

1 GALENA WEST
Enforcement Chief
2 AMANDA KELLY
Commission Counsel
3 Fair Political Practices Commission
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5660
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant
7

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

11 In the Matter of:

FPPC No. 16/338

12 VOTO LATINO ACTION FUND PAC
13 AND MARIA TERESA KUMAR,

STIPULATION, DECISION, AND ORDER

14 Respondents.
15

16 **STIPULATION**

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
18 respondents Voto Latino Action Fund PAC and Maria Teresa Kumar (Respondents) hereby agree that this
19 Stipulation will be submitted for consideration by the Fair Political Practices Commission (Commission)
20 at its next regularly scheduled meeting.

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

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

1 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
2 the hearing as a hearing officer, and to have the matter judicially reviewed.

3 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing to
4 timely file one semi-annual campaign statement, in violation of Government Code Section 84200, all as
5 described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by reference as though fully set forth
6 herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

7 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
8 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
9 \$2,500. Respondents submitted with this Stipulation a cashier's check in said amount, made payable to
10 the "General Fund of the State of California," as full payment of the administrative penalty that shall be
11 held by the State of California until the Commission issues its Decision and Order regarding this matter.
12 The parties agree that in the event the Commission refuses to accept this Stipulation, it shall become null
13 and void, and within fifteen (15) business days after the Commission meeting at which the Stipulation is
14 rejected, all payments tendered by Respondents in connection with this Stipulation shall be reimbursed to
15 Respondents. Respondents further stipulate and agree that in the event the Commission rejects the
16 Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any member
17 of the Commission, nor the Executive Director, shall be disqualified because of prior consideration of this
18 Stipulation.

19 Dated: _____
20 Galena West, Chief, on behalf of the Enforcement
21 Division of the Fair Political Practices Commission

22
23 Dated: _____
24 Maria Teresa Kumar, individually and on behalf of
25 Voto Latino Action Fund PAC
26
27
28

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of Voto Latino Action Fund PAC and Maria
3 Teresa Kumar,” FPPC No. 16/338, including all attached exhibits, is hereby accepted as the final decision
4 and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

5
6 IT IS SO ORDERED.

7
8 Dated: _____

_____ Joann Remke, Chair

9 Fair Political Practices Commission
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

INTRODUCTION

Respondent Voto Latino Action Fund PAC (the “Committee”) was a recipient committee that made independent expenditures and contributions to support and oppose propositions that appeared on the November 6, 2012 ballot. Maria Teresa Kumar (“Kumar”) was the Committee’s treasurer.

Under the Political Reform Act (the “Act”),¹ a committee must timely file campaign statements disclosing contributions received and expenditures made. The Committee and Kumar violated the Act by failing to timely file a semi-annual campaign statement for the period of October 21, 2012 through December 31, 2012.

SUMMARY OF THE LAW

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

An express purpose of the Act is to ensure that campaign contributions and expenditures are fully and truthfully disclosed so that voters are fully informed and improper practices are discouraged.² In furtherance of this purpose, the Act requires a committee to file a semi-annual statement each year no later than January 31 for the period ending December 31.³

As the Committee’s treasurer, Kumar is liable, along with the Committee, for the Committee’s campaign reporting violation.⁴

SUMMARY OF THE FACTS

The Committee first qualified as a committee on November 2, 2012, when it received contributions totaling more than \$1,000 and made independent expenditures totaling more than \$1,000.

Prior to the November 6, 2012 election, the Committee filed two 24-Hour Contribution Reports. On the Committee’s November 5, 2012 24-Hour Contribution Report, it disclosed receiving \$185,000 in contributions and spending \$107.07 on flyers, \$12,500.00 on mobile app ads, and \$2,500.00 on a Facebook ad. On the November 6, 2012 24-Hour Contribution Report, the Committee reported spending \$17,778.50 on robo calls. After these reports, the Committee would

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

² Section 81002, subd. (a).

³ Section 84200.

⁴ Sections 83116.5 and 91004.

have had a cash balance of \$138,733.59; however, the Committee did not file any additional statements or reports with the Secretary of State (“SOS”) for approximately four years.

SOS referred the Committee to the Enforcement Division. The Enforcement Division attempted to contact the Committee on two occasions in April and May of 2016, but was unsuccessful. On October 4, 2016, the Enforcement Division contacted Voto Latino, a national organization registered with the Federal Election Commission, to determine its connection to the Committee. Voto Latino explained that a California representative had opened the Committee and the Voto Latino had made contributions to the Committee, but Voto Latino was not aware the Committee had not complied with its filing requirements. Voto Latino cooperated with the Enforcement Division to provide information about the Committee and the activity it reported.

The Enforcement Division’s investigation showed that the contributions initially reported on the Committee’s 24-Hour Contribution Reports were contributions to Voto Latino, the national organization. The Committee itself never received \$185,000 in contributions. Instead, when the Committee received invoices for its expenditures, it requested funds from Voto Latino to pay for the expenditures. For example, Voto Latino gave the Committee \$17,778.50 when it spent \$17,778.50 on robo calls. The Committee did not receive any other contributions outside of the funds Voto Latino provided.

On December 14, 2016, the Committee filed an amended statement of organization listing Kumar as the Committee’s treasurer as of November 2, 2012. Also on December 14, 2016, the Committee and Kumar filed a semi-annual campaign statement for the period of October 21, 2012 through December 31, 2012. That statement reported contributions of \$65,771.14 and an equal amount in expenditures. The semi-annual campaign statement indicated it was a termination statement, and the Committee and Kumar filed a statement of organization terminating the Committee effective December 31, 2012.

VIOLATION

Count 1: Failure to Timely File a Semi-Annual Statement

The Committee and Kumar failed to timely file a semi-annual statement for the period of October 21, 2012 through December 31, 2012, in violation of Section 84200.

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 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 the violator, upon learning of the violations, voluntarily filed amendments.

The Commission also considers penalties in prior cases involving similar violations. A recent similar case includes the following:

- *In the Matter of Terri Valladolid and Friends of Terri Valladolid for Southwestern College School Board 2010*, FPPC No. 15/1763. (The Commission approved a stipulated decision on November 17, 2016.) The respondents failed to timely file three semi-annual campaign statements, including one that was filed almost 17 months late. The Commission imposed a penalty of \$2,500 per count for three counts, for a total penalty of \$7,500.

A central purpose of the Act is to ensure receipts and expenditures in election campaigns are fully and truthfully disclosed.⁵ The Committee and Kumar failed to timely file a semi-annual campaign statement until four years after the relevant election. However, there is no evidence that the violations were deliberate or there was intent to conceal. The Committee and Kumar fully cooperated with the Enforcement Division by providing bank records and filing the past-due statement.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5, the penalties imposed in prior cases, and other relevant information, a penalty of \$2,500 is recommended.

⁵ Section 81002, subd. (a).