



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

To: Chair Remke, Commissioners Audero, Cardenas, Hatch, and Hayward

From: Erin Peth, Executive Director
Galena West, Chief of Enforcement
Michael W. Hamilton, Commission Counsel

Date: January 8, 2018

RE: Assignment of Hearing to Administrative Law Judge (“ALJ”)

Case Name: In the Matter of Juan Sandoval Elect for County Superintendent of Schools 2014, Juan Sandoval and Vangie Urias (no committee ID# available) (FPPC Case No. 14/434)

I. INTRODUCTION

Respondent Juan Sandoval (“Sandoval”) was an unsuccessful candidate for County Superintendent of Schools in Fresno County in the June 3, 2014 Statewide Direct Primary. Respondent Juan Sandoval Elect for County Superintendent of Schools 2014 (the “Committee”) was Sandoval’s controlled committee. Respondent Vangie Urias (“Urias”) served as the Committee’s treasurer.

The Political Reform Act¹ imposes several requirements and prohibitions on committees. One of the most basic requirements of the Act is the requirement that committees accurately report the receipt of contributions and the making of expenditures on campaign statements and reports. The Committee, Sandoval and Urias violated this requirement when they failed to accurately report contributions and expenditures on several of the Committee’s campaign statements. Additionally, the Act prohibits committees from receiving cash contributions of \$100 or more and prohibits committees from making expenditures from bank accounts other than the one they specifically designate for the campaign. The Committee, Sandoval and Urias violated the Act by accepting cash contributions of \$100 or more. Furthermore, Sandoval individually violated the Act by making campaign expenditures from accounts other than the one he specifically designated for his campaign.

The Committee and Sandoval have requested an administrative hearing on the Accusation attached hereto as Exhibit A. Urias has not request an administrative hearing.

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 Practices Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source

II. COMMISSION ACTION ONLY REQUIRED IF THE COMMISSION DESIRES TO PARTICIPATE IN THE ADMINISTRATIVE HEARING

The Executive Director and the Chief of Enforcement are recommending that the hearing should be conducted before an ALJ pursuant to Section 11512, Subdivision (a). The ALJ will then make a recommendation to the Commission on the findings of fact, law and penalty, if applicable, in the matter. The Commission will then have the opportunity to make the final determination on the case.

This memorandum is submitted to each member of the Commission pursuant to Regulation 18361.5, subdivision (b), which provides:

If the Executive Director determines that a hearing on the merits should be conducted before an administrative law judge alone pursuant to Government Code section 11512(a), he or she shall provide a copy of the accusation as well as a memorandum describing the issues involved to each member of the Commission. If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, the matter will be scheduled for a hearing before the Commission when an administrative law judge is available.

Thus, no Commission action is required if the Commission approves the recommendation that the administrative hearing in this matter should be conducted before an ALJ. However, two or more Commissioners may vote to keep the matter with the Commission if so desired.

III. PROCEDURAL HISTORY

The Enforcement Division initiated administrative action against the Committee, Sandoval and Urias by serving them with a Report in Support of a Finding of Probable Cause (the "Report"). Sandoval was served by certified mail on June 16, 2017. Urias was personally served on June 20, 2017. Sandoval requested a probable cause conference within 21 days of being served with the Report. Urias did not request a probable cause conference within 21 days of being served with the Report thereby waiving her rights to a probable cause conference.

A probable cause conference was conducted on August 24, 2017. Assistant General Counsel Brian Lau served as hearing officer. Mr. Sandoval appeared in person. Urias did not attend the probable cause conference, and therefore, a determination of probable cause was made solely on the papers submitted.² On August 29, 2017, Mr. Lau issued a Finding of Probable Cause and Order to prepare and Serve an Accusation on the Committee, Sandoval and Urias. A copy of that order was served on Sandoval by U.S. Mail.

On October 24, 2017, the Commission's Chief of Enforcement Galena West, issued an Accusation against the Committee, Sandoval and Urias. On November 19, 2017, the

² Regulation 18361.4, subdivision (d) "...The hearing officer may determine whether there is probable cause based solely on the probable cause report, any responses or rebuttals filed and any arguments presented at the probable cause conference by the interested parties..."

Accusation was personally served on Sandoval. On November 17, 2017, the Accusation was personally served on Urias.

On December 7, 2017, the Enforcement Division received a notice of defense from Sandoval dated December 4, 2017, requesting an administrative hearing on this matter. Urias did not file a notice of defense.

IV. PROCEDURAL ISSUES

Every hearing in a contested case must be presided over by an ALJ. The agency itself shall determine whether the ALJ is to hear the case alone or whether the agency itself is to hear the case with the ALJ.³

When the agency itself hears the case, the ALJ shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the agency on matters of law; the agency itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the ALJ. When the ALJ hears a case, he or she shall exercise all powers relating to the conduct of the hearing. A rule of the ALJ admitting or excluding evidence is subject to review in the same manner and to the same extent as the ALJ's proposed decision in the proceeding.⁴

V. SUMMARY OF THE ACCUSATION

The Committee, Sandoval and Urias violated the Act as listed below. The Accusation consists of four counts:

Count 1: Failure to Report Campaign Activity on Pre-Election Campaign Statement

The Committee, Sandoval and Urias failed to properly report expenditures made on the pre-election statement covering the reporting period of March 18 – May 17, 2014 by the May 22, 2014 deadline, in violation of Government Code section 84211, subdivisions (b), (i), (j) and (k).

Count 2: Failure to Report Campaign Activity on Semi-Annual Campaign Statement

The Committee, Sandoval and Urias had failed to properly report contributions received and expenditures made on the semi-annual statement covering the reporting period of May 18 – June 30, 2014 by the July 31 deadline, in violation of Government Code section 84211, subdivisions (a), (b), (c), (d), (f), (j) and (k).

³ See Cal. Gov. Code Section 11512, subdivision (a).

⁴ See Cal. Gov. Code Section 11512, subdivision (b).

Count 3: Receiving Cash Contributions of \$100 or More

The Committee, Sandoval and Urias violated the Act by receiving cash contributions of \$100 or more, in violation of Government Code section 84300, subdivision (a).

Count 4: Failure to Use Campaign Bank Account for Expenditures

Sandoval made approximately \$3,945 in expenditures from accounts other than the one designated for campaign activity, in violation of Government Code section 85201, subdivision (e).

VI. CONCLUSION

If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, the matter will be scheduled for a hearing before the Commission when an ALJ is available.⁵ Otherwise, hearing of this matter will be conducted before an ALJ alone pursuant to Section 11512, subdivision (a).

⁵ Regulation 18361.5, subdivision (b).