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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

STIPULATION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondents Rudolf “Rudy” Bermudez, Bermudez for Assembly 2012, Residents for Good Government and David Gould, hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting.

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

Bermudez, the Committees and Gould understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in Government Code Sections 83115.5, 11503 and 11523, and in California Code of Regulations, title 2, Sections 18361.1 through 18361.9. This includes, but is not

1 limited to the right to personally appear at any administrative hearing held in this matter, to be represented
2 by an attorney at Bermudez's, the Committees' and Gould's own expense, to confront and cross-examine
3 all 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 Bermudez, the Committees and Gould violated the Political
7 Reform Act as described in Exhibit 1:

8 **Bermudez:** By virtue of having significant influence on the committee's actions and decisions,
9 Bermudez controlled Residents for Good Government, a general purpose committee that made
10 contributions or independent expenditures to support or oppose other candidates, at a time when he
11 controlled Bermudez for Assembly 2012, a committee for his election, violating Government Code
12 section 85201 and Regulation 18521 (1 count);

13 **Bermudez, Residents for Good Government and Gould:** Bermudez, Residents for Good
14 Government and Gould failed to identify Bermudez as the controlling candidate for Residents for Good
15 Government in Residents for Good Government's statement of organization and failed to add
16 Bermudez's name as the controlling candidate to the committee name, violating Government Code
17 sections 84102, subdivisions (e) and (g), and Regulation 18402, subdivision (c) (1 count); Bermudez,
18 Residents for Good Government and Gould, in 2012, accepted an over-the-limit contribution of \$42,000
19 from Educating Voters for the purpose of making contributions to candidates for elective state office,
20 violating Government Code section 85303 and Regulation 18545, subdivision (a)(7) (1 count);
21 Bermudez, Residents for Good Government and Gould, on or about May 24, 2012, filed a campaign
22 statement for the reporting period of March 18 through May 19, 2012, which incorrectly identified six
23 non-monetary contributions valued at \$13,646 to Bermudez for Assembly 2012 as independent
24 expenditures, violating Government Code section 84211, subdivision (f) (1 count); Bermudez, Residents
25 for Good Government and Gould, failed to timely file an electronic report disclosing the \$42,000
26 contribution Residents for Good Government received on March 8, 2012, to the Secretary of State within
27 24-hours of receiving the contribution, in violation of Government Code section 85309, subdivision (a)
28 (1 count);

1 **Bermudez, Residents for Good Government, Bermudez for Assembly 2012 and Gould:**

2 Bermudez, Residents for Good Government, Bermudez for Assembly 2012 and Gould, in 2012,
3 purposefully or negligently caused, or aided and abetted, three local candidates and their controlled
4 committees – Martinez and Re-elect Richard A. Martinez to Little Lake School Board 2011; Urquidi and
5 Urquidi for School Board 2011; and Power and Jamison Power for School Board 2012 – to act as the
6 intermediaries for Residents for Good Government and make three over-the-limit contributions of \$3,900
7 each to Bermudez for Assembly 2012 in their names when the true source was Residents for Good
8 Government, violating Government Code sections 84301, 85301 and 85704, and Regulation 18545,
9 subdivision (a)(1) (1 count);

10 **Bermudez, Bermudez for Assembly 2012 and Gould:** Bermudez, Bermudez for Assembly
11 2012 and Gould, on or about March 22, 2012, filed a campaign statement containing inaccurate
12 information for the reporting period of January 1 through March 17, 2012, which avoided disclosure of
13 the prohibited conduct stated in Count 6, by reporting that Bermudez for Assembly 2012 received three
14 maximum contributions from Re-elect Richard A. Martinez to Little Lake School Board 2011, Urquidi
15 for School Board 2011, and Jamison Power for School Board 2012, when the contributions were actually
16 made by Residents for Good Government, with Re-elect Richard A. Martinez to Little Lake School Board
17 2011, Urquidi for School Board 2011, and Jamison Power for School Board 2012 acting as the
18 intermediaries, violating Government Code section 84211, subdivision (f) (1 count).

19 Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit
20 1 is a true and accurate summary of the facts in this matter.

21 Bermudez, the Committees and Gould agree to the issuance of the Decision and Order, which is
22 attached hereto. Bermudez, the Committees and Gould also agree to the Commission imposing an
23 administrative penalty in the total amount of Thirty Thousand Dollars (\$30,000). A cashier's check from
24 Bermudez, the Committees and Gould in said amount, made payable to the "General Fund of the State
25 of California," is submitted with this Stipulation as full payment of the administrative penalty, and shall
26 be held by the State of California until the Commission issues its Decision and Order regarding this
27 matter.

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The parties agree that in the event the Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission meeting at which the Stipulation is rejected, all payments tendered by Bermudez, the Committees and Gould in connection with this Stipulation shall be reimbursed to Bermudez, the Committees and Gould. Bermudez, the Committees and Gould further stipulate and agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any member of the Commission, nor the Executive Director, shall be disqualified because of prior consideration of this Stipulation.

