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

11 In the Matter of:

12 JOHN VALDIVIA

13 Respondents.

FPPC Case No. 2022-00396

STIPULATION, DECISION AND ORDER

Date Submitted to Commission: April 2026

14  
15 **INTRODUCTION**

16 Respondent John Valdivia (“Valdivia”) was, at all relevant times, serving as the Mayor for the  
17 City of San Bernardino. This case was opened in response to a sworn complaint and a non-sworn  
18 complaint. The Political Reform Act<sup>1</sup> (“Act”) prohibits the sending of a mass mailing featuring an  
19 elected official at public expense. Valdivia violated the Act by causing a mass mailing featuring his name  
20 and office to be sent at public expense.

21 **SUMMARY OF THE LAW**

22 The Act and its regulations are amended from time to time. All legal references and discussions  
23 of law are intended to be citations to statutes and regulations as they existed at the time of the violations  
24 in this case.

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28 <sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to this source.



1 design, production, or printing is done with the intent of sending the item other than as  
2 permitted by law.

- 3 4) More than 200 substantially similar items are sent in a single calendar month, excluding any  
4 item sent in response to an unsolicited request and any item that is otherwise permitted by  
5 law.

6 For purposes of this prohibition, “features an elected officer” means that the item mailed includes  
7 the elected officer’s photograph or signature or singles out the elected officer by the manner of display of  
8 the elected officer’s name or office in the layout of the document, such as by headlines, captions, type  
9 size, typeface, or type color.<sup>9</sup>

10 There are numerous exceptions to this prohibition in order to facilitate the ordinary workings of  
11 government offices.<sup>10</sup> Some of these exceptions include press releases or intra-agency communication  
12 sent in the normal course of business as well as announcements of any meeting or event of either of the  
13 following: 1) an announcement sent to an elected officer’s constituents concerning a public meeting that  
14 is directly related to the elected officer’s incumbent governmental duties, is to be held by the elected  
15 officer, and that the elected officer intends to attend, or 2) an announcement of any official agency event  
16 or events for which the agency is providing the use of its facilities or staff or other financial support.<sup>11</sup>

### 17 SUMMARY OF THE FACTS

18 On or around June 4, 2021, Valdivia caused 2,075 pieces of a mass mailing to be sent at public  
19 expense. According to an invoice, Valdivia, using funds allocated to his office by the City of San  
20 Bernardino, spent at least \$2,124 for these postcards to be sent. According to an investigation conducted  
21 by the City to support a censure finding, Valdivia also used an unspecified amount of city funds in the  
22 form of “City staff time to design, coordinate, produce, and mail [the postcards].”<sup>12</sup>

23 The mailing itself featured the text, “Mayor John Valdivia” in all caps, directly above the featured  
24 text, “State of the City, 2021” (See Exhibit “A”). The event was named, “Mayor’s VIP Reception” and  
25 was to be held at a private restaurant, not a city-owned or managed facility. The mailing also noted that  
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27 <sup>9</sup> Section 89002, subdivision (c)(2).

28 <sup>10</sup> See Section 89002, subdivision (b).

<sup>11</sup> Section 89002, subdivisions (b)(2), (b)(4), and (b)(9).

<sup>12</sup> City Council, City of San Bernardino Resolution No. 2021-279, Section 2, subdivision (4),

1 the “Invitation is not transferrable and is for you and a guest,” indicating that this was not a public event  
2 but a private, invite-only event. The reverse of the mailing stated, “Special Invitation, 2021, State of the  
3 City Mayor’s Reception.” In addition, emails sent between a member of the Mayor’s staff and an invited  
4 guest suggested that the event had a guest list, again indicating that this was a private event for the Mayor  
5 and not a public event to promote the City.

6 As this mailing was paid for with public funds, featured an elected officer by including his name  
7 and office prominently, and was prepared and sent at the direction of the Mayor and in coordination with  
8 the Mayor’s staff, the cost was more than \$50, and more than 200 items were sent, this mailing qualifies  
9 as a mass mailing at public expense.

10 The mailing does not qualify for any of the enumerated exceptions to this prohibition, including  
11 the exception for certain announcements of meetings or events. For example, there is an exception for  
12 announcements concerning a public meeting related to the officer’s governmental duties and for  
13 announcements related to official agency events. In this case, despite the mailing referring to the “State  
14 of the City, 2021,” the event was a private affair hosted by Valdivia and for Valdivia’s benefit. It was  
15 invitation only and held at a private restaurant.

