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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
10 STATE OF CALIFORNIA

11  
12 In the Matter of:

FPPC No. 18/399

13 CYNTHIA AGUIRRE FOR ORANGE  
COUNTY BOARD OF SUPERVISORS  
14 2018 and CYNTHIA AGUIRRE,

STIPULATION, DECISION, AND ORDER

15 Respondents.  
16

17 **INTRODUCTION**

18 Respondent Cynthia Aguirre (“Aguirre”) was an unsuccessful candidate for the Orange County  
19 Board of Supervisors in the June 5, 2018 Primary Election. Respondent Cynthia Aguirre for Orange  
20 County Board of Supervisors 2018 (the “Committee”) was her candidate-controlled committee.  
21 Respondents violated the Political Reform Act (the “Act”),<sup>1</sup> by failing to timely file four semi-annual  
22 campaign statements and failing to timely file two pre-election campaign statements.

23 **SUMMARY OF THE LAW**

24 The violations in this case occurred in 2018 and 2019, and all legal references and discussions of  
25 law pertain to the Act’s provisions as they existed at that time.

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28 <sup>1</sup> 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.

1 Need for Liberal Construction and Vigorous Enforcement of the Act

2           When enacting the Act, the people of California found and declared that previous laws regulating  
3 political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup> Thus, it was  
4 decreed that the Act “should be liberally construed to accomplish its purposes.”<sup>3</sup> One purpose of the Act  
5 is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and  
6 truthfully disclosed so that voters are fully informed and improper practices are inhibited.<sup>4</sup> Another  
7 purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously  
8 enforced.”<sup>5</sup>

9 Committees

10           A committee will qualify as a “recipient committee” when it receives \$2,000 or more in  
11 contributions during a single calendar year.<sup>6</sup> A committee is a “controlled committee” when it is  
12 controlled directly or indirectly by a candidate.<sup>7</sup>

13 Semi-Annual Campaign Statements

14           A controlled committee must file two semi-annual campaign statements each year no later than  
15 July 31 for the period ending June 30 and no later than January 31 for the period ending December 31.<sup>8</sup>  
16 If a committee has not previously filed a campaign statement, the period covered by the first campaign  
17 statement begins on January 1.<sup>9</sup>

18 Pre-Election Campaign Statements

19           A controlled committee must file two pre-election campaign statements before the election in  
20 which the candidate is listed on the ballot.<sup>10</sup> A committee must file a first pre-election campaign statement  
21 for the period ending 45 days before the election no later than 40 days before the election.<sup>11</sup> A committee

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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> Section 81002, subd. (f).

28 <sup>6</sup> Section 82013, subd. (a).

<sup>7</sup> Section 82016, subd. (a).

<sup>8</sup> Section 84200, subd. (a).

<sup>9</sup> Section 82046, subd. (b).

<sup>10</sup> Section 84200.5, subd. (a).

<sup>11</sup> Section 84200.8, subd. (a).

1 must also file a second pre-election campaign statement for the period ending 17 days before the election  
2 no later than 12 days before the election.<sup>12</sup>

3 Joint and Several Liability

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

7 **SUMMARY OF THE FACTS**

8 Aguirre was an unsuccessful candidate for the Orange County Board of Supervisors in the  
9 June 5, 2018 Primary Election, receiving 9.55 percent of the vote. Aguirre was previously elected on  
10 November 4, 2014 to serve on the La Habra City School District Board of Education, and her term expired  
11 in 2018.

12 The Committee filed an amended statement of organization with the Secretary of State's Office  
13 and reported that it qualified as a recipient committee on July 6, 2017. However, the public did not receive  
14 any disclosure regarding the Committee and Aguirre's campaign activities prior to the June 5, 2018  
15 Primary Election. The Committee filed a termination statement of organization and has been terminated  
16 as of April 25, 2019. The Committee and Aguirre did not file any campaign statements until  
17 February 4, 2020:

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Type	Reporting Period	Due Date	Date Filed	Activities Reported
Semi-annual	1/1/2017 – 12/31/2017	1/31/2018	2/4/2020 (734 days late)	\$4,905.00 in contributions \$546.31 in expenditures
Pre-election	1/1/2018 – 4/21/2018	4/26/2018	2/4/2020 (649 days late)	\$2,245.00 in contributions \$6,270.40 in expenditures
Pre-election	4/22/2018 – 5/19/2018	5/24/2018	2/4/2020 (621 days late)	\$0.00 in contributions \$16.00 in expenditures
Semi-annual	5/20/2018 – 6/30/2018	7/31/2018	2/4/2020 (553 days late)	\$0.00 in contributions \$16.00 in expenditures
Semi-annual	7/1/2018 – 12/31/2018	1/31/2019	2/4/2020 (369 days late)	\$0.00 in contributions \$0.00 in expenditures
Semi-annual	1/1/2019 – 4/22/2019	7/31/2019	2/4/2020 (188 days late)	-\$301.29 in contributions \$0.00 in expenditures

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28 <sup>12</sup> Section 84200.8, subd. (b).

<sup>13</sup> Sections 81004 and 84104; Regulation 18427.

<sup>14</sup> Sections 83116.5 and 91006.

1 **VIOLATIONS**

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

3 The Committee and Aguirre failed to timely file one semi-annual campaign statement for the  
4 reporting period covering January 1, 2017 through December 31, 2017 by January 31, 2018, in violation  
5 of Government Code section 84200.

6 Count 2: Failure to Timely File Pre-Election Campaign Statements

7 The Committee and Aguirre failed to timely file two pre-election campaign statements for the  
8 reporting periods covering January 1, 2018 through April 21, 2018 by April 26, 2018 and from  
9 April 22, 2018 through May 19, 2018 by April 24, 2018, in violation of Government Code sections  
10 84200.5, subdivision (a), and 84200.8.

11 Count 3: Failure to Timely File Semi-Annual Campaign Statements

12 The Committee and Aguirre failed to timely file three semi-annual campaign statements for the  
13 reporting periods covering May 20, 2018 through June 20, 2018 by July 31, 2018; July 1, 2018 through  
14 December 31, 2018 by January 31, 2019; and January 1, 2019 through April 22, 2019 by July 31, 2019,  
15 in violation of Government Code section 84200.

16 **PROPOSED PENALTY**

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

19 In determining the appropriate penalty for a particular violation of the Act, the Commission  
20 considers the facts of the case, the public harm involved, and the purpose of the Act. Also, the  
21 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of  
22 any intention to conceal, deceive, or mislead; (c) whether the violation was deliberate, negligent, or  
23 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments  
24 voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of  
25 violations.<sup>15</sup>

26 These violations resulted in a lack of transparency for the public into Aguirre’s campaign from  
27 the moment the Committee qualified. When approached by the Enforcement Division to file the  
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<sup>15</sup> Regulation 18361.5, subd. (d).

1 delinquent campaign statements, Aguirre insisted that the Committee never qualified and late-filed a  
2 short form campaign statement for 2018 on April 22, 2019, indicating that she and the Committee  
3 received less than \$2,000 in 2018. The semi-annual campaign statement for the period ending on  
4 December 31, 2017, filed on February 4, 2020, establish that Aguirre’s statement was misleading. The  
5 Committee and Aguirre disclosed that they received \$4,905.00 in contributions by December 31, 2017,  
6 clearly surpassing the threshold to qualify as a committee under the Act. Therefore, the violations were  
7 negligent at best, particularly since Aguirre was an experienced candidate who should have known about  
8 the filing obligations. As the Committee and Aguirre never timely filed a campaign statement while the  
9 Committee remained open, the violations indicate a pattern of non-filing. In mitigation, the Committee  
10 and Aguirre voluntarily filed the delinquent campaign statements to bring the Committee in compliance  
11 with the Act. The Committee and Aguirre also do not have a prior enforcement history.

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

14 Count 1

15 *In the Matter of Janet McClean for SMUSD School Board 2012 and Janet McClean*; FPPC No.  
16 17/274. (The Commission approved a stipulated agreement on September 19, 2019.) Respondents failed  
17 to timely file a semi-annual campaign statement. Respondents filed that delinquent campaign statement  
18 912 days past due. The Commission approved a penalty of \$1,000 for this violation.

