

1 KENDALL L.D. BONEBRAKE
Chief of Enforcement
2 THERESA GILBERTSON
Attorney Supervisor
3 **FAIR POLITICAL PRACTICES COMMISSION**
1102 Q Street, Suite 3050
4 Sacramento, CA 95811
Telephone: (279) 237-5960
5 Email: tgilbertson@fppc.ca.gov

6 Attorneys for Complainant
Enforcement Division of the Fair Political Practices Commission

8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

9 **STATE OF CALIFORNIA**

10 In the Matter of

FPPC Case No. 2021-00501

11 CITY OF ORANGE,

STIPULATION, DECISION AND ORDER

Date Submitted to the Commission: March 2026

12 Respondent.

13 **INTRODUCTION**

14
15 The Political Reform Act (the “Act”)¹ prohibits the sending of a mass mailing featuring an
16 elected officer at public expense. Respondent, the City of Orange, violated the Act by producing and
17 distributing a mass mailing which featured multiple elected officers at public expense. This case was
18 opened in response to a sworn complaint from a resident of Orange who received the mass mailing.

19 **SUMMARY OF THE LAW**

20 The Act and its regulations are amended from time to time. The violations in this case occurred
21 in 2021. For this reason, all legal references and discussions of law pertain to the Act’s provisions as
22 they existed at that time.

23
24 //

25
26 _____
27 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18104 through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 4) More than 200 substantially similar items are sent in a single calendar month, excluding any
2 item sent in response to an unsolicited request.

3 The Act provides that certain items that feature elected officers are not prohibited by Section
4 89001, including a press release sent to members of the media.⁹ Another exception includes an item in
5 which the elected officer’s name only appears in a roster listing containing the names of all elected
6 officers of the agency. However, this exception specifies that the item “shall not include the elected
7 officer’s photograph.”¹⁰

8 **Elected Officer, Defined**

9 “Elected officer” means any person who holds an elective office or has been elected to an
10 elective office but has not yet taken office. A person who is appointed to fill a vacant elective office is
11 an elected officer.¹¹

12 **SUMMARY OF THE FACTS**

13 The City of Orange routinely distributes a newsletter by email, on the City’s website, and mails
14 copies by U.S. Mail to residents of the city. In the Spring 2021 edition, printed in late May of 2021, the
15 newsletter included two instances of improperly featuring elected officers. The City sent up to 47,000
16 copies. On one page, the newsletter featured the elected City Clerk, elected City Treasurer, and the
17 entire City Council, including the name, office held, and picture of each elected official. In addition, the
18 newsletter featured an article titled, “Orange City Council Appoints Kathy Tavoularis to District 3
19 Council Seat.” This section included a brief article about Kathy Tavoularis (“Tavoularis”), the content
20 of which summarized a press release issued on or around April 15, 2021 and featured a picture of
21 Tavoularis. An excerpt from the newsletter, including both instances of improperly featuring public
22 officials, is attached as “Exhibit A” for reference.

23 In 2021, there were no city contests. Tavoularis was appointed on April 13, 2021 by the Orange
24 City Council and served as an appointed elected officer until the end of the appointed term. Tavoularis
25

26 ⁹ Section 89002, subd. (b)(2).
27 ¹⁰ Section 89002, subd. (b)(1).
¹¹ Section 82020.

1 ran as a candidate for District 3 in the November 8, 2022 election and was successful, receiving 67.7%
2 of the vote. In the same election, the Mayor and the seats for Districts 1, 3, 4, and 6 were contested.
3 Only District 1, 3, and the Mayor's race included an incumbent.

4 As the City of Orange paid for and distributed a qualifying mass mailing that featured persons
5 who held an elective office and one who was appointed to fill a vacant elective office, the City of
6 Orange violated the Act's prohibition on mass mailings at public expense.

7 VIOLATIONS

8 **Count 1: Mass Mailing at Public Expense**

9 The City of Orange paid for and distributed at least 47,000 copies of a newsletter that featured
10 multiple elected officers. The mailing was a prohibited mass mailing at public expense and in this way,
11 the City of Orange violated Government Code Sections 89001 and 89002.

