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8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**  
9 **STATE OF CALIFORNIA**  
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11 In the Matter of ) FPPC No. 18/632  
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14 ) **STIPULATION, DECISION, AND ORDER**  
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MADERA UNIFIED SCHOOL DISTRICT,  
Respondent.

**INTRODUCTION**

Respondent Madera Unified School District (the "MUSD") operates public schools in Madera, California. The Political Reform Act (the "Act")<sup>1</sup> prohibits the sending of a mass mailing featuring an elected official at public expense. The MUSD violated the Act by producing and distributing over 200 copies of an issue of its official newspaper, which featured several elected officers, at public expense.

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<sup>1</sup> The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the 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 violation in this case occurred in 2018, so all legal references and discussions of the law  
3 pertain to the Act’s provisions as they existed at that time.

4 Need for Liberal Construction and Vigorous Enforcement of the Act

5 When enacting the Political Reform Act, the people of California found and declared that previous  
6 laws regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup>  
7 For this reason, the Act must be construed liberally to accomplish its purposes.<sup>3</sup>

8 There are many purposes of the Act. One stated purpose of the Act is to ensure that receipts and  
9 expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and  
10 improper practices are inhibited.<sup>4</sup> Another is to provide adequate enforcement mechanisms so the Act  
11 will be “vigorously enforced.”<sup>5</sup>

12 Mass Mailing Sent at Public Expense

13 No mass mailing may be sent at public expense.<sup>6</sup> Specifically, a mailing is prohibited if all of the  
14 following criteria are met:<sup>7</sup>

- 15 (1) Any item sent is delivered, by any means, to the recipient at his or her residence, place of  
16 business, or post office box. The item delivered to the recipient must be a tangible item, such  
17 as a written document.  
18 (2) The item sent features an elected officer affiliated with the agency which produces or sends  
19 the mailing. An item features an elected officer when it includes, among other things, the  
20 elected officer’s photograph or singles out the elected officer by the manner of display of her  
21 name or office in the layout of the document, such as by captions.<sup>8</sup> A mailing containing the  
22 name, office, photograph, or any other reference to an elected officer who consults or acts in  
23 concert with the agency to prepare or send the mailing also fulfills the second criteria.

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

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

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

26 <sup>5</sup> Section 81002, subd. (f).

27 <sup>6</sup> Section 89001.

28 <sup>7</sup> Section 89002, subd. (a).

<sup>8</sup> Section 89002, subd. (c)(2).

1 (3) Any of the costs of distribution is paid for with public moneys or costs of design, production,  
2 and printing exceeding \$50 are paid with public moneys and is done with the intent of sending  
3 the item other than as permitted by Regulation 18901.

4 (4) More than 200 substantially similar items are sent in a calendar month.

5 The Act provides an exception when the elected officer's name appears only in a roster listing  
6 containing the names of all elected officers of the agency as long as it does not include the elected  
7 officer's photograph, signature, or any other reference to the elected officer.<sup>9</sup>

### 8 SUMMARY OF THE EVIDENCE

9 On or around May 18, 2018, the MUSD prepared and distributed the inaugural issue of *We*  
10 *Believe*, the official newspaper of the MUSD. The issue reported on the accomplishments of the MUSD's  
11 schools and their academic programs.

12 In addition, the issue featured members of the Madera Unified Board of Education (the "Board"),  
13 all elected officers. The issue included a picture of some Board members standing in front of a student  
14 health center. Another picture showed two Board members at a school stadium, and the caption for that  
15 picture identified them by name and title. A page contained a roster of the Board, identifying each Board  
16 member by their name, picture, representative district, and email address. On the same page as the roster,  
17 the issue printed a message from the president of the Board, who was identified by name and title.

18 In total, the MUSD produced 30,355 copies of the Report, and they were mailed to local  
19 residences and businesses. It cost the MUSD \$3,670 to print and \$2,428 to mail the issue, totaling \$6,098.  
20 The MUSD staff prepared and distributed the issue of *We Believe*, unaware of the prohibition against  
21 sending mass mailing at public expense.