19 In *McClean*, the respondents filed other campaign statements prior to the delinquent semi-annual  
20 campaign statement. In this case, the public had received no prior disclosure, but it was because this  
21 semi-annual campaign statement was the first campaign statement due by the Committee. Furthermore,  
22 respondents disclosed minimal campaign activity in *McClean*, while the Committee and Aguirre in this  
23 case failed to disclose almost \$5,000 in campaign activity. Similar to *McClean*, the Committee and  
24 Aguirre also failed to file a semi-annual campaign statement for 734 days. For these reasons, a penalty  
25 of \$1,500 is recommended.

26 Count 2

27 *In the Matter of Robert G. Jones, Robert G. Jones for Los Rios Trustee 2010, and Julianne C.*  
28 *Jones*; FPPC No. 16/339. (The Commission approved a stipulated agreement on March 22, 2018.)

1 Respondents failed to timely file two pre-election and one semi-annual campaign statements to disclose  
2 activities that took place during the November 4, 2014 election cycle. The campaign statements were  
3 filed 448 to 822 days past due. The Commission approved a penalty of \$2,000 for this violation.

4 The Committee and Aguirre also failed to timely file two pre-election campaign statements. In  
5 *Jones*, the respondents failed to timely file campaign statements to report \$23,000.00 of activity. In this  
6 case, the Committee and Aguirre failed to timely disclose approximately \$6,302.40 of activity due to the  
7 late filings. Similar to *Jones*, those campaign statements were filed 553 to 649 days past due. A penalty  
8 of \$2,000 is recommended.

9 Count 3

10 *In the Matter of Mister Phillips for School Board 2016 and Mister Phillips*; FPPC No. 17/944.  
11 (The Commission approved a stipulated agreement on November 15, 2018.) Respondents failed to timely  
12 file two semi-annual campaign statements. The two semi-annual campaign statements disclosed over  
13 \$30,000 in activities when the respondents eventually filed them. Those campaign statements were filed  
14 71 to 252 days past due. The Commission approved a penalty of \$2,000 for this violation.

15 The Committee and Aguirre also failed to timely file three semi-annual campaign statements but  
16 disclosed a little over \$300 in activities when the campaign statements were eventually filed. However,  
17 those campaign statements were filed 188 to 369 days past due, for a much longer amount of time than  
18 in *Phillips*. Considering the circumstances, a penalty of \$1,500 is recommended.

19 In summary, the following penalties are recommended:

Count #	Violation	Penalty Amount
1	Failure to Timely File a Semi-annual Campaign Statement	\$1,500
2	Failure to Timely File Pre-Election and Semi-Annual Campaign Statements	\$2,000
3	Failure to Timely File Semi-Annual Campaign Statements	\$1,500
	<b>Total:</b>	<b>\$5,000</b>

25 **CONCLUSION**

26 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
27 Respondents Cynthia Aguirre for Orange County Board of Supervisors 2018 and Cynthia Aguirre hereby  
28 agree as follows:

1           1.       The Respondents violated the Act as described in the foregoing pages, which are a true  
2 and accurate summary of the facts in this matter.

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

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

8           4.       The Respondents understand, and hereby knowingly and voluntarily waive, any and all  
9 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.  
10 This includes, but is not limited to the right to appear personally at any administrative hearing held in  
11 this matter, to be represented by an attorney at the Respondents’ own expense, to confront and cross-  
12 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an  
13 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter  
14 judicially reviewed.

15           5.       The Respondents agree to the issuance of the decision and order set forth below. Also, the  
16 Respondents agree to the Commission imposing against it an administrative penalty in the amount of  
17 \$5,000. One or more cashier’s checks or money orders totaling said amount—to be paid to the General  
18 Fund of the State of California—is/are submitted with this stipulation as full payment of the  
19 administrative penalty described above, and same shall be held by the State of California until the  
20 Commission issues its decision and order regarding the matter.

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

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1 The foregoing stipulation of the parties “In the Matter of Cynthia Aguirre for Orange County Board of  
2 Supervisors 2018 and Cynthia Aguirre,” FPPC No. 18/399, is hereby accepted as the final decision and  
3 order of the Fair Political Practices Commission, effective upon execution below by the Chair.  
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5 IT IS SO ORDERED.

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

\_\_\_\_\_ Richard C. Miadich, Chair  
8 Fair Political Practices Commission  
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