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3 **FAIR POLITICAL PRACTICES COMMISSION**
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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
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12 In the Matter of) FPPC No. 13/1334
13)
14 GERALDINE "GERRI" GUZMAN, FRIENDS)
TO ELECT GERRI GUZMAN FOR SCHOOL)
15 BOARD, and CHARLOTTE TRUJILLO,)
16 Respondents.)
17)

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Geraldine "Gerri" Guzman, Friends to Elect Gerri Guzman for School Board, and
20 Charlotte Trujillo agree that this Stipulation will be submitted for consideration by the Fair Political
21 Practices Commission at its next regularly scheduled meeting.

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

25 Guzman, Friends to Elect Gerri Guzman for School Board, and Trujillo understand, and hereby
26 knowingly and voluntarily waive, any and all procedural rights set forth in Sections 83115.5, 11503 and
27 11523 of the Government Code, and in Sections 18361.1 through 18361.9 of Title 2 of the California
28 Code of Regulations. This includes, but is not limited to, the right to personally appear at any

1 administrative hearing held in this matter, to be represented by an attorney at Guzman, Friends to Elect
2 Gerri Guzman for School Board, and Trujillo’s own expense, to confront and cross-examine all
3 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
4 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
5 reviewed.

6 It is further stipulated and agreed that Guzman, Friends to Elect Gerri Guzman for School
7 Board, and Trujillo failed to include occupation and employer information for approximately 21
8 individual contributors, in violation of Section 84211, subdivision (f) of the Government Code (1
9 count), made expenditures totaling approximately \$3,000 for miscellaneous expenditures, from
10 campaign funds that had become surplus, in violation of Section 89519 of the Government Code (1
11 count), and failed to pay the 2013 and 2014 \$50 annual fees and failed to pay the \$150 penalties for
12 each unpaid annual fee, in violation of Section 84101.5, subdivisions (c) and (d) of the Government
13 Code (1 count). These counts are described in Exhibit 1, which is attached hereto and incorporated by
14 reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this
15 matter.

16 Guzman, Friends to Elect Gerri Guzman for School Board, and Trujillo agree to the issuance of
17 the Decision and Order, which is attached hereto. Guzman, Friends to Elect Gerri Guzman for School
18 Board, and Trujillo also agree to the Commission imposing upon them an administrative penalty in the
19 amount of \$5,000. Cashier’s checks from Guzman, Friends to Elect Gerri Guzman for School Board,
20 and Trujillo in said amount, made payable to the “General Fund of the State of California,” are
21 submitted with this Stipulation as full payment of the administrative penalty, to be held by the State of
22 California until the Commission issues its decision and order regarding this matter. The parties agree
23 that in the event the Commission refuses to accept this Stipulation, it shall become null and void, and
24 within fifteen (15) business days after the Commission meeting at which the Stipulation is rejected, all
25 payments tendered by Guzman, Friends to Elect Gerri Guzman for School Board, and Trujillo in
26 connection with this Stipulation shall be reimbursed to them. Guzman, Friends to Elect Gerri Guzman
27 for School Board, and Trujillo further stipulate and agree that in the event the Commission rejects the
28 Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any

1 member of the Commission, nor the Executive Director, shall be disqualified because of prior
2 consideration of this Stipulation.

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5 Dated: _____

_____ Galena West, Chief of Enforcement
Fair Political Practices Commission

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9 Dated: _____

_____ Geraldine "Gerri" Guzman, Respondent,
individually, and on behalf of, Friends to
Elect Gerri Guzman for School Board,
Respondent

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14 Dated: _____

_____ Charlotte Trujillo, Respondent, individually,
and on behalf of Friends to Elect Gerri Guzman
for School Board, Respondent

EXHIBIT 1

INTRODUCTION

Respondent Geraldine “Gerri” Guzman was an unsuccessful candidate for re-election to the Montebello Unified School District Board of Education in the 2013 General Election, Friends to Elect Gerri Guzman for School Board (“Committee”) was Guzman’s controlled recipient committee, and Charlotte Trujillo was the treasurer of the Committee. Guzman had been on the school board since 2005.

The Political Reform Act¹ (the “Act”) requires committees to disclose particular information regarding contributions received and expenditures made, places restrictions on the use of surplus funds, and requires each committee to pay an annual fee to the Secretary of State (“SOS”). However, Guzman, Friends to Elect Gerri Guzman for School Board, and Trujillo failed to disclose occupation and employer information for contributions received, made expenditures of surplus campaign funds, and failed to pay the annual fee to SOS.

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act’s provisions as they existed in 2013 and 2014.

An express purpose of the Act is to ensure that contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters will be better informed and improper practices inhibited.² To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish the purposes of disclosure.

Duty to Disclose Occupation and Employer Information

For contributions totaling \$100 or more candidates and their controlled committees are required to itemize on each semi-annual and pre-election campaign statement the following information about the contributor: his or her full name and street address; his or her occupation, and the name of his or her employer, or if self-employed, the name of his or her business; the date and amount of each contribution; and the cumulative amount of contributions received from the contributor.³

Use of Surplus Campaign Funds

The Act defines surplus funds as funds remaining in a campaign account when an elected official leaves office or at the end of the post-election reporting period following the defeat of a candidate for elective office, whichever occurs last, and governs the disposition of

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. The Regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations.

² Section 81002, subdivision (a).

