

BEFORE THE
FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

In the Matter of:

JUAN SANDOVAL ELECT FOR
COUNTY SUPERINTENDENT OF
SCHOOLS 2014, and JUAN
SANDOVAL,¹

FPPC Case No. 14/434

OAH No. 2018030226

Respondents.

PROPOSED DECISION

This matter was heard before Erin R. Koch-Goodman, Administrative Law Judge, Office of Administrative Hearings, State of California, on May 29, 2018, in Sacramento, California.

Michael W. Hamilton, Commission Counsel, represented the Fair Political Practices Commission (FPPC or complainant).

Juan Sandoval (respondent) appeared and represented himself and Juan Sandoval Elect for County Superintendent of Schools 2014 (collectively, respondents).

Evidence was received on May 29, 2018. The record was held open until June 5, 2018, for respondent to submit Exhibits A, B, and C; exhibits already stipulated to by the parties but forgotten by respondent on the day of hearing. On June 1, 2018, respondent filed Exhibits A, B, and C, with a one-page explanation of his exhibits, marked Exhibit D. Complainant was given until June 8, 2018, to file an opposition to the exhibits; complainant did not file any opposition. Exhibits A, B, C, and D are admitted. The matter was submitted for decision on June 8, 2018.

¹ The Accusation charged JUAN SANDOVAL ELECT FOR COUNTY SUPERINTENDENT OF SCHOOLS 2014, JUAN SANDOVAL, and VANGIE URIAS. At hearing, complainant moved to strike Vangie Urias from the pleadings. Without objection, all references to Vangie Urias in the Accusation are stricken.

FACTUAL FINDINGS

1. The FPPC is the state agency charged with administering, implementing, and enforcing the provisions of the Political Reform Act (Act) (Gov. Code, § 81000 et seq.) The Act establishes a comprehensive campaign reporting system, requiring receipts and expenditures in election campaigns to be fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act requires all candidate committees to establish a campaign bank account. (Gov. Code, § 85201, subd. (b).) All campaign expenditures must be made from the campaign bank account. (Gov. Code, § 85201, subd. (e).) Any personal funds utilized to promote the election must be deposited in the campaign account prior to expenditure. (Gov. Code, § 85201, subd. (d).) In addition, a candidate’s committee must report each contribution received and each expenditure made. (Gov. Code, § 84211, subds. (a) – (k).) The Act specifically prohibits a committee from receiving cash contributions of \$100 or more. (Gov. Code, § 84300, subd. (a).)

2. On June 3, 2014, Fresno County held an election. Respondent Sandoval was a candidate for County Superintendent of Schools, but was unsuccessful in his bid. Respondent Juan Sandoval Elect for County Superintendent of Schools 2014 (Committee) was Respondent Sandoval’s controlled committee.² During the campaign, respondent’s Committee filed statements with the County of Fresno detailing his campaign contributions and expenditures.

3. On or about October 24, 2017, complainant filed and served an Accusation against respondents, alleging failure to report campaign activity on a pre-election campaign statement (Count 1); failure to report campaign activity on a semi-annual campaign statement (Count 2); receipt of cash contributions of \$100 or more (Count 3); and failure to use a campaign bank account for expenditures (Count 4). On or about December 4, 2017, respondents filed a Notice of Defense requesting a hearing.

PRE-ELECTION CAMPAIGN STATEMENT

4. Due on May 22, 2014, on May 29, 2014, respondent filed a Pre-election Campaign Statement (Pre-election Statement) with the Fresno County Clerk. The Pre-election Statement covered the period of March 18, 2014, through May 17, 2014, and recorded campaign contributions as \$2,020 and the expenditures as \$1,380.91. On the Pre-election Statement, respondent itemized the following contributions:

Date Received	Contributor	Amount Received
May 9, 2014	Rufina Paredes	\$100
May 3, 2014	Humberto Gomez	\$100
May 2, 2014	Elida Padron	\$100

² Government Code section 82016 defines a “controlled committee” as being controlled directly or indirectly by a candidate insofar as the candidate has a significant influence on the actions or decisions of the committee.

