

1 GALENA WEST  
Chief of Enforcement  
2 CHRISTOPHER BURTON  
Commission Counsel  
3 Fair Political Practices Commission  
1102 Q Street, Suite 3000  
4 Sacramento, CA 95811  
Telephone: (916) 322-5660

5 Attorneys for Complainant  
6 Fair Political Practices Commission, Enforcement Division

7  
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA

10  
11 In the Matter of:

12 DONNA MUNOZ FOR COUNTY  
SUPERVISOR 2016, DONNA MUNOZ,  
13 AND MAX HAZARD,

14 Respondents.

FPPC Case No. 17/140

STIPULATION, DECISION AND ORDER

15  
16 INTRODUCTION

17 In 2015, Donna Munoz (“Munoz”) created the controlled committee Donna Munoz for County  
18 Supervisor 2016 in conjunction with her bid for election to the San Bernardino County Board of  
19 Supervisors in the June 7, 2016 Primary Election. Max Hazard (“Hazard”) was the treasurer of the  
20 Committee.

21 Respondents committed numerous violations of the Political Reform Act (the “Act”),<sup>1</sup> including a  
22 failure to timely file requisite 24-hour contribution reports; violation of the one bank account rule; and  
23 personal use of campaign funds.

24 ///

25 ///

26  
27 <sup>1</sup> The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the  
28 Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in  
Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2,  
Division 6 of the California Code of Regulations, unless otherwise indicated.

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 2015 and 2016. For this reason, all legal references and discussions of law pertain to the Act’s provisions  
4 as they 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.<sup>2</sup> For this reason,  
8 the Act is to be construed liberally to accomplish its purposes.<sup>3</sup>

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.<sup>4</sup> Along these lines, the Act includes a comprehensive campaign reporting system.<sup>5</sup>  
12 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be  
13 “vigorously enforced.”<sup>6</sup>

14 Duty to File 24-Hour Contribution Reports

15 Each candidate or committee that makes or receives a late contribution must file a report within  
16 24 hours of making or receiving the contribution.<sup>7</sup> A “late contribution” includes a contribution  
17 aggregating \$1,000 or more that is made or received by a candidate or his or her controlled committee  
18 during the 90-day period preceding an election or on the date of the election.<sup>8</sup>

19 One Bank Account Rule

20 To ensure full disclosure of campaign activity and to guard against improper use of campaign  
21 funds, a candidate must establish a single, designated campaign bank account upon filing a statement of  
22 intention to be a candidate.<sup>9</sup> All campaign contributions and loans must be deposited into the campaign  
23

24 <sup>2</sup> Section 81001, subd. (h).

25 <sup>3</sup> Section 81003.

26 <sup>4</sup> Section 81002, subd. (a).

27 <sup>5</sup> Sections 84200, *et seq.*

28 <sup>6</sup> Section 81002, subd. (f).

<sup>7</sup> Section 84203.

<sup>8</sup> Section 82036.

<sup>9</sup> Section 85201, subd. (a).

1 account.<sup>10</sup> Personal funds of the candidate that will be used for the campaign must be deposited in the  
2 campaign account prior to expenditure.<sup>11</sup> All campaign expenditures must be made from the campaign  
3 account.<sup>12</sup>

4 Restrictions Against Personal Use of Campaign Funds

5 Contributions to a candidate shall be deemed to be held in trust for expenses associated with the  
6 election of the candidate or for expenses associated with holding office.<sup>13</sup> With respect to the permissible  
7 use of campaign funds, an expenditure to seek office must be reasonably related to a political purpose.  
8 An expenditure associated with holding office must be reasonably related to a legislative or  
9 governmental purpose. Expenditures which confer a substantial personal benefit (of more than \$200)  
10 must be directly related to a political, legislative, or governmental purpose.<sup>14</sup>

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

12 It is the duty of a committee treasurer to ensure that the committee complies with the Act.<sup>15</sup> A  
13 treasurer may be held jointly and severally liable, along with the candidate and the committee, for  
14 violations committed by the committee.<sup>16</sup>

15 **SUMMARY OF THE FACTS**

16 The Committee filed its initial statement of organization on July 2, 2015 and qualified on July 27,  
17 2015. Munoz was a candidate for San Bernardino County Supervisor, District 3 in the June 7, 2016  
18 Primary Election. However, she was unsuccessful in her bid for election to the Board of Supervisors,  
19 receiving 35.42 percent of the vote. From January 1, 2015 to June 30, 2016, the Committee received a  
20 total of \$30,838 in contributions and made a total of \$30,836 in expenditures.

21 ///

22 ///

23 ///

24 \_\_\_\_\_  
25 <sup>10</sup> Section 85201, subd. (c).

26 <sup>11</sup> Section 85201, subd. (d).

27 <sup>12</sup> Section 85201, subd. (e).

28 <sup>13</sup> Section 89510, subd. (b).

<sup>14</sup> Sections 89511, subdivision (b)(3); and 89512.

<sup>15</sup> Sections 81004, 84100, 84104, and 84213; Regulation 18427.

<sup>16</sup> Sections 83116.5 and 91006.

