore deprived the public of information regarding Respondent Committee's contributors and financial activities for a year.

Respondents' violations of the Act were deliberate at worst and negligent at best. Due to previous enforcement actions against Respondents, Respondents should have been aware of their duties under the Act to file campaign statements.

Respondents have demonstrated a pattern of violating the Act. On August 24, 2007, Respondent Moreno received a Warning Letter from Enforcement for failure to file a semi-annual campaign statement for the period January 1, 2006 through June 30, 2006. Subsequently, on January 28, 2011, Respondents Joe Moreno and the Committee to Re-Elect Joe Moreno were fined \$400 in a two count streamlined stipulation for failure to file two semi-annual campaign statements; covering October 18, 2009 through December 31, 2009 and January 1, 2010 through June 30, 2010.

### **PROPOSED PENALTY**

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the Respondent's patter of behavior, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of One Thousand Five Hundred Dollars (\$1,500) is recommended.