May 2, 2014	Mayra Garcia	\$100
May 5, 2014	Marina Gonzalez	\$300
May 5, 2014	Julian Chapa	\$100
May 5, 2014	Sharon Owens	\$100
May 2, 2014	Silva Saldivar	\$100
April 18, 2014	Yureli Mandujano	\$100
May 2, 2014	Sandra Ortiz	\$300
May 2, 2014	Rick Maldonado	\$310
May 2, 2014	Alfonso Padron	\$110
May 2, 2014	Israel Lara	\$100
May 2, 2014	Aaron Covarrubias	\$100
		Total \$2,020

On the Pre-election Statement, respondent itemized the following expenditures:

Payee	Description	Amount Paid
Home Depot	Rental fee for auger to make holes to erect signs	\$260.91
Univision	Radio Commercial	\$1,120
		Total \$1,380.91

5. Campaign expenditures not listed on the Pre-election Statement but incurred from March 18, 2014, through May 17, 2014, included the following:

- a. On April 18, 2014, respondent Sandoval paid Stars and Stripes Silk Screening, Inc. (Stars and Stripes) \$3,300, with his personal debit/credit card, drawing money from his joint checking account with his wife; the \$3,300 was a campaign expense. On April 25, 2014, respondent Sandoval paid Stars and Stripes \$280, with his personal debit/credit card, drawing money from his joint checking account with his wife; the \$280 was a campaign expense. On April 30, 2014, Stars and Stripes provided respondent an invoice assessing \$3,580 for 100 campaign signs. The invoice was marked paid and had two receipts attached: \$3,300, dated April 18, 2014, and \$280, dated April 24, 2014.
- b. On April 22, 2014, respondent Sandoval paid A1 Signs and Banners \$207.79, with his personal debit/credit card, drawing money from his joint checking account with his wife; the \$207.79 was a campaign expense.
- c. On May 6, 2014, respondent purchased a monthly subscription to Campaign Engage, for six months, at a cost of \$79 per month, through Signsite.com. Respondent used the Parlier Unified School District

(District) credit card to make the purchase.³ The subscription was a campaign expense.

- d. On May 16, 2014, respondent made a branch deposit into the campaign account in the amount of \$1,620. The deposit included \$610 in cash and nine checks: one for \$10, one for \$300, and seven for \$100.

6. In sum, from March 18, 2014, through May 17, 2014, campaign contributions totaled \$2,020, including \$610 in cash, and expenditures totaling \$4,967.70. The expenditures included Home Depot and Univision (\$1,380.91), campaign signs (\$3,507.79), and Campaign Engage/Signsite.com (\$79). However, in his Pre-election Statement, respondent recorded \$2,020 in contributions and \$1,380.91 in expenditures; he did not list the cash contributions totaling \$610, and it is unknown as to whether any cash donations were for more than \$100; and he did not list expenditures for campaign signs and an internet subscription totaling \$3,586.79.

SEMI-ANNUAL CAMPAIGN STATEMENT

7. On August 1, 2014, respondent filed a Semi-Annual Campaign Statement (Semi-Annual Statement) with the Fresno County Clerk. The Semi-Annual Statement covered the period of May 18, 2014, through July 31, 2014, wherein respondent recorded his campaign contributions as \$6,614 and expenditures as \$6,489.25. On the Semi-Annual Statement, respondent itemized the following contributions:

Date Received	Contributor	Amount Received
May 19, 2014	Juan Sandoval Elect Committee	\$1,120
May 23, 2014	Juan Sandoval Elect Committee	\$2,114
May 27, 2014	Juan Sandoval Elect Committee	\$500
May 28, 2014	Juan Sandoval Elect Committee	\$400
May 29, 2014	Juan Sandoval Elect Committee	\$1,480
June 4, 2014	Juan Sandoval Elect Committee	\$500
		Total \$6,114

On the Semi-Annual Statement, respondent itemized the following expenditures:

Payee	Description	Amount Paid
Univision	Radio & Television Advertisement	\$1,420
La Maguina Radio Station	Radio Advertisement	\$1,300
KMJ Talk	Radio Advertisement	\$3,132

³ Respondent Sandoval is the Assistant Superintendent of Categorical Programs for the District. As such, he has a District credit card at his disposal for District expenses.