Dated: _____

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

Dated:

Rudolf "Rudy" Bermudez, Respondent, individually and on behalf of Bermudez for Assembly 2012, Respondent

Dated:

David Gould, Respondent, individually and on behalf of Residents for Good Government, Respondent

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Rudolf “Rudy” Bermudez, Bermudez for Assembly 2012, Residents for Good Government and David Gould,” FPPC Case No. 12/288, including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated:

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

The Parties

Rudy Bermudez

Respondent Rudolf “Rudy” Bermudez was an unsuccessful candidate for the State Assembly, 57th District in the June 5, 2012 primary election. Bermudez was a member of the Norwalk City Council from 1999 to 2002 and was a member of the State Assembly, 56th District, from 2002 to 2006. Bermudez ran unsuccessfully for State Senate in 2006. Respondent Bermudez for Assembly 2012 was Bermudez’s candidate controlled election committee.

David Gould

At all relevant times, Respondent David Gould was the treasurer of Bermudez for Assembly 2012 and of Residents for Good Government. Gould also served as an advisor to Bermudez’s campaign, arranging for Bermudez’s name to appear on various “slate mailers,” for example, and providing advice on compliance with the Political Reform Act’s requirements.

Residents for Good Government

Respondent Residents for Good Government is a state general purpose committee which was established in 2002 to provide “voter education and awareness.” At all relevant times, Bermudez had a significant influence on the actions or decisions of Residents for Good Government, and it was therefore Bermudez’s controlled committee. Steven Malkson, the principal officer of Residents for Good Government, was granted immunity pursuant to Section 83119 in exchange for his testimony and cooperation in this matter.

Tony Mendoza

Antonio “Tony” Mendoza has served in the California Legislature for eight years: as a State Senator, 32nd District, from 2014 through present, and as a State Assemblymember, 56th District, from 2006 through 2012. Mendoza was an unsuccessful candidate for the Central Basin Municipal Water District in the June 5, 2012 election. In 2011 and early 2012, Mendoza was Chair of the California Latino Legislative Caucus. Mendoza is a named Respondent in separate Stipulations related to these matters (FPPC Case Nos. 14/606 and 2016-19816).

Yes We Can

Yes We Can was a state general purpose committee established by Mendoza in his capacity as Chair of the California Latino Legislative Caucus to independently facilitate the election of Latino candidates in state elections. At all relevant times, Yes We Can was Mendoza’s controlled committee, and John Valencia was the treasurer for Yes We Can. Yes We Can and Valencia are

named Respondents in separate Stipulations related to these matters (FPPC Case Nos. 14/606 and 2016-19816).

Educating Voters

Educating Voters was a state general purpose committee Mendoza established in 2012 to “support/oppose state & local candidates, and issues.” Educating Voters was Mendoza’s controlled committee. At all relevant times, Freddie Scott was the treasurer and Alfred Mendoza was the principal officer for Educating Voters. Betty Ann Downing was Mendoza’s long-time political law attorney and was the assistant treasurer for Educating Voters. Educating Voters, Scott and Alfred Mendoza are named Respondents in a separate Stipulation related to these matters (FPPC Case No. 14/606).

The Prohibited Activities

In this case, Bermudez violated the Political Reform Act (the “Act”)¹ by improperly controlling both a committee for election or office and a general purpose committee that made contributions or independent expenditures to support or oppose state candidates. Consequently, Bermudez had significant influence over the actions and decisions of a state general purpose committee, affording him the means to keep \$42,000 away from his political rivals, the Calderon family, and to use some of the money to support his own candidacy.

The money moved through various committees before reaching Bermudez. Mendoza initially directed a \$50,000 over-the-limit contribution from Yes We Can to Educating Voters. Mendoza then directed a \$42,000 over-the-limit contribution from Educating Voters to Residents for Good Government. Next, Bermudez requested Residents for Good Government to make contributions to three local campaigns that subsequently contributed to Bermudez for Assembly 2012. Residents for Good Government also made non-monetary contributions to Bermudez for Assembly by paying for slate mailers supporting his candidacy, and made contributions to two other candidates for State Assembly, Luis Marquez and Rudy Ramirez.

Additionally, Bermudez for Assembly 2012, Residents for Good Government and Gould filed inaccurate campaign statements that did not fully disclose the true source of the contributions to those committees. Residents for Good Government also failed to identify itself as a candidate controlled committee and to disclose the name of its controlling candidate in its statement of organization.

Residents for Good Government failed to timely file an electronic 24-hour election cycle report disclosing the \$42,000 contribution from Educating Voters to Residents for Good Government. And Residents for Good Government failed to accurately disclose the payments for slate mailers as non-monetary contributions from Residents for Good Government to Bermudez for Assembly 2012 in its preelection campaign statement.

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.

SUMMARY OF THE LAW

All legal references and discussions of law pertain to the Act's provisions as they existed in 2012.

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 are fully informed and improper practices are 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 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.⁸

Statement of Organization Requirements

Every recipient committee must file a statement of organization with the Secretary of State.⁹ The statement of organization must include the committee's name, street address and telephone number, and the full name, street address and telephone number of the treasurer and other principal officers of the committee.¹⁰

The statement of organization must also include a statement of whether the committee was independent or controlled, and if controlled, the name of each candidate by which it was controlled.¹¹ And whenever identification of a committee is required by law, the committee

² § 81001, subd. (h).

³ § 81003.

⁴ § 81002, subd. (a).

⁵ § 81002, subd. (f).

⁶ § 82013, subd. (a).

⁷ § 82016.

⁸ § 82016, subd. (a).

⁹ § 84101

¹⁰ § 84102, subd. (a) and (c).

