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7

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

11 In the Matter of:

FPPC Case No. 18/104

STIPULATION, DECISION AND ORDER

12
13 JAIME HURTADO FOR SUPERVISOR
2018, JAIME HURTADO, AND
14 RICHARD TEAMAN,

15 Respondents.
16

17 INTRODUCTION

18 Jaime Hurtado for Supervisor 2018 (the “Committee”), was candidate Jaime Hurtado’s
19 (“Hurtado”) controlled committee for his unsuccessful run for Riverside County Supervisor in the June
20 5, 2018 Primary Election. The treasurer of the Committee was Richard Teaman (“Teaman”).

21 Respondents violated the Political Reform Act (the “Act”), by failing to comply with the Act’s
22 cash expenditure prohibitions.¹

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27 _____
28 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 Practice Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and 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 in
3 2017. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
4 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 For this reason,
8 the Act is to be construed liberally to accomplish its purposes.³

9 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
10 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
11 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵
12 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
13 “vigorously enforced.”⁶

14 Controlled Committee

15 A candidate includes, in relevant part, an individual who is listed on the ballot for election to any
16 elective office.⁷ A “committee” includes any person or combination of persons who receives
17 contributions totaling \$2,000 or more in a calendar year, commonly known as a “recipient committee.”⁸
18 A recipient committee which is controlled directly or indirectly by a candidate, or which acts jointly with
19 a candidate in connection with the making of expenditures, is a “controlled committee.”⁹ A candidate
20 controls a committee if he or she, his or her agent, or any other committee he or she controls has a
21 significant influence on the actions or decisions of the committee.¹⁰

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24 ² Section 81001, subd. (h).
25 ³ Section 81003.
26 ⁴ Section 81002, subd. (a).
27 ⁵ Section 84200, *et seq.*
28 ⁶ Section 81002, subd. (f).
⁷ Section 82007.
⁸ Section 82013, subd. (a).
⁹ Section 82016, subd. (a).
¹⁰ *Id.*

1 Cash Expenditures

2 The Act prohibits the use of cash to make expenditures of \$100 or more.¹¹ The Act defines
3 “expenditure” as a payment, forgiveness of a loan, payment of a loan by a third party, or an enforceable
4 promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for
5 political purposes.¹²

6 Joint and Several Liability of Committee, Candidate, and Treasurer

7 Every committee must have a treasurer.¹³ It is the duty of a committee treasurer to ensure that the
8 committee complies with the campaign reporting provisions of the Act.¹⁴ A treasurer may be held jointly
9 and severally liable, along with the committee and candidate, for violations committed by the
10 committee.¹⁵

11 **SUMMARY OF THE FACTS**

12 Hurtado ran for Riverside County Supervisor in the June 5, 2018 Primary Election. Hurtado was
13 unsuccessful and did not advance to the November 2018 General Election. Jaime Hurtado for Supervisor
14 2018 was Hurtado’s controlled committee, and Teaman was the Committee’s treasurer. The Committee
15 filed a statement of organization on April 27, 2015 listing the date qualified as April 21, 2015. In 2017,
16 when the violations occurred, the Committee raised \$212,765 and spent \$129,269.

17 On the below listed occasions Hurtado withdrew cash from the Committee bank account to pay
18 vendors, which is prohibited under the Act.¹⁶ On its semi-annual statement for the reporting period of
19 July 1, 2017 through December 31, 2017 the Committee timely reported making seven cash expenditures
20 of over \$100 each for a total of \$10,310. The *purposes* listed below are the descriptions of what the
21 expenditures were made for, as provided by the Respondents. Committee records support the assertion
22 that the cash was used for these purposes.

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25 _____
26 ¹¹ Section 84300, subd. (b).

27 ¹² Section 82025.

28 ¹³ Section 84100.

¹⁴ Sections 81004, 84100, 84104, and 84213; Regulation 18427.

¹⁵ Sections 83116.5 and 91006.

¹⁶ Section 84300, subd. (b).

	Withdrawal Date	Withdrawal Amount	Vendor	Purpose
1	7/27/2017	\$4,000.00	Derrel Thomas	Appearance at Dodgers Fundraiser
2	8/31/2017	\$2,700.00	Derrel Thomas	Appearance at Dodgers Fundraiser
3	9/20/2017	\$203.00	Berri's Pizza	Dinner with Supporters
4	10/5/2017	\$500.00	Dennis Gutierrez	9/1/17 Fundraiser
5	12/6/2017	\$2,200.00	Antonia Hurtado	Fundraiser Catering
6	10/13/2017	\$504.00	Morongo Casino	Staff payment after fundraiser.
7	11/15/2017	\$203.00	Berri's Pizza	Dinner with Supporters

Although the Committee did timely report the cash expenditures, entries 1-5 in the above table, inaccurately listed Hurtado as the payee on the semiannual statement, instead of the vendors who were actually paid.