Radio		
Mariachi Tropical	Entertainment for Event	\$300
Maria's Café	Café Rental and Food - Fund Raising Event	\$337.25
		Total \$6,489.25

8. Campaign contributions listed on the Semi-Annual Statement, but not received from May 18, 2014, through July 31, 2014, included the following:

Date Received	Contributor	Amount Received
May 19, 2014	Juan Sandoval Elect Committee	\$1,120
May 23, 2014	Juan Sandoval Elect Committee	\$150 ⁴
		Total \$1,270

9. Campaign expenditures not listed on the Semi-Annual Statement, but incurred from May 18, 2014, through July 31, 2014, included the following:

- a. On May 19, 2014, respondent paid Univision \$1,200, with a business debit/credit card, drawing money from his business checking account – Juan Sandoval doing business as (dba) Juan Sandoval Elect (campaign account).
- b. On May 23, 2014, respondent made a branch deposit into the campaign account in the amount of \$1,964. The deposit included \$322 in cash and 13 checks: Israel Lara Jr. (May 9, 2014 - \$100), Frank Apecechea (May 17, 2014 - \$100), Katie Sullivan (May 17, 2014 - \$25), Anne Richards (May 17, 2014 - \$25), Jean and Joe Kulbeth (May 17, 2014 - \$50), Angelica Cazares (May 17, 2014 - \$100), Elida Padron (May 17, 2014 - \$100, Check No. 1496, and May 17, 2014 - \$100, Check No. 1497), Jose Sanchez (May 17, 2014 - \$100), Clarence Alvarez (May 17, 2014 - \$100), Felix Juarez III (May 17, 2014 - \$200), and Mary Hernandez (May 19, 2014 - \$642).
- c. On May 27, 2014, respondent made an ATM deposit into the campaign account in the amount of \$500. The deposit included one check: Garcia, Hernandez, Sawhney & Bermudez, LLP (May 8, 2014 - \$500).

⁴ On May 29, 2014, Wells Fargo Bank adjusted respondent's May 23, 2014 bank deposit for \$2,114, in the amount of \$150, because the bank "found the amount did not add up to the total listed on your deposit slip." As such, the total deposit was \$1,964.

- d. According to the campaign account bank statement, on May 28, 2014, respondent made an ATM deposit into the campaign account in the amount of \$400.
- e. On May 29, 2014, respondent made a branch deposit into the campaign account in the amount of \$980. The deposit included one check: Artax Income Tax Service (May 23, 2014 - \$980). Also on May 29, 2014, respondent made a branch deposit into the campaign account in the amount of \$500. The deposit included \$400 in cash and one check: Frank Apecechea (May 17, 2014 - \$100).
- f. On June 4, 2014, respondent made a branch deposit into the campaign account in the amount of \$500. The deposit included one check: R. Estrada (June 1, 2014 - \$500).
- g. On June 6, 2014, the District credit card was charged \$79 by Signsite.com, for respondent's Campaign Engage monthly subscription. The monthly subscription cost was a campaign expense.