¹¹ § 84102, subd. (e).

identification must include the full name of the committee as required in the statement of organization and the last name of each candidate who controlled the committee.¹²

Whenever there is a change in any of the information contained in a statement of organization, a committee must file an amendment within 10 days to reflect the change.¹³

Prohibition Against Candidate Controlled General Purpose Committees

Under the one committee/one bank account provisions, the Act prohibits a candidate or officeholder who controls a committee for his or her election or office from controlling a general purpose committee that makes contributions or independent expenditures to support or oppose other candidates.¹⁴

Prohibition Against Making Contributions in the Name of Another

It is unlawful to make a contribution in the name of another.¹⁵ This prohibition keeps the public informed as to the sources of campaign contributions, and it ensures that contributors abide by the Act's contribution limits.

Prohibition Against Earmarking

It is unlawful to make a contribution to a committee on the condition or with the agreement that it will be contributed to any particular candidate unless the contribution is fully disclosed pursuant to Section 84302.¹⁶

Limits on Campaign Contributions to and from State Candidates

The Act imposes campaign contribution limits with respect to the making and receiving of certain contributions. These limits are adjusted periodically, and different limits apply depending upon who is contributing and who is receiving.¹⁷

In 2012, a person, other than a small contributor committee or political party committee, wishing to contribute to a candidate for California State Assembly could not contribute more than \$3,900 per election.¹⁸ And the Act prohibited a candidate for elective state office from making any contribution to any other candidate for elective state office in excess of the \$3,900 limit.¹⁹ This prohibition applied to all contributions made from, and all contributions made to, any committees

¹² Reg. 18402, subd. (c).

¹³ § 84103, subd. (a).

¹⁴ § 85201, and Reg. 18521. See also §§ 85301, 85303, 85304, 85305 and 85316, and Reg. 18521.5.

¹⁵ § 84301.

¹⁶ § 85704.

¹⁷ See § 85301, subd. (a), as well as §§ 83124, 85303 and 85305, which prohibit the making and acceptance of over-the-limit contributions.

¹⁸ § 85301, subd. (a); Reg. 18545, subd. (a)(1).

¹⁹ § 85305 and Reg. 18535.

controlled by a candidate for elective state office.²⁰ “Elective state office” includes members of the Legislature.²¹

Limits on Campaign Contribution to Committees

In 2012, a person wishing to contribute to any committee, excluding a political party committee, could not contribute, and any committee could not accept, more than \$6,500 per calendar year for the purpose of making contributions to candidates for elective state office.²²

Mandatory Filing of Election Cycle Reports

In 2012, the Act required candidates for elective state office who met the \$25,000 threshold pursuant to Section 84605 to file an election cycle report online or electronically with the Secretary of State for each contribution of \$1,000 or more received during the election cycle within 24 hours of receiving the contribution.²³ “Election cycle” means the 90 days before an election.²⁴

Duty to Disclose Accurate Contributor Information on Campaign Statements

The Act requires committees to report on campaign statements the following information about a person who has made contributions of \$100 or more: (1) full name; (2) street address; (3) occupation; (4) employer, or if self-employed, the name of the contributor’s business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor.²⁵

Duty to Disclose Accurate Expenditure Information on Campaign Statements

The Act requires committees to report in campaign statements the following information about its expenditures, including those expenditures which are contributions to candidates or committees: (1) the payee’s full name; (2) his or her street address; (3) the amount of each expenditure; (4) a brief description of the consideration for which each expenditure was made; and (5) in the case of an expenditure which is a contribution to a candidate, elected officer, or committee, the date of the contribution, the cumulative amount of contributions made to that recipient, the full name of the recipient, and the office and district/jurisdiction for which he or she seeks nomination or election.²⁶

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²⁰ Reg. 18535, subd. (d).

²¹ § 82024.

²² § 85303, subd. (a); Reg. 18545, subd. (a)(7).

²³ § 85309, subd. (a).

²⁴ § 85204.

²⁵ § 84211, subd. (f).

²⁶ § 84211, subd. (k).

Liability for Violations

Any person who violates any provision of the Act, who purposely or negligently causes any other person to violate any provision of the Act, or who aids and abets any other person in the violation of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.²⁷ This only applies to persons who have filing or reporting obligations under the Act, or who are compensated for services involving the planning, organizing or directing of any activity regulated or required by the Act.²⁸

Every committee must have a treasurer.²⁹ 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.³⁰ A committee's candidate and treasurer may be held jointly and severally liable with the committee for any reporting violations.³¹

If two or more parties are responsible for a violation of the Act, they are jointly and severally liable.³²

SUMMARY OF THE FACTS

In 2012, Mendoza moved \$50,000 through his two controlled committees to Bermudez's candidate controlled committee, without the public knowing who controlled those committees. Much of this money ended up supporting three state candidates running in the June 2012 primary election, one of them being Bermudez.

Prohibited Candidate Controlled Committee

Residents for Good Government: Formation and Control

Bermudez and Gould established Residents for Good Government in 2002. Bermudez approached Malkson, his best friend since grade school, about forming a committee to support moderate Democrats. Malkson had helped Bermudez during his campaigns with activities such as putting out yards signs, but Malkson was not otherwise involved in politics and he did not have any prior committee experience. Even so, Malkson agreed. Bermudez put him in touch with Gould, who became the committee treasurer, opening a committee bank account, cutting checks, making deposits, and completing and filing all the necessary committee paperwork. Gould had been treasurer for several of Mendoza's prior committees and was treasurer of Bermudez for Assembly 2012.

²⁷ §§ 83116, and 83116.5.

²⁸ § 83116.5.

