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

11 In the Matter of) FPPC No. 15/153
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16)
ALICIA ROMERO and ROMERO FOR) **STIPULATION, DECISION and ORDER**
CITY COUNCIL 2013,)
Respondents.)

17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Alicia Romero and Romero for City Council 2013, hereby agree that this Stipulation will
20 be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled
21 meeting.

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

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

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

4 It is further stipulated and agreed that Respondents violated the Political Reform Act as described
5 in Exhibit 1: Romero and the Committee failed to maintain supporting records for contributions received
6 and expenditures made, violating Government Code Section 84104 (1 count).

7 Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit
8 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 Respondents also agree to the Commission imposing an administrative penalty in the total amount of One
11 Thousand Five Hundred Dollars (\$1,500). A cashier's check from Respondents in said amount, made
12 payable to the "General Fund of the State of California," is submitted with this Stipulation as full payment
13 of the administrative penalty, and shall be held by the State of California until the Commission issues its
14 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to
15 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.

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22 Dated: _____

_____ Galena West, Chief, on Behalf of the Enforcement Division
Fair Political Practices Commission

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25 Dated: _____

_____ Alicia Romero, Respondent, individually and on behalf of
Romero for City Council 2013, Respondent

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28 **DECISION AND ORDER**

1 The foregoing Stipulation of the parties “In the Matter of Alicia Romero and Romero for City
2 Council 2013,” FPPC Case No. 15/153, including all attached exhibits, is hereby accepted as the final
3 decision and order of the Fair Political Practices Commission, effective upon execution below by the
4 Chair.

5 IT IS SO ORDERED.

6 Dated: _____

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8 Joann Remke, Chair
9 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent Alicia Romero was a successful candidate for Bell City Council in the March 5, 2013 election, and is a current Bell City Councilmember. Respondent Romero for City Council 2013 (the Committee) was her candidate controlled committee. At all relevant times, Romero was the treasurer of the Committee.

As a candidate and her controlled committee under the Political Reform Act (the “Act”)¹, Romero and the Committee were required to maintain detailed campaign records. Romero and the Committee failed to do so.

SUMMARY OF THE LAW

All legal references and discussions of law pertain to the Act’s provisions as they existed in 2013.

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

When enacting the Political Reform Act, 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.² To that end, the Act must be liberally construed to achieve its purposes.³

There are many purposes of the Act. One purpose 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.⁴ Another is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁵

Definition of Controlled Committee

A “committee” includes any person or combination of persons who receives contributions totaling \$1,000 or more in a calendar year,⁶ commonly known as a “recipient committee.” 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.”⁷

¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² § 81001, subd. (h).

³ § 81003.

⁴ § 81002, subd. (a).

⁵ § 81002, subd. (f).

⁶ § 82013, subd. (a).

⁷ § 82016, subd. (a).

Duty to Maintain Campaign Records

To ensure accurate campaign reporting, the Act imposes a mandatory duty on each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to comply with the campaign provisions.⁸ This requirement includes a duty to maintain detailed information and original source documentation for all contributions and expenditures.⁹

Candidate and Treasurer Liability

Every committee must have a treasurer.¹⁰ It is the duty of a committee's candidate and treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds.¹¹ A committee's candidate and treasurer may be held jointly and severally liable with the committee for any reporting violations.¹²

SUMMARY OF THE FACTS

An initial statement of organization was filed for the Committee with the SOS on January 28, 2013. The Committee's original periodic campaign statements related to the March 5, 2013 election were timely filed, but did not include all required information. At the Enforcement Division's request, Romero and the Committee filed amended campaign statements on July 30, 2015. After reviewing the Committee's amended filing and campaign bank records, the Enforcement Division determined that the amended campaign statements substantially complied with the Act's reporting requirements. The Committee received total contributions of approximately \$16,950 and made total expenditures of approximately \$15,314.

But some contributor and payee information was not included because Romero and the Committee failed to maintain detailed campaign records. Records were missing for reported contributions received totaling approximately \$3,200, which represents approximately 19% of the total contributions received. And records were missing for reported expenditures made totaling approximately \$6,871, which represents approximately 45% of the total expenditures made. Romero stated during an interview with Enforcement Division staff that some of her paper records were lost in a fire.

VIOLATION

Count 1: Failure to Maintain Campaign Records

Romero and the Committee failed to maintain supporting records for contributions received and expenditures made, violating Government Code Section 84104.

⁸ § 84104.

⁹ Reg. 18401.

¹⁰ § 84100.

¹¹ § 84100; Reg. 18427.

¹² §§ 83116.5 and 91006; Reg. 18316.6.

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 Commission 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 Commission considers the facts and circumstances of the violation in the context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the respondents demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether respondent voluntarily amended.

The Commission also considers penalties in prior cases involving similar violations. Recent similar cases involving the failure to maintain records include:

- *In the Matter of Laurette Healey, Healey for Assembly 2012, and Marcia Davalos*; FPPC No. 14/105. Respondents, an unsuccessful candidate for State Assembly, her candidate controlled committee and the committee treasurer, failed to maintain supporting records for expenditures made and loans received for reporting periods occurring from January 1 through June 30, 2011, in violation of Government Code Section 84104 (1 count). On August 20, 2015, the Commission approved a penalty of \$1,500 for this count.

In the present case, Romero and the Committee failed to maintain all required records for a significant percentage of contributions and expenditures reported, which made it difficult to ensure compliance with the Act.

In mitigation, Romero and the Committee have no prior history of violating the Act and fully cooperated with the Enforcement Division's investigation. And the Enforcement Division confirmed that the amended campaign statements substantially complied with the Act's campaign reporting requirements. Respondent also confirmed that because of this investigation she hired a professional accountant to assist her with her obligations under the Act, and regretted not having done so at the beginning of her campaign.

PROPOSED PENALTY

The factors listed in Regulation 18361.5, prior similar cases, and other relevant facts, justify a total penalty of \$1,500 for Count 1.

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