10. In sum, from May 16, 2014, through June 16, 2014, campaign contributions totaled \$5,464, including \$1,122 in cash, and expenditures totaled \$7,768.25. Expenditures were paid to: Univision, La Maguina Radio Station, KMJ Talk Radio, Mariachi Tropical, and Maria's Café (\$6,489.25), Univision (\$1,200), and Campaign Engage/Signsite.com (\$79). However, in his Semi-Annual Statement, respondent recorded \$6,614 in contributions and \$6,489.25 in expenditures. Specifically, he listed \$1,270 in false contributions; did not list the cash contributions totaling \$1,122, and it is unknown as to whether any cash donations were for more than \$100; and did not list expenditures for campaign advertising with Univision for \$1,200 and the \$79 internet subscription totaling \$1,279.

Respondent's Testimony

11. Respondent testified at hearing. He acknowledged possible mistakes on his campaign statements, but indicated that any errors were unintentional. He is confident there were no big discrepancies and only small errors. However, he relied on his campaign treasurer, Ms. Urias, to take care of the campaign statements, including the accounting for all contributions and expenditures. Personally, he cannot recall his contributors by name, the specific amounts contributed, or his individual campaign expenditures.

12. Ultimately, he and his committee had never run a campaign before and were simply unfamiliar with the requirements of the campaign statements, as well as the rules for contributions and expenditures under the Act. Respondent apologized for any mistakes and believes he and his Committee did the best they could. He admits he did not contact the FPPC for assistance, in an effort to ensure compliance with campaign laws.

Discussion

13. Complainant charges respondent with failure to report campaign activity on a Pre-election Statement (Count 1); failure to report campaign activity on a Semi-Annual Statement (Count 2); receipt of cash contributions of \$100 or more (Count 3); and failure to use a campaign bank account for expenditures (Count 4).

FAILURE TO REPORT

14. Respondent failed to report the following contributions on his Pre-election Statement:

Date Received	Contributor	Amount Paid
April 18, 2014	Respondent	\$3,300
April 25, 2014	Respondent	\$280
April 22, 2014	Respondent	\$207.79
May 6, 2014	Respondent	\$79
May 16, 2014		\$610 (cash)

15. Respondent failed to report the following expenditures on his Pre-election Statement:

Payee	Description	Amount Paid
Stars and Stripes	Campaign signs	\$3,580
A1 Signs and Banners	Campaign signs	\$207.79
Campaign Engage/ Signsite.com	Monthly Subscription	\$79

16. Respondent failed to report the following contributions on his Semi-Annual Statement:

Date Received	Contributor	Amount Paid
May 9, 2014	Israel Lara Jr.	\$100
May 17, 2014	Frank Apecechea	\$100
May 17, 2014	Katie Sullivan	\$25
May 17, 2014	Anne Richards	\$25
May 17, 2014	Jean and Joe Kulbeth	\$50
May 17, 2014	Angelica Cazares	\$100
May 17, 2014	Elida Padron	\$100 (Check No. 1496)
May 17, 2014	Elida Padron	\$100 (Check No. 1497)
May 17, 2014	Jose Sanchez	\$100
May 17, 2014	Clarence Alvarez	\$100
May 17, 2014	Felix Juarez III	\$200

May 19, 2014	Mary Hernandez	\$642
May 23, 2014		\$322 (cash)
May 8, 2014 ⁵	Garcia, Hernandez, Sawhney & Bermudez, LLP	\$500
May 28, 2014		\$400 (cash)
May 23, 2014	Artax Income Tax Service	\$980
May 17, 2014	Frank Apecechea	\$100
May 29, 2014		\$100 (cash)
June 1, 2014	R. Estrada	\$500
June 6, 2018	Respondent	\$79

17. Respondent failed to report the following expenditures on his Semi-Annual Statement:

Payee	Description	Amount Paid
Univision	Commercials	\$1,200
Campaign Engage/ Signsite.com	Monthly Subscription	\$79

RECEIPT OF CASH CONTRIBUTIONS OF \$100 OR MORE

18. Respondent received the following cash contributions of \$100 or more:

Date Received	Contributor	Amount Paid
May 16, 2014		\$610 (cash)
May 23, 2014		\$322 (cash)
May 28, 2014		\$400 (cash)
May 29, 2014		\$100 (cash)