²⁹ § 84100.

³⁰ §§ 81004, 84100, 84104 and 84213, and Reg. 18427.

³¹ §§ 83116.5 and 91006.

³² § 91006.

On December 30, 2002, Residents for Good Government filed its initial statement of organization, identifying Gould as the treasurer, Malkson as principal officer/chairman and its activity as “Voter Education and Awareness.” Residents for Good Government’s statement of organization did not identify Bermudez as the controlling candidate.

As the principal officer, Malkson approved contributions to candidates and other committee expenditures, and he sent requests to Gould to complete those transactions. But Malkson admitted that he never made a decision as principal officer of Residents for Good Government without consulting Bermudez. Bermudez gave Malkson advice regarding committee decisions, and Malkson unquestioningly followed his advice because Malkson trusted Bermudez. Malkson admitted that he did not really know what was going on with Residents for Good Government, and he described his interactions with Bermudez as “Just tell me what I need to do, let’s do it, let’s go, boom, done.” Malkson admitted that he followed Bermudez’s advice because he trusted Bermudez and did not feel confident in his own abilities to make committee decisions.

Contribution from Educating Voters to Residents for Good Government

Mendoza and Bermudez had been friends for about 10 years. Mendoza supported and endorsed Bermudez, who was running against Ian Calderon for the 57th Assembly District.

Mendoza testified that he and Bermudez had been talking frequently for “weeks on end, for months for that matter, because we’d been campaigning against the Calderons.” Mendoza told Bermudez that he had \$50,000 from Yes We Can, a committee Mendoza established when he served as chair of the Latino Caucus, that he wanted to keep away from the Calderons. Mendoza asked Bermudez if he knew of any committees who could accept the money. Bermudez suggested Residents for Good Government, and Mendoza agreed.

In February 2012, before Mendoza vacated the chairmanship of the Latino Caucus, Yes We Can made a \$50,000 contribution to Educating Voters, a general purpose state committee established and controlled by Mendoza. On March 7, 2012, Educating Voters issued a check for a \$42,000 contribution to Residents for Good Government. Residents for Good Government reported receiving the \$42,000 contribution on March 9, 2012.

Contributions Made by Residents for Good Government

After receiving the money from Educating Voters, Residents for Good Government initially made three contributions on March 8, 2012: \$30,000 to Merced County Democratic Central Committee, \$7,800 to Marquez for Assembly 2012, and \$3,900 to Ramirez for Assembly 2012. Bermudez provided the information regarding the recipients and the amounts of the contributions to Malkson, and Malkson emailed the information to Gould.

Merced County Democratic Central Committee returned the check without depositing it. Bermudez told Malkson that the check was being returned. Bermudez then gave Malkson alternative recommendations for using the Residents for Good Government funds. On March 12, 2012, at Bermudez’s direction, Malkson sent two emails to Gould indicating that the \$30,000 check was being returned and requesting Gould to make the following contributions: \$4,000 to

Re-elect Richard A. Martinez for Little Lake School Board 2011, \$4,000 to Urquidi for School Board 2011, \$4,000 to Jamison Power for School Board 2012, and \$10,000 to Coalition for a Safer California. Coalition for a Safer California subsequently returned the check without depositing it.

Contributions to Bermudez's Campaign from School Board Candidates

On March 13, 2012, Residents for Good Government made a \$4,000 contribution to each of the following: Richard A. Martinez, a member of the Little Lake City School District Board; Jesus "Jesse" Urquidi, a member of the Norwalk-La Mirada Unified School District Board; and Jamison Power, a candidate for the Westminster School District Board. Immediately following receipt of the contributions, all three candidates made \$3,900 maximum contributions to Bermudez's Assembly campaign.

Martinez was re-elected to the Little Lake City School District Board in November 2011; his committee had \$1,137 its campaign account before receiving the contribution from Residents for Good Government. Martinez had endorsed Bermudez for Assembly and Bermudez had endorsed Martinez for the school district board.

Martinez asserted that Bermudez had called him "asking for a favor." Bermudez explained that Residents for Good Government wanted to help Bermudez with his campaign for Assembly. To do this, Residents for Good Government would contribute \$4,000 to Martinez, and then Martinez would contribute the contribution limit of \$3,900 to Bermudez's campaign. Martinez had reservations about these transactions, but Bermudez told Martinez that he had been assured that "it was perfectly legal and that everyone does it." Martinez trusted and thought very highly of Bermudez, and he felt pressured by Bermudez to complete the transactions. When he received the \$4,000 contribution check from Residents for Good Government, Martinez immediately wrote a \$3,900 check to Bermudez's Assembly campaign. Bermudez picked up the check from Martinez's home that same day.

Urquidi was elected to the Norwalk-La Mirada Unified School District Board in November 2011; it was his first time holding office. His committee had a zero balance in its campaign account before receiving the contribution from Residents for Good Government. Urquidi had endorsed Bermudez for Assembly. Bermudez and Urquidi were "political" acquaintances, and Bermudez had given Urquidi some pointers prior to his running for the school board in 2011 – they had several phone conversations at that time.