### 22 VIOLATION

#### 23 Count 1: Mass Mailing Sent at Public Expense

24 The Madera Unified School District designed, printed, and distributed over 200 copies of a  
25 newspaper at public expense, featuring photographs, names, and titles of several elected officials, in  
26 violation of Government Code sections 89001 and 89002, subdivision (a).

27 <sup>9</sup> Section 89002, subd. (b)(1).

1 **PROPOSED PENALTY**

2 This matter consists of one count. The maximum penalty that may be imposed is \$5,000.<sup>10</sup>

3 In determining the appropriate penalty for a particular violation of the Act, the Commission  
4 considers the facts of the case, the public harm involved, and the purpose of the Act. Also, the  
5 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
6 any intention to conceal, deceive, or mislead; (c) whether the violation was deliberate, negligent, or  
7 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments  
8 voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of  
9 violations.<sup>11</sup>

10 The MUSD used public funds to pay for the design, production, and distribution of a mass mailing  
11 that featured elected officers. No evidence indicated an intent to deceive the public, and instead showed  
12 that the MUSD staff were unaware of the prohibition against sending mass mailing at public expense.  
13 The evidence also does not show a pattern of violations, and the MUSD does not have prior record of  
14 violating the Act.

15 The Commission also considers penalties in prior cases with comparable violations. Recent cases  
16 with a similar violation include the following:

17 *In the Matter of West Valley Water District*; FPPC No. 17/549. (The Commission approved a  
18 stipulated decision on June 21, 2018.) The District prepared and sent over 200 copies of a newsletter at  
19 public expense, featuring a photograph and a caption of a member of the District’s Board of Directors.  
20 The Commission approved a penalty of \$2,000 for this violation.

21 As in the aforementioned cases, the MUSD sent over 200 copies of the newspaper at public  
22 expense and featured Board members in pictures, captions, and a headline. For the foregoing reasons, a  
23 penalty of \$2,000 for the violation is recommended.

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26 <sup>10</sup> Section 83116, subd. (c).

27 <sup>11</sup> Regulation 18361.5, subd. (d).

1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
3 Respondent Madera Unified School District hereby agree as follows:

4 1. Respondent violated the Act as described in the foregoing pages, which are a true and  
5 accurate summary of the facts in this matter.

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

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

11 4. Respondent has consulted with its attorney Peter E. Denno of Atkinson, Andelson, Loya,  
12 Ruud & Romo and understands, and hereby knowingly and voluntarily waives, any and all procedural  
13 rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This  
14 includes, but is not limited to the right to appear personally at any administrative hearing held in this  
15 matter, to be represented by an attorney at the Respondent’s own expense, to confront and cross-examine  
16 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial  
17 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially  
18 reviewed.

19 5. Respondent agrees to the issuance of the decision and order set forth below. Also, the  
20 Respondent agrees to the Commission imposing against it an administrative penalty in the amount of  
21 \$2,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General  
22 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
23 administrative penalty described above, and same shall be held by the State of California until the  
24 Commission issues its decision and order regarding the matter.

25 6. If the Commission declines to approve this stipulation—then this stipulation shall become  
26 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
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1 rejected, all payments tendered by the Respondent in connection with this stipulation shall be reimbursed  
2 to the Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing  
3 before the Commission becomes necessary, neither any member of the Commission, nor the Executive  
4 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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

13 Dated: \_\_\_\_\_  
14 \_\_\_\_\_, on behalf of the Madera Unified  
15 School District

1 The foregoing stipulation of the parties “In the Matter of Madera Unified School District,” FPPC No.  
2 18/632, is hereby accepted as the final decision and order of the Fair Political Practices Commission,  
3 effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: \_\_\_\_\_  
8 Alice T. Germond, Chair  
9 Fair Political Practices Commission  
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