FAILURE TO USE CAMPAIGN BANK ACCOUNT FOR EXPENDITURES

19. Respondent failed to use the campaign bank account for the following campaign expenditures:

Date	Description	Amount Paid
April 18, 2014	Stars and Stripes	\$3,300
April 25, 2014	Stars and Stripes	\$280
April 22, 2014	A1 Signs and Banners	\$207.79
May 6, 2014	Monthly Subscription	\$79
June 6, 2014	Monthly Subscription	\$79

⁵ The check was deposited on May 27, 2014.

20. In his Pre-election Statement, respondent recorded \$2,020 in contributions, with no cash identified, and \$1,380.91 in expenditures. However, from March 18, 2014, through May 17, 2014, respondent's campaign contributions totaled \$2,020, including \$610 in cash, and expenditures totaled \$4,967.70. Respondent failed to list \$610 in cash contributions and \$3,586.79 in expenditures on his Pre-election Statement.

21. In his Semi-Annual Statement, respondent recorded \$6,614 in contributions, with no cash identified, and \$6,489.25 in expenditures. However, from May 18, 2014, through July 31, 2014, respondent's campaign contributions totaled \$5,464, including \$1,122 in cash, and expenditures totaled \$7,768.25. Respondent failed to list \$1,122 in cash contributions, and \$1,279 in expenditures on his Semi-Annual Statement. Furthermore, he failed to identify each specific contributor to his campaign.

22. In sum, respondent violated multiple provisions of the Act in completing his campaign statements, including receiving cash deposits for \$100 or more, and paying campaign expenditures with an account other than his campaign account. Respondent may have been unaware of the requirements of the Act, but he was obligated to familiarize himself with the Act when he sought public office, and he failed to seek guidance and direction from the FPPC. Instead, he chose to file inaccurate campaign statements and ran afoul of the Act. Respondent's inexperience cannot excuse his behavior; he is responsible for his conduct and the conduct of his campaign committee.

LEGAL CONCLUSIONS

Standard of Proof

1. The complainant has the burden of proving the allegations by a preponderance of evidence. (Evid. Code, § 115.) The term preponderance of evidence means "more likely than not." (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1388.)

Applicable Statutes and Regulations

2. Government Code section 84211 details the requirements of each campaign statement:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars (\$100).

[¶] . . . [¶]

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars (\$100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) His or her occupation.
- (4) The name of his or her employer, or if self-employed, the name of the business.
- (5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan.
- (6) The cumulative amount of contributions.

[¶] . . . [¶]

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more.

(j) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars (\$100).

(k) For each person to whom an expenditure of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) The amount of each expenditure.

(4) A brief description of the consideration for which each expenditure was made.

(5) In the case of an expenditure which is a contribution to a candidate, elected officer, or committee or an independent expenditure to support or oppose a candidate or measure, in addition to the information required in paragraphs (1) to (4) above, the date of the contribution or independent expenditure, the cumulative amount of contributions made to a candidate, elected officer, or committee, or the cumulative amount of independent expenditures made relative to a candidate or measure; the full name of the candidate, and the office and district for which he or she seeks nomination or election, or the number or letter of the measure; and the jurisdiction in which the measure or candidate is voted upon.

(6) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for an expenditure of five hundred dollars (\$500) or more during the period covered by the campaign statement.

For purposes of subdivisions (i), (j), and (k) only, the terms "expenditure" or "expenditures" mean any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

3. Government Code section 84300, subdivision (a), mandates:

No contribution of one hundred dollars (\$100) or more shall be made or received in cash.

A cash contribution shall not be deemed received if it is not negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported. If a cash contribution, other than a late contribution, as defined in Section 82036, is negotiated or deposited, it shall not be deemed received if it is refunded within 72 hours of receipt. In the case of a late contribution, as defined in Section 82036, it shall not be deemed received if it is returned to the contributor within 48 hours of receipt.