Urquidi asserted that Bermudez wanted Urquidi to help raise money for Bermudez's Assembly campaign. Urquidi stated that he received a phone call from Bermudez asking Urquidi to "do him a favor." Urquidi was attending a conference on March 14, 2012, so he agreed to meet Bermudez in the lobby of the Crowne Plaza Hotel in San Pedro on that day. Bermudez handed Urquidi a \$4,000 check from Residents for Good Government and instructed him to deposit the check into his committee bank account. Bermudez further requested Urquidi to write a \$3,900 check to Bermudez's Assembly campaign. Urquidi believed he could trust Bermudez, so he wrote the check and immediately handed it to Bermudez. Urquidi later went to the bank and deposited the \$4,000 check from Residents for Good Government into his committee bank account.

Power testified that he was a first time candidate in the November 6, 2012 election for the Westminster School Board, and he won the election. Power opened his campaign committee six days before receiving the contribution from Residents for Good Government. Power had worked as a fellow for Bermudez from 2003-2004, and Bermudez then hired him as legislative aide in his Sacramento office. Bermudez had endorsed Power for the Westminster School District Board.

Power testified that he received a \$4,000 contribution from Residents for Good Government and Bermudez asked Power to make a \$3,900 contribution to his 2012 Assembly campaign. Power made the \$3,900 contribution to Bermudez at a time when his committee bank account had only \$3,500 in funds.

After news articles were published regarding these transactions, Bermudez refunded Martinez's, Urquidi's and Power's \$3,900 contributions. On May 27, 2012, Power wrote a check for \$4,000 to his attorney's trust account to be held in abeyance. And on May 29 and 30, Urquidi and Martinez refunded the \$4,000 contributions to Residents for Good Government based upon advice from their attorney.

Payments by Residents for Good Government for Bermudez Slate Mailers

Residents for Good Government made six payments totaling \$13,646 for slate mailers supporting Bermudez between March 27 and April 11, 2012:

Date	Payee	Amount
03/27/12	Coalition for Senior Citizen Security	\$2,551.00
03/27/12	Council of Concerned Women Voters Legislative Guide	\$1,357.00
03/27/12	Our Voice Latino Voter Guide	\$769.00
03/27/12	Decline to State Voter Guide	\$1,600.00
04/10/12	Election Digest P12	\$2,890.00
04/11/12	California Latino Voter Guide	\$4,479.00
TOTAL		\$13,646.00

Between March 26 and April 11, 2012, Gould arranged for and negotiated the price for the above "slate cards" and paid the amounts due for them on behalf of Residents for Good Government.

Notably, the invoices from Coalition for Senior Citizen Security, Council of Concerned Women Voters Legislative Guide, and Our Voice Latino Voter Guide were addressed to David Gould for "Rudy Bermudez Assembly District 57." And the invoice from Decline to State Voter Guide for \$1,600 was addressed to Rudy Bermudez for State Assembly. None of these invoices mentioned Residents for Good Government.

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Inaccurate Reporting

Residents for Good Government

In its campaign statement for January 1 through March 17, 2012, Residents for Good Government reported receiving the following contribution:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
03/08/2012	Educating Voters	Committee	\$42,000	\$42,000

And Residents for Good Government reported making the following relevant expenditures supporting candidates/committees:

Schedule(s)	Date	Recipient	Description	Amount
D and E	03/08/2012	Luis Marquez	Monetary Contribution – Support	\$7,800
D and E	03/08/2012	Rudy Ramirez	Monetary Contribution – Support	\$3,900
D and E	03/13/2012	Richard Martinez	Monetary Contribution – Support	\$4,000
D and E	03/13/2012	Jesse Urquidi	Monetary Contribution – Support	\$4,000
D and E	03/13/2012	Jamison Power	Monetary Contribution – Support	\$4,000

In its campaign statement for March 18 through May 19, 2012, Residents for Good Government reported receiving no contributions, and reported making the following relevant expenditures supporting candidates/committees:

Schedule(s)	Date	Recipient	Description	Amount
D and E	03/27/2012	Rudy Bermudez	Independent Expenditure – Support	\$2,551
D and E	03/27/2012	Rudy Bermudez	Independent Expenditure – Support	\$1,357

Schedule(s)	Date	Recipient	Description	Amount
D and E	03/27/2012	Rudy Bermudez	Independent Expenditure – Support	\$769
D and E	03/27/2012	Rudy Bermudez	Independent Expenditure – Support	\$1,600
D and E	04/10/2012	Rudy Bermudez	Independent Expenditure – Support	\$2,890
D and E	04/11/2012	Rudy Bermudez	Independent Expenditure – Support	\$4,479

School Board Committees

In its campaign statement for January 1 through June 30, 2012, Re-elect Richard A. Martinez for Little Lake School Board 2011 reported receiving the following contribution:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
03/13/2012	Residents for Good Government	Committee	\$4,000	\$4,000

And Re-elect Richard A. Martinez for Little Lake School Board 2011 reported making the following relevant expenditure supporting candidates/committees:

Schedule(s)	Date	Recipient	Description	Amount
D and E	03/15/2012	Bermudez for Assembly 2012	Monetary Contribution – Support	\$3,900

In its campaign statement for January 1 through June 30, 2012, Urquidi for School Board 2011 reported receiving the following contribution:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
03/13/2012	Residents for Good Government	Committee	\$4,000	\$4,000

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And Urquidi for School Board 2011 reported making the following relevant expenditure supporting candidates/committees:

Schedule(s)	Date	Recipient	Description	Amount
D and E	03/14/2012	Bermudez for Assembly 2012	Monetary Contribution – Support	\$3,900

In its campaign statement for January 1 through June 30, 2012, Jamison Power for School Board 2012 reported receiving the following contribution:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
03/14/2012	Residents for Good Government	Committee	\$4,000	\$4,000