VIOLATIONS

Count 1: Prohibited Cash Expenditures

The Committee, Hurtado, and Teaman made seven cash expenditures of \$100 or more, totaling approximately \$10,310, in violation of Government Code Section 84300, subdivision (b).

PROPOSED PENALTY

This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per count. Thus, the maximum penalty that may be imposed is \$5,000.¹⁷

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

In this case, the Enforcement Division found no evidence that Respondents intended to conceal, deceive, or mislead the public. There is no evidence that the use of cash was intentional, and it accounts

¹⁷ Section 83116, subd. (c).

¹⁸ Regulation 18361.5, subd. (d).

1 for only about 3% of the Committee’s total activity. Further, Respondents do not have a prior history of
2 violations.

3 The Commission also considers penalties in prior cases involving similar violations. Recent
4 similar cases involving a committee’s use of cash to make expenditures of \$100 or more include:

- 5 • *In the Matter of Monica Cooper and Friends to Elect Monica Cooper Treasurer of Carson 2015;*
6 *FPPC No. 15/200.* Monica Cooper, a successful candidate for City Treasurer for the City of
7 Carson, and her candidate controlled committee Friends to Elect Monica Cooper Treasurer of
8 Carson 2015, made cash expenditures of \$100 or more, totaling approximately \$4,010, in
9 violation of Government Code Section 84300, subdivision (b) (1 count). In April 2016, the
10 Commission imposed a penalty of \$1,500 for this violation.
- 11 • *In the Matter of Roger Gaylord III and Roger Gaylord for Folsom City Council 2014; FPPC No.*
12 *15/097:* In February 2017 the Commission imposed a penalty of \$1,500 on respondents Roger
13 Gaylord, his committee and treasurer because they made cash expenditures of \$100 or more
14 totaling \$2,249, in violation of Government Code Section 84300, subdivision (b).

15 Respondents are deserving of penalty higher than the comparable cases. The total amount of cash
16 expenditures of \$100 or more in this case is higher than the comparable cases. Further, in aggravation of
17 this count, Respondents committed additional violations of the Act that are not charged herein in the
18 interest of settlement. In particular, the Committee inaccurately reported candidate Hurtado as the payee
19 instead of disclosing the actual vendors for \$9,603 in cash expenditures made during the reporting period
20 of July 1, 2017-December 31, 2017. Although these amounts were timely reported, they lacked
21 descriptions that would have given the public some information as to what these cash expenditures were
22 for.

23 A central purpose of the Act is to ensure receipts and expenditures in election campaigns are fully
24 and truthfully disclosed. Cash transactions make it very difficult for the public to track and verify the
25 contributions and expenditures of a committee. Respondents’ usage of cash for expenditures over \$100
26 harms the public because when sources of expenditures can’t be verified, and aren’t disclosed in a timely
27 manner, the public’s ability to determine the full extent of the Committee’s campaign activity, and then
28 make an informed decision when voting, is hindered by a lack of transparency.

1 After considering the factors listed in Regulation 18361.5, prior similar cases, and other
2 relevant factors, a penalty amount of \$2,000 is recommended.

3 **CONCLUSION**

4 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
5 Respondents, Jaime Hurtado for Supervisor 2018, Jaime Hurtado, and Richard Teaman, hereby agree as
6 follows:

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

9 2. This stipulation will be submitted for consideration by the Fair Political Practices
10 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

11 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
12 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
13 liability of Respondents pursuant to Section 83116.

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

21 5. Respondents agree to the issuance of the decision and order set forth below. Also,
22 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
23 \$2,000. One or more payments totaling this amount, to be paid to the General Fund of the State of
24 California, is/are submitted with this stipulation as full payment of the administrative penalty described
25 above, and they will be held by the State of California until the Commission issues its decision and order
26 regarding this matter.

27 6. If the Commission declines to approve this stipulation—then this stipulation shall become
28 null and void, and within fifteen business days after the Commission meeting at which the stipulation is

1 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to
2 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing
3 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
4 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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

13 Dated: _____
14 Jaime Hurtado, individually and on behalf of
15 Jaime Hurtado for Supervisor 2018

16 Dated: _____
17 Richard Teaman, individually and on behalf of
18 Jaime Hurtado for Supervisor 2018
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1 The foregoing stipulation of the parties “In the Matter of Jaime Hurtado for Supervisor 2018, Jaime
2 Hurtado, and Richard Teaman,” FPPC Case No. 18/104 is hereby accepted as the final decision and order
3 of the Fair Political Practices Commission, effective upon execution below by the Chair.
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5 IT IS SO ORDERED.
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7 Dated: _____
8 Richard C. Miadich, Chair
9 Fair Political Practices Commission
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