16 On December 1, 2021, the City Council of the City of San Bernardino censured Valdivia for this conduct  
17 and for additional violations that are outside the jurisdiction of the Act.<sup>13</sup> The City referred the matter to  
18 the Enforcement Division. Valdivia ran for re-election of Mayor of San Bernardino in the June 7, 2022  
19 Primary Election and was unsuccessful.

## 20 VIOLATIONS

### 21 **Count 1: Mass Mailing at Public Expense, Featuring a Public Official**

22 On or around June 2021, Valdivia caused public funds to be used to produce and distribute a mass  
23 mailing that featured an elected officer, in violation of Government Code Sections 89001 and 89002.

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27 \_\_\_\_\_  
28 <sup>13</sup> The Resolution also determined that Valdivia solicited a \$5,000 payment made by the Inland Empire Health Plan to the City of San Bernardino for the purpose of sponsoring the Mayor’s State of the City event and found that this qualified as a behested payment. Valdivia was also censured for failing to file a behested payment report. However, the Enforcement Division’s investigation determined that the Inland Empire Health Plan is a public agency and, therefore, the solicited payment made to the City of San Bernardino would not qualify as a behested payment.

1 **PROPOSED PENALTY**

2 This matter consists of one possible count. The maximum penalty that may be imposed is \$5,000  
3 per count.<sup>14</sup> Thus, the maximum penalty that may be imposed is \$5,000.

4 This matter involves a violation type, mass mailing at public expense, that is not eligible for the  
5 streamline program.

6 In determining the appropriate penalty for a particular violation of the Act, the Enforcement  
7 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an  
8 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division  
9 considers the facts and circumstances of the violation in the context of the following factors set forth in  
10 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused  
11 by the specific violation; (2) The level of experience of the violator with the requirements of the Political  
12 Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence  
13 or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate,  
14 negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission  
15 staff or any other governmental agency in a manner not constituting complete defense under Government  
16 Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the  
17 violator has a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the  
18 violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

19 The public harm inherent in violations concerning mass mailings sent at public expense is that the  
20 mailings may unfairly favor the featured public officials and would give an advantage to their  
21 incumbency. These types of violations cause a high degree of public harm when the featured elected  
22 officer appears on the ballot for an upcoming election. In this case, the featured officer was not up for re-  
23 election in the year the mailing was issued. Valdivia was unsuccessful in their subsequent re-election  
24 effort.

25 Valdivia had a low level of experience with this aspect of the Act. Valdivia contends that he  
26 believed his actions were lawful and that the mailing qualified for the exception related to  
27 announcements for public meetings and that he objected to and disputed the City's censure findings. The  
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<sup>14</sup> See Section 83116, subdivision (c).

1 Enforcement Division’s investigation found that Valdivia’s actions were likely negligent, and there was  
2 no evidence of an intent to conceal or mislead regarding the violation. Valdivia has agreed to this  
3 settlement in order to resolve the matter without a contested hearing.

4 The Commission considers comparable cases to assist in determining the appropriate penalty.

5 The Commission considered and approved a stipulation [\*in the Matter of Tuolumne Utilities\*](#)  
6 [\*District, FPPC No. 19/781\*](#) at the March 2024 Commission Meeting. In that case, the Tuolumne Utilities  
7 District produced newsletters that featured elected officials at public expense. In that matter, the district  
8 spent about \$2,198 to send 14,250 copies of a newsletter featuring public officials. The Commission  
9 found liability for one count of violating the Act’s prohibition on mass mailings at public expense that  
10 feature elected officials and imposed a \$2,000 penalty. In that case, as is the case in the present matter, no  
11 featured official was up for election. However, in that case, the featured officials were not consulted, nor  
12 did they approve the content of the newsletter. Here, Valdivia, in his capacity as Mayor, used funds  
13 allocated to his office to issue a mailing that featured his name and referenced his office in multiple  
14 places.

15 In a more recent comparable case, [\*in the Matter of City of Orange, FPPC No. 21/501\*](#), the City of  
16 Orange sent up to 47,000 copies of a regularly issued newsletter that improperly featured public officials  
17 in two different sections. There were no relevant elections in the year that the newsletter was distributed.  
18 The Commission imposed a penalty of \$3,000.

19 Here, Valdivia caused 2,075 mail pieces to be sent for a cost of approximately \$2,134. In this  
20 way, the case is similar to the *Tuolumne* matter. However, there is more harm here where the mailing was  
21 caused by the official and the official’s staff and where the mailing was to promote an event for the  
22 Mayor. The Enforcement Division also considers the comparable of the *Orange* matter where a higher  
23 penalty was levied due to the two instances of publicly featuring officials and because the mailing had far  
24 greater reach, as the city sent 47,000 copies. In *Orange*, one of the instances of featuring a public official  
25 included the picture of the official, the name and office, and a short biography. The other instance of  
26 featuring a public official included the name, photo, and office of the elected officials for the City.  
27 However, in *Orange*, the mailing was not caused by the featured officials.

1 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases, the  
2 Enforcement Division recommends a penalty of \$3,500.

3 **CONCLUSION**

4 Complainant, the Enforcement Division of the Fair Political Practices Commission, and Valdivia  
5 hereby agree as follows:

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

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

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

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

20 5. Respondent agrees to the issuance of the decision and order set forth below. Also,  
21 Respondent agrees to the Commission imposing against them an administrative penalty in the amount of  
22 \$3,500. One or more payments totaling said amount—to be paid to the General Fund of the State of  
23 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
24 above, and same shall be held by the State of California until the Commission issues its decision and  
25 order regarding this matter.

26 6. If the Commission declines to approve this stipulation—then this stipulation shall become  
27 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
28 rejected, all payments tendered by Respondent in connection with this stipulation shall be reimbursed to

1 Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing  
2 before the Commission becomes necessary, neither any member of the Commission, nor the Executive  
3 Director, shall be disqualified because of prior consideration of this Stipulation.

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

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

\_\_\_\_\_  
Kendall L.D. Bonebrake  
Chief of Enforcement  
Fair Political Practices Commission

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12 Dated: \_\_\_\_\_

\_\_\_\_\_  
John Valdivia

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14  
15 The foregoing stipulation of the parties "John Valdivia," FPPC Case No. 2022-00396 is hereby  
16 accepted as the final decision and order of the Fair Political Practices Commission, effective upon  
17 execution below by the Chair.

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19 IT IS SO ORDERED.

20  
21 Dated: \_\_\_\_\_

\_\_\_\_\_  
Adam Silver, Chair  
Fair Political Practices Commission

# Exhibit A



MAYOR JOHN VALDIVIA

# STATE OF THE CITY

2021

## Mayor's VIP Reception

Tuesday, June 15, 2021

Doors Open: 6:30 PM | Program Begins: 7:00 PM

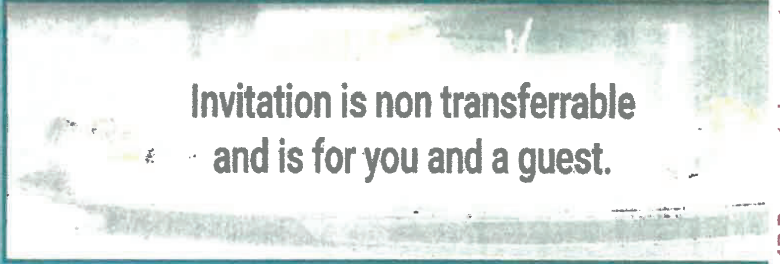
*Hors d'oeuvres & Refreshments Served*

Hilltop Restaurant  
670 N Kendall Drive  
San Bernardino, CA 92407

1.a

## Topics Include:

- Public Safety
- Business Growth and Development
- Economic Success
- Amazon Air Jobs



**Invitation is non transferrable  
and is for you and a guest.**

Attachment: Attachment 1A - 1B Documents in support of allegation of mass mailing violation [Revision 1]



CITY OF SAN BERNARDINO  
 290 N. D STREET  
 SAN BERNARDINO, CA 92401

*Special Invitation*

2021

STATE OF THE CITY MAYOR'S RECEPTION

Office of the Mayor Renee Brizuela 2  
 Renee Brizuela  
 290 North D Street  
 San Bernardino CA 92401-1734



1.a  
 PROHIBITED  
**US POSTAGE  
 PAID**  
 San Bernardino,  
 Permit No. 163

Attachment: Attachment 1A - 1B Documents in support of allegation of mass mailing violation [Revision 1]