And Jamison Power for School Board 2012 reported making the following relevant expenditure supporting candidates/committees:

Schedule(s)	Date	Recipient	Description	Amount
D and E	03/12/2012	Rudy Bermudez for Assembly	Monetary Contribution – Support	\$3,900

Bermudez, Marquez and Ramirez Election Committees

In its campaign statement for January 1 through March 17, 2012, Bermudez for Assembly 2012 reported receiving the following contributions:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
03/16/2012	Re-elect Richard A. Martinez for Little Lake School Board 2011	Committee	\$3,900	\$3,900
03/16/2012	Urquidi for School Board 2011	Committee	\$3,900	\$3,900
03/16/2012	Jamison Power for School Board 2012	Committee	\$3,900	\$3,900

This campaign statement did not accurately disclose that these contributions were made by Residents for Good Government and that the local committees were merely the intermediaries.

In its campaign statement for January 1 through March 17, 2012, Marquez for Assembly 2012 reported receiving the following contributions:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
03/12/2012	Residents for Good Government	Committee	2012P \$3,900	\$7,800
03/12/2012	Residents for Good Government	Committee	2012G \$3,900	\$7,800

In its campaign statement for January 1 through March 17, 2012, Ramirez for Assembly 2012 reported receiving the following contribution:

Date Received	Contributor	Description	Amount Received this Period	Cumulative to Date
03/14/2012	Residents for Good Government	Committee	2012P \$3,900	\$3,900

None of the campaign statements related to this matter disclosed that the true source of the contributions to Bermudez for Assembly was Residents for Good Government, and the campaign statements for Residents for Good Government failed to identify Bermudez as a controlling candidate.

Improper Reporting of Non-Monetary Contributions for Slate Mailers

Residents for Good Government was the subject of an audit by the Political Reform Audit Program of the Franchise Tax Board (FTB) for the period of January 1, 2011 through December 31, 2012. During the audit period, Residents for Good Government reported receiving contributions totaling \$42,000 and reported making expenditures totaling \$56,830. Residents for Good Government reached the threshold for electronic filing on or about March 8, 2012, when it received the \$42,000 contribution from Educating Voters.

Residents for Good Government made the following non-monetary contributions for slate mailers in support of Bermudez:

Date	Amount	Description
03/27/2012	\$2,551	Coalition for Senior Citizen Security
03/27/2012	\$1,357	Council of Concerned Women Voters Legislative Guide
03/27/2012	\$769	One Voice Latino Voter Guide
03/27/2012	\$1,600	Decline to State Voter Guide
04/10/2012	\$2,890	Election Digest P12
04/11/2012	\$4,479	California Latino Voter Guide

Residents for Good Government failed to timely disclose the above non-monetary contributions to Bermudez for Assembly 2012 in its campaign statement for the period of March 18 through May 19, 2012. Instead, Residents for Good Government incorrectly disclosed the non-monetary contributions as independent expenditures.

VIOLATIONS

Based upon the evidence obtained during the investigation of this matter, as summarized above, the parties' violations are stated as follows:

Bermudez

Count 1: Prohibited Candidate Controlled General Purpose Committee

By virtue of having significant influence on the committee's actions and decisions, Bermudez controlled Residents for Good Government, a general purpose committee that made contributions or independent expenditures to support or oppose other candidates, at a time when he controlled Bermudez for Assembly 2012, a committee for his election, violating Government Code section 85201 and Regulation 18521.

Bermudez, Residents for Good Government and Gould

Count 2: Mandatory Disclosure of Controlling Candidate

Bermudez, Residents for Good Government and Gould failed to identify Bermudez as the controlling candidate for Residents for Good Government in Residents for Good Government's statement of organization and failed to add Bermudez's name as the controlling candidate to the committee name, violating Government Code sections 84102, subdivisions (e) and (g), and Regulation 18402, subdivision (c).

Count 3: Accepting a Prohibited Over-The-Limit Contribution

Bermudez, Residents for Good Government and Gould, in 2012, accepted an over-the-limit contribution of \$42,000 from Educating Voters for the purpose of making contributions to candidates for elective state office, violating Government Code section 85303 and Regulation 18545, subdivision (a)(7).

Count 4: Disclosure of Inaccurate Information in Campaign Statements

Bermudez, Residents for Good Government and Gould, on or about May 24, 2012, filed a campaign statement for the reporting period of March 18 through May 19, 2012, which incorrectly identified six non-monetary contributions valued at \$13,646 to Bermudez for Assembly 2012 as independent expenditures, violating Government Code section 84211, subdivision (f).

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Count 5: Failure to Timely File Electronic 24-Hour Election Cycle Report

Bermudez, Residents for Good Government and Gould, failed to timely file an electronic report disclosing the \$42,000 contribution Residents for Good Government received on March 8, 2012, to the Secretary of State within 24-hours of receiving the contribution, in violation of Government Code section 85309, subdivision (a).

Bermudez, Residents for Good Government, Bermudez for Assembly 2012 and Gould

Count 6: Prohibited Over-The-Limit Contributions Made in the Name of Another

Bermudez, Residents for Good Government, Bermudez for Assembly 2012 and Gould, in 2012, purposefully or negligently caused, or aided and abetted, three local candidates and their controlled committees – Martinez and Re-elect Richard A. Martinez to Little Lake School Board 2011; Urquidi and Urquidi for School Board 2011; and Power and Jamison Power for School Board 2012 – to act as the intermediaries for Residents for Good Government and make three over-the-limit contributions of \$3,900 each to Bermudez for Assembly 2012 in their names when the true source was Residents for Good Government, violating Government Code sections 84301, 85301 and 85704, and Regulation 18545, subdivision (a)(1).