4. Government Code section 85201, governs the establishment and use of a campaign bank account.

(a) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(b) As required by subdivision (f) of Section 84102, a candidate who raises contributions of two thousand dollars (\$2,000) or more in a calendar year shall set forth the name and address of the financial institution where the candidate has established a campaign contribution account and the account number on the committee statement of organization filed pursuant to Sections 84101 and 84103.

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee shall be deposited in the account.

(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.

(e) All campaign expenditures shall be made from the account.

Causes for Monetary Penalties

5. Count 1: cause exists to impose monetary penalties for violations of Government Code section 84211, subdivisions (b), (i), (j), and (k), by reason of the matters set forth in Factual Findings 5 through 7, 14, 15, 20, and 22. Respondent failed to properly report contributions and expenditures on his Pre-election Statement.

6. Count 2: cause exists to impose monetary penalties for violations of Government Code section 84211, subdivisions (a), (b), (c), (d), (f), (j), and (k), by reason of the matters set forth in Factual Findings 8 through 10, 16, 17, 21, and 22. Respondent failed to properly report contributions and expenditures on his Semi-Annual Statement.

7. Count 3: cause exists to impose monetary penalties for violations of Government Code section 84300, subdivision (a), by reason of the matters set forth in Factual Findings 6 through 10, 18, 20, 21, and 22. Respondent received cash contributions of \$100 or more.

8. Count 4: cause exists to impose monetary penalties for violations of Government Code section 85201, subdivision (e), by reason of the matters set forth in Factual Findings 6 through 10, 19, 20, and 22. Respondent made campaign expenditures out of a bank account other than the one designated for campaign activity.

Level of Penalties

9. Each violation of the Act is punishable by a monetary penalty of up to \$5,000. (Gov. Code, § 83116, subd. (c).) California Code of Regulations, title 2, section 18361.5, subdivision (d), provides that in framing a proposed order following a finding of a violation pursuant to Government Code section 83116, the FPPC and the administrative law judge shall consider all the circumstances including but not limited to:

- (1) The seriousness of the violation;
- (2) The presence or absence of any intention to conceal, deceive or mislead;
- (3) Whether the violation was deliberate, negligent or inadvertent;
- (4) Whether the violator demonstrated good faith by consulting the Commission staff or any other government agency in a manner not constituting a complete defense under Government Code section 83114(b);
- (5) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
- (6) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

10. Respondent's violations are serious. Compliance with campaign finance laws is essential to fair elections. The Act requires contributions and expenditures to be documented, allowing the State to verify campaign funding and safeguard against fraud. In addition, providing a detailed accounting of contributions and expenditures allows for public disclosure of the individuals and businesses providing financial support to a candidate; information used by voters to decide on a candidate to elect. In total, respondent failed to report \$1,732 in cash contributions and \$4,865.79 in expenditures on his campaign statements.

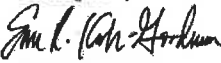
11. Respondent's campaign finances were further confused by his use of his personal account for campaign expenditures. Respondent paid no attention to campaign finance laws, demonstrating more than a general indifference. He did not make any effort to consult the FPPC or any other government agency to determine whether: his statements were compliant; receiving cash donations of \$100 or more was permissible; or the act of paying for campaign expenditures from his personal checking account was acceptable. The single factor weighing in favor of respondents is that there is no record of previous violations. Given the above, a penalty of \$1,500 for each count is appropriate.

ORDER

1. Based upon the Factual Findings and Legal Conclusions as a whole, respondent violated Government Code sections 84211, subdivisions (a), (b), (c), (d), (f), (i), (j), and (k), 84300, subdivision (a), and 85201, subdivision (e); Counts 1 through 4 are SUSTAINED.

2. Respondent is liable for violations of the Act in the amount of \$6,000. Respondent shall pay monetary penalties to the Fair Political Practices Commission of \