1 During the course of Munoz’s campaign, Respondents committed certain violations of the Act.  
2 First, the Committee failed to timely file the following 24-hour contribution reports:

3 <b>Statement/ Report Type</b>	<b>Date Received</b>	<b>Due Date</b>	<b>Date Filed</b>	<b>Amount of Contributions/ Expenditures</b>	<b>Contributor</b>
4 24-Hour Contribution (non-monetary)	5/3/16	5/5/16	n/a	\$1,775	Art Miller, Jr.
5 24-Hour Contribution (monetary)	5/4/16	5/5/16	n/a	\$1,500	California Real Estate Political Action Committee

6  
7  
8  
9  
10 Although Respondents failed to timely file the required 24-hour contribution reports, the subject  
11 contributions were disclosed on campaign statements timely filed prior to the election.

12 Respondents also failed to pay \$2,362.93 in expenditures from the campaign bank account.  
13 Instead, the expenses were paid using personal funds of Munoz. The expenditures included payments  
14 related to a picnic meet and greet, hotel stays, meals, and printing services. Further, of that amount, \$945  
15 was not timely disclosed as a contribution or accrued expense owed to Munoz on a campaign statement.

16 Finally, during the campaign, Respondents improperly used campaign funds for personal  
17 expenditures. On November 10, 2015, an electronic withdrawal of \$1,750 was made from the  
18 Committee’s campaign bank account to Greentree Services for a monthly mortgage payment. This  
19 transaction was not originally disclosed on the Committee’s campaign statements. On February 1, 2017,  
20 after notification by the Enforcement Division of the Fair Political Practices Commission (the  
21 “Commission”), \$1,750 was deposited back into the campaign bank account. The Committee also filed  
22 an amended campaign statement that disclosed the payment in conjunction with this settlement.

23 According to Munoz, she did not authorize the withdrawal, nor was she aware of it until  
24 contacted by the Enforcement Division. Instead, according to Munoz, her brother made the transfer in  
25 error. Purportedly, the campaign bank account and another personal account were linked under the same  
26 online ID, and her brother withdrew the mortgage payment from the campaign account in error. Munoz  
27 further provided that she had no ownership interest in the mortgaged home.

28 ///

1 **VIOLATIONS**

2 Count 1: Failure to Timely File 24-Hour Contribution Reports

3 The Committee, Munoz, and Hazard failed to timely file a 24-hour contribution report for non-  
4 monetary contributions from a single source of \$1,775 that accumulated to \$1,000 on or about May 3,  
5 2016; and a monetary contribution in the amount of \$1,500 received on May 4, 2016, in violation of  
6 Section 84203.

7 Count 2: Failure to Pay Expenses From Campaign Bank Account

8 The Committee, Munoz, and Hazard failed to pay \$2,362.93 in expenses from the designated  
9 campaign bank account, in violation of Section 85201, subdivisions (d) and (e).

10 Count 3: Personal Use of Campaign Funds

11 The Committee, Munoz, and Hazard spent \$1,750 of campaign funds on personal expenditures  
12 not related to a political, legislative, or governmental purpose, in violation of Section 89512.

13 **PROPOSED PENALTY**

14 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per  
15 count. Thus, the maximum penalty that may be imposed is \$15,000.<sup>17</sup>

16 In determining the appropriate penalty for a particular violation of the Act, the Commission  
17 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the  
18 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
19 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or  
20 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective  
21 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior  
22 record of violations.<sup>18</sup> Additionally, the Commission considers penalties in prior cases involving similar  
23 violations.

24 In this case, the Enforcement Division found no evidence that Respondents intended to conceal,  
25 deceive, or mislead. Instead, the violations contained herein appear to have been the result of negligence.

26  
27 \_\_\_\_\_  
28 <sup>17</sup> Section 83116, subd. (c).

<sup>18</sup> Regulation 18361.5, subd. (d).

1 In particular, Respondents were not sophisticated with the Act and were impacted by an extreme family  
2 emergency, which led to the violations, according to Respondents. Respondents do not have a prior  
3 history of enforcement; therefore, the subject violations do not appear to be part of a pattern of disregard  
4 for the Act.

5 The public harm inherent in campaign reporting violations is that the public is deprived of  
6 important, time-sensitive information regarding political contributions. Generally, these types of  
7 violations are considered to be more serious where the public is deprived of information that was  
8 required to be disclosed before an election because this has the potential to affect how votes are cast—so  
9 greater public harm is involved, and a higher penalty is warranted. Another factor that influences the  
10 amount of the penalty is whether the public harm was mitigated because some of the reportable activity  
11 was disclosed to the public on another campaign filing.

12 Comparable cases in which a penalty was charged for violating Section 84203 include the  
13 following:

14 • *In the Matter of Contra Costa Supervisor John Gioia 2010 Officeholder Account, Contra Costa*  
15 *Supervisor John Gioia 2014 Officeholder Account, John Gioia, and Jennifer Peck*; FPPC Nos. 17/84 and  
16 17/86. Respondents, two controlled committees and their treasurers, failed to timely file a 24-hour  
17 contribution report for two different contributions received amounting to \$2,250, and three different  
18 contributions made amounting to \$4,350, in violation of Section 84203. In August 2017, the Commission  
19 approved a fine of \$2,000 on one count.