Bermudez, Bermudez for Assembly 2012 and Gould

Count 7: Disclosure of Inaccurate Information in Campaign Statement

Bermudez, Bermudez for Assembly 2012 and Gould, on or about March 22, 2012, filed a campaign statement containing inaccurate information for the reporting period of January 1 through March 17, 2012, which avoided disclosure of the prohibited conduct stated in Count 6, by reporting that Bermudez for Assembly 2012 received three maximum contributions from Re-elect Richard A. Martinez to Little Lake School Board 2011, Urquidi for School Board 2011, and Jamison Power for School Board 2012, when the contributions were actually made by Residents for Good Government, with Re-elect Richard A. Martinez to Little Lake School Board 2011, Urquidi for School Board 2011, and Jamison Power for School Board 2012 acting as the intermediaries, violating Government Code section 84211, subdivision (f).

CONCLUSION

This matter consists of 7 counts of violating the Act, which carries a maximum administrative penalty of Five Thousand Dollars (\$5,000) per count for a total of Thirty-Five Thousand Dollars (\$35,000).

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 cases for similar violations include:

Prohibited Candidate Controlled General Purpose Committee (Count 1)

There are no prior cases for violations concerning candidate controlled general purpose committees. But the Act prohibits such conduct in order to prevent candidates from making prohibited expenditures and circumventing campaign contribution limits. So violations concerning candidate controlled general purpose committees are similar to those involving over-the-limit contributions, which frequently render high penalties, as shown in comparable cases below.

Mandatory Disclosure of Controlling Candidate (Count 2)

- *In the Matter of Breans Against Measures T & U, Rehan Chaudry, and Brett Murdock*; FPPC No. 12/758. The Committee qualified as a Primarily Formed ballot measure committee on or about October 1, 2012. At all times relevant to this matter, Chaudry was the Treasurer of the Committee. At all times relevant, Murdock was a member of the Brea City Council as well as the controlling candidate. The Committee opposed Measures T and U on the ballot in the November 6, 2012 election. The respondents failed to disclose that the Committee was controlled, and failed to include the name of the controlling candidate on its statement of organization, in violation of Government Code Section 84102 subdivision (e) (1 count). In September 2013, the Commission approved a \$2,000 penalty for this count.

Accepting a Prohibited Over-the-Limit Contribution (Count 3)

- *In the Matter of the Sacramento Central Labor Council-C.O.P.E. and Bill Camp*; FPPC No. 13/934. This case resulted from an audit by the Franchise Tax Board. Respondents, a general purpose committee and its treasurer, impermissibly accepted three monetary contributions from two sources in excess of the \$6,500 contribution limit to a general purpose committee for the purpose of supporting or defeating candidates for elective state office in 2010, in violation of Government Code Section 85303 (2 counts). In November 2014, the Commission approved a \$4,000 penalty for each of these counts.

Disclosure of Inaccurate Information in Campaign Statements (Counts 4 and 7)

- *In the Matter of Sonny Dhaliwal, Sonny Dhaliwal for City Council 2010, and Sarbjit Dhaliwal*, FPPC No. 12/806. Respondent Sonny Dhaliwal and his controlled committee, Sonny Dhaliwal for City Council 2010, failed to accurately report the receipt of approximately of \$3,100 in contributions on a semi-annual report, failed to accurately report the receipt of contributions of approximately \$700 on a first pre-election campaign statement, failed to accurately report the receipt of approximately

\$300 in contributions on a second pre-election campaign statement, and failed to accurately report the receipt of approximately \$500 in contributions on a semi-annual campaign statement, in violation of Government Code section 84211(4 counts). In 2014, the Commission imposed a penalty of \$4,000 per count.

- *In the Matter of Kenneth Hughey, Hughey 4 Judge 2012, and Harbor Financial Services, Inc., FPPC Nos. 14/601 and 14/1318.* Respondents Kenneth Hughey was an unsuccessful candidate for the office of Los Angeles Superior Court Judge. Hughey 4 Judge 2012, was Hughey's controlled committee. On or about March 22, 2012, Hughey caused to be filed a pre-election campaign statement for the period ending March 17, 2012 for Hughey 4 Judge, which did not accurately disclose the source of a contribution received by the committee, in violation of Government Code section 84211(1 count). In 2016, the Commission imposed a penalty of \$4,500.

Failure to Timely File Electronic 24-Hour Election Cycle Report (Count 5)

- *In the Matter of John R. Munn, Jr., Munn for Assembly 2012, and Manual A. Carbahal; FPPC 14/109.* Respondents, an unsuccessful candidate for State Assembly, his controlled committee, and the committee treasurer, failed to timely file electronic 24-hour election cycle reports in connection with two contributions of \$1,000 or more received during the 90-day election cycle periods preceding the 2012 primary and general elections, in violation of Government Code Section 85309, subdivision (a). In March 2014, the Commission imposed a penalty of \$2,000 for this count.

Prohibited Over-The-Limit Contributions Made in the Name of Another (Count 6)

- *In the Matter of Anthony A. "Tony" Strickland, Strickland For Controller 2010, and Lysa Ray,* FPPC No. 11/073. Strickland served in the California Legislature for ten years: as a State Senator, 19th District, from 2008 through 2012, and as a State Assemblymember, 37th District, from 1998 through 2004. Strickland was an unsuccessful candidate for California State Controller in the November 2, 2010 general election, and he unsuccessfully ran for Congress in 2012 and 2014. Strickland for Controller 2010, was Strickland's candidate controlled committee. Ray was the treasurer for Strickland for Controller.

In 2010, the Ventura County Republican Party ("VCRP") and the Stanislaus Republican Central Committee (State Acct.), also known as Stanislaus County Republican Party ("SCRP") made \$65,000 in contributions to Strickland for Controller. But VCRP and SCRP were not the true sources of the contributions. Strickland, Strickland for Controller and Ray violated the Act when they purposefully or negligently caused, or aided and abetted, three persons to make four over-the-limit contributions totaling \$65,000 to Strickland for Controller in the names of VCRP and SCRP, violating Government Code sections 84301, 85301 and 85704, and Regulation 18545, subdivision (a)(1) (4 counts). In May 2016, the Commission imposed the maximum penalty of \$20,000 for these counts.

- *In the Matter of James Larry Minor, FPPC No. 11/008.* James Larry Minor made ten campaign contributions, each in the amount of \$3,900 to the Jeff Stone for State Senate Campaign 2009 committee in a name other than his own, and made one contribution in 2006, in the amount of \$3,300 to The Committee to Elect Brenda Salas campaign committee in a name other than his own, in violation of Government Code Section 84301 (11 counts) and made a contribution in excess of the campaign contribution limits, a total contribution of \$39,000, to the Jeff Stone for State Senate Campaign 2009 committee, in excess of contribution limits, in violation of Government Code Section 85301(a) (1 count). In April of 2011, the Commission imposed a penalty of \$5,000 per count, for a total of \$60,000.

Here, the evidence shows that Bermudez had significant influence and control over Residents for Good Government, a general purpose committee which was separate from his election committee, Bermudez for Assembly 2012. Bermudez, running against Ian Calderon, faced difficulty fundraising due to pressure applied by the Calderon family on would-be contributors. When Mendoza informed Bermudez that he had some campaign funds that he wanted to keep away from the Calderons, Bermudez, Gould and Residents for Good Government accepted an over-the-limit contribution of \$42,000 from Educating Voters – Mendoza’s controlled committee – and attempted to use over \$25,000 of that money to benefit Bermudez’s campaign – \$11,700 in monetary contributions through the school board committees, and over \$13,000 in non-monetary slate mailer contributions. The monetary contributions from the school board committees were returned when questions were raised about their legality in a newspaper article, and those funds therefore were never actually used by the Bermudez campaign.

The conduct in this matter resulted in several over-the-limit contributions which were not accurately disclosed in campaign statements, resulting in inaccurate disclosure to the voting public prior to the relevant primary election. The conduct in this case is more egregious than the conduct in the comparable cases because Mendoza, an experienced candidate and officeholder, moved \$50,000 through his two undisclosed controlled committees to Bermudez’s candidate controlled committee, and much of this money ended up supporting three state candidates, including Bermudez. In addition, Residents for Good Government did not disclose that it was Bermudez’s controlled committee, and Bermudez and his controlled committees filed late and inaccurate campaign statements and reports that did not fully disclose the true source and intermediaries of the transactions.

Bermudez and Gould have some prior enforcement history relating to incomplete campaign disclosure, most of which were warning letters.³³

In mitigation, Gould cooperated with the investigation and voluntarily provided records requested by the Enforcement Division. Additionally, Bermudez, on the advice of his counsel,

³³ Bermudez and Gould were jointly issued a warning letter in 2009 for alleged campaign reporting errors for Bermudez’s 2006 committee (FPPC Case Nos. 06/014, 06/015, and 06/548). And Gould, as a professional treasurer for other committees, has been previously named as a respondent in three enforcement matters since 1996 (FPPC Case Nos. 95/464, 99/632, and 14/1071). The Enforcement Division’s standard practice is to name committee treasurers in actions related to committee reporting pursuant to Commission Regulation 18316.6 (“Treasurer Liability”).

asserted his 5th Amendment privilege and declined to appear for an interview in this matter, but otherwise cooperated in the investigation, as did the other named parties.

PROPOSED PENALTY

The factors listed in Regulation 18361.5, prior similar cases, and other relevant facts, justify a total penalty of \$30,000:

Count	Description	Penalty Range per count
Bermudez		
1	Prohibited Candidate Controlled General Purpose Committee	\$5,000
	Total	\$5,000
Bermudez, Residents for Good Government and Gould		
2	Mandatory Disclosure of Controlling Candidate	\$2,500
3	Accepting a Prohibited Over-The-Limit Contribution	\$4,500
4	Disclosure of Inaccurate Information in Campaign Statements	\$5,000
5	Failure to Timely File Electronic 24-Hour Election Cycle Report	\$3,000
	Total	\$15,000
Bermudez, Residents for Good Government, Bermudez for Assembly 2012 and Gould		
6	Prohibited Over-the-Limit Contribution Made in the Name of Another	\$5,000
	Total	\$5,000
Bermudez, Bermudez for Assembly 2012 and Gould		
7	Disclosure of Inaccurate Information in Campaign Statement	\$5,000
	Total	\$5,000
Total Agreed Upon Penalty		\$30,000

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