³ Section 84211, subdivision (f).

surplus funds by means of a list of permissible uses for such funds.⁴ Surplus campaign funds may be used only for the following purposes: the payment of outstanding campaign debts or elected officer's expenses, the repayment of contributions, donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, contributions to a political party committee, contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure, the payment for professional services reasonably required by the committee to assist in the performance of its administrative functions.⁵

Annual Fee

Each committee that is required to file a statement of organization pursuant to Section 84101, subdivision (a), must pay the SOS a \$50 fee until the termination of the committee.⁶ Each committee was required to pay the 2013 annual fee by February 15, 2013, and then by January 15th every year thereafter.⁷ A committee that fails to timely pay the annual fee is subject to a penalty equal to three times the amount of the fee. The Commission is required to enforce this provision of the Act.⁸

Liability of Committee Treasurers

Every committee must have a treasurer.⁹ It is the duty of a committee's 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.¹⁰ A committee's treasurer may be held jointly and severally liable with the committee for any reporting violations.¹¹

SUMMARY OF THE FACTS

Guzman was an unsuccessful Montebello Unified School District Board of Education candidate in the election held on November 5, 2013.

An analysis of the Committee's records showed that the Committee raised approximately \$23,000 in contributions and made approximately \$23,000 in expenditures from January 1, 2013 through December 31, 2013. The campaign statements failed to include occupation and employer information for 21 individuals who made contributions of \$100 or more, over three successive reporting periods totaling \$4,450. The Committee filed amendments to disclose this information.

⁴ Section 89519, subdivision (a).

⁵ Section 89519 subdivision (b).

⁶ Section 84101.5, subdivision (a).

⁷ Section 84101.5, subdivision (c).

⁸ Section 84101.5, subdivision (d).

⁹ Section 84100.

¹⁰ Section 84100 and Regulation 18427, subdivision (a).

¹¹ Sections 83116.5 and 91006.

The analysis of the Committee's bank records also revealed 24 transactions, totaling approximately \$3,000 in expenditures, made after the end of the post-election reporting period following Guzman's defeat, when the funds became surplus. Surplus funds were used to make miscellaneous expenditures including payments for gas and meals.

The committee was required to pay the 2013 and 2014 annual fees to SOS, but failed to do so. SOS subsequently reported this omission to Enforcement.

VIOLATIONS

Count 1: Failure to Disclose Occupation and Employer Information for Contributions Received

Guzman, Trujillo, and the Committee failed to include occupation and employer information for approximately 21 individual contributors, in violation of Section 84211, subdivision (f) of the Government Code.

Count 2: Use of Surplus Funds

During the reporting period from January 1, 2014 through December 31, 2014, after the end of the post-election reporting period following her defeat, Guzman made expenditures totaling approximately \$3,000 for miscellaneous expenditures for gas, meals, and other non-political purposes, from campaign funds that had become surplus, in violation of Section 89519 of the Government Code.

Count 3: Failure to Pay the 2013 and 2014 Annual Fee and Penalty

Guzman, Trujillo, and the Committee were required to timely pay the 2013 and 2014 annual fee by the February 15, 2013 and January 15, 2014 due dates. The Committee failed to pay the 2013 and 2014 \$50 annual fees and failed to pay the \$150 penalties for each unpaid annual fee, in violation of Section 84101.5, subdivisions (c) and (d) of the Government Code.

CONCLUSION

This matter consists of three counts of violating the Act, which carries a maximum administrative penalty of \$15,000.

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 context of the factors set forth in Regulation 18361.5, subdivision (d): 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3) whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated good faith in consulting with Commission staff; 5) whether there was a pattern of violations; and 6) whether, upon learning of the violation, the violator voluntarily provided amendments to provide full disclosure.

The Commission also considers penalties in prior cases involving similar violations.

Recent similar cases involving the failure to disclose contributor occupation and employer information include:

- *In the Matter of Sandra A. Volta Johnson, Sandra Johnson for City Council 2012, and Kimberly Underwood*, FPPC 14/853. Respondents failed to timely disclose the occupation and employer information for 20 individual contributors for contributions received over three successive reporting periods totaling \$14,600; representing approximately 28% of the total contributions received by the committee. On August 20, 2015, the Commission approved a penalty of \$1,500 for this violation.

There has only been one case involving a penalty for improper use of surplus funds in the past 10 years:

- *In the Matter of George Runner, Friends of George Runner, and Rita Burleson*, FPPC No. 05/775. Respondents made three contributions totaling \$5,700 to candidates for elective office from campaign funds that had become surplus, \$5,000 of which went to Runner's 2004 Senate campaign committee. the Treasurer stated that the Committee misunderstood the definition of surplus funds when making the candidate contributions. On September 12, 2006, the Commission approved a penalty of \$2,500 for the violation.

Annual fee cases have previously been resolved through the streamline program. A penalty of \$1,000 would be consistent with SEI cases that do not qualify for the streamline program.

In the present case, Guzman, Trujillo, and the Committee failed to include occupation and employer information for approximately 21 individual contributors, whose contributions totaled \$4,450, or approximately 20% of the total contributions. In addition to not reporting occupation and employer information, the Committee also under reported the total amount of contributions received by \$3,063 (or approximately 13%), and over reported the total amount of expenditures made by \$2,285 (or approximately 10%).

In mitigation, the committee did not raise and spend a significant amount of money, and Guzman was not re-elected. Guzman contends that many of the expenditures of surplus funds for gas and food were made to campaign volunteers in connection with removing signs. Guzman, Friends to Elect Gerri Guzman for School Board, and Trujillo provided amendments after contact by Enforcement, and cooperated fully with the investigation.

PROPOSED PENALTY

After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant factors, a penalty of \$1,500 for Count One, \$2,500 for Count Two, and \$1,000 for Count Three, for a total penalty of \$5,000 is recommended.

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