20 As to Count 1, a penalty slightly lower than that in the comparable case is recommended. The  
21 violation here is mitigated by the fact that the entirety of the late contributions were reported prior to the  
22 election on timely-filed campaign statements; whereas, in *Gioia*, the entirety of the late contributions at  
23 issue went unreported prior to the pertinent election. Further, the total amount of contributions at issue  
24 here is lower.

25 Comparable cases involving violations of the one bank account rule include the following:

26 • *In the Matter of Patricia Lopez, Patty Lopez for Assembly 2014, and Carolina Perez*;  
27 FPPC Nos. 15/313 and 15/314. Respondents, a candidate for State Assembly, her controlled committee,  
28 and its treasurer, improperly made campaign expenditures totaling \$4,698 which were not paid from the

1 campaign bank account, but instead were paid for with the candidate's personal funds, in violation of  
2 Section 85201. Further, \$545.97 of this amount was not timely reported on a campaign statement. In  
3 March 2016, the Commission approved a penalty of \$1,500 on one count.

4 As to Count 2, a penalty similar to that approved in the comparable case is recommended given  
5 the analogous facts involved.

6 Comparable cases in which a penalty was charged for violating Section 89512 include the  
7 following:

8 • *In the Matter of Kenneth G. Mann*; FPPC No. 14/596. Respondent, a successful candidate  
9 for re-election to the Lancaster City Council, made an expenditure of \$5,000 from campaign funds for  
10 personal use unrelated to a political, legislative, or governmental purpose, in violation of Section 89512.  
11 In particular, Mann issued a \$5,000 check to himself, which he intended as a personal loan. Almost two  
12 months later, and before contact from Enforcement, Mann repaid the same amount to the campaign bank  
13 account. The transactions were not timely disclosed on a campaign statement. In March 2015, the  
14 Commission approved a penalty of \$3,500 on one count.

15 The Act requires campaign contributions to be held in trust for expenses associated with seeking  
16 or holding office. This is an important restriction, which helps to distinguish campaign contributions  
17 from gifts. When a public official makes personal use of campaign funds, it is a serious violation of the  
18 Act that erodes public confidence in the political process by creating the appearance that lawful  
19 campaign contributions are personal gifts to the public official. As to Count 3, a penalty similar to that  
20 approved in the *Mann* case is justified given the similar nature of the violations. Although the violation  
21 here is mitigated due to an apparent lack of intent, it is also aggravated by the fact that, unlike in *Mann*,  
22 the subject amount was not reimbursed until after contact from the Enforcement Division.

23 In aggravation of all counts, Respondents committed additional violations of the Act which are  
24 not being charged here for purposes of settlement. These include a failure to disclose proper contributors  
25 (on five occasions), failure to report \$732 in contributions on campaign statements, and failure to identify  
26 the U.S. Postal Service as a subvendor for a payment of \$3,157.92. Further, Respondents improperly  
27 received cash contributions of \$100 or more from three different contributors.

28 ///

1 In mitigation, Respondents do not have a prior enforcement history and cooperated with the  
2 Enforcement Division during its investigation in this case.

3 Based on the foregoing, the following penalties are recommended:

Count	Violation	Proposed Penalty
1	Failure to Timely File 24-Hour Contribution Reports	\$1,500
2	Failure to Pay Expenses From Campaign Bank Account	\$1,500
3	Personal Use of Campaign Funds	\$3,500
<b>TOTAL:</b>		\$6,500

### 10 CONCLUSION

11 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
12 Respondents, Donna Munoz for County Supervisor 2016, Donna Munoz, and Max Hazard, hereby agree  
13 as follows:

- 14 1. The Respondents violated the Act as described in the foregoing pages, which are a true  
15 and accurate summary of the facts in this matter.
- 16 2. This stipulation will be submitted for consideration by the Fair Political Practices  
17 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.
- 18 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose  
19 of reaching a final disposition without the necessity of holding an administrative hearing to determine the  
20 liability of the Respondent pursuant to Section 83116.
- 21 4. The Respondents understand, and hereby knowingly and voluntarily waive, any and all  
22 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.  
23 This includes, but is not limited to, the right to appear personally at any administrative hearing held in  
24 this matter, to be represented by an attorney at the Respondents' own expense, to confront and cross-  
25 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an  
26 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter  
27 judicially reviewed.

28 ///





1 The foregoing stipulation of the parties “In the Matter of Donna Munoz for County Supervisor 2016,  
2 Donna Munoz, and Max Hazard,” FPPC Case No. 17/140 is hereby accepted as the final decision and  
3 order of the Fair Political Practices Commission, effective upon execution below by the Chair.

4  
5 IT IS SO ORDERED.

6  
7 Dated: \_\_\_\_\_

8 \_\_\_\_\_  
9 Joann Remke, Chair  
10 Fair Political Practices Commission  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28