12 PROPOSED PENALTY

13 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
14 count. Thus, the maximum penalty that may be imposed for the count charged here is \$5,000.¹²

15 Violations of mass mailings at public expense are not eligible for the Streamline Program.¹³

16 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
17 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
18 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division
19 considers the facts and circumstances of the violation in the context of the following factors set forth in
20 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused
21 by the specific violation; (2) The level of experience of the violator with the requirements of the
22 Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The
23 presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was
24 deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the
25 Commission staff or any other governmental agency in a manner not constituting complete defense

26 ¹² Section 83116, subd. (c).

27 ¹³ Regulations 18360.1, subd. (b), and 18360.2, subd. (b).

1 under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern
2 and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
3 (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide
4 full disclosure.¹⁴

5 The public harm inherent in mass mailing at public expense violations is that the mailings may
6 unfairly favor the featured elected officer. These types of violations cause a high degree of public harm
7 when the featured elected officer appears on the ballot for an upcoming election. In this case, none of
8 the featured elected officers were up for election in 2021 and only some ran for office in the next
9 election.

10 There was no evidence to support an intent to conceal, deceive, or mislead the public. The
11 Enforcement Division found that the violations here were negligent. According to the City of Orange,
12 city staff believed that the appointment of an elected officer was a noteworthy event and felt it was
13 appropriate to include the item in a newsletter to inform residents. The content of the feature was largely
14 a summary of an earlier press release. Staff were unaware of the Act's prohibition on mass mailings at
15 public expense, and according to the City of Orange, steps were taken to better educate staff and avoid
16 future violations.

17 The Commission considers penalties in prior cases with the same or similar violations and
18 comparable facts: *In the Matter of Compton Community College District*; FPPC Case No. 22/795
19 (approved September 21, 2023). The Commission imposed a penalty in the amount of \$4,000 against
20 the District for producing and sending a prohibited mass mailing at public expense. In October of 2022,
21 the District produced and mailed an informational newsletter to students and residents. The newsletter
22 included a photograph of the District's Board President along with their name and title. The newsletter
23 included other references to the District's Board President including a message from the President and
24 the use of pronouns "I" in the message. Also, the newsletter included pictures with captions of all the
25 District's five Board of Trustees. Approximately 33,276 copies of the newsletter were produced. The
26

27 ¹⁴Regulation 18361.5, subd. (e).

1 District’s board members were not aware of the photograph being included in the newsletter and did not
2 approve the newsletter. Three of the District’s Board of Trustees who appeared in the photographs also
3 appeared on the November 8, 2022 General Election ballot for re-election to their District positions,
4 each were successful.

5 Under these circumstances, the Enforcement Division recommends a lower penalty than found
6 in the *Compton* case. While the fact pattern is similar, where the newsletter included two examples of
7 featuring elected officers in the same mailer – here, the inclusion of photographs of the City Council
8 members and the inclusion of a feature on the appointed officer – there was less public harm because
9 none of the featured elected officers were up for re-election in the year that the mass mailing was
10 distributed. Therefore, a penalty of \$3,000 is recommended for Count 1.

11 CONCLUSION

12 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
13 Respondent, City of Orange, hereby agree as follows:

14 1. Respondent has 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
20 the liability of Respondent pursuant to Section 83116.

21 4. Respondent has consulted with their attorney, Nathalie Adourian, Attorney for the City
22 of Orange, and understands, and hereby knowingly and voluntarily waives, any and all procedural rights
23 set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes,
24 but is not limited to the right to appear personally at any administrative hearing held in this matter, to be
25 represented by an attorney at Respondent’s own expense, to confront and cross-examine all witnesses
26 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
27

1 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
2 reviewed.

3 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
4 Respondent agrees to the Commission imposing against them an administrative penalty in the amount of
5 \$3,000. One or more payments totaling said amount—to be paid to the General Fund of the State of
6 California—is/are submitted with this stipulation as full payment of the administrative penalty described
7 above, and same shall be held by the State of California until the Commission issues its decision and
8 order regarding this matter.

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

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

18
19 Dated: _____

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

20
21
22
23 Dated: _____

_____, on behalf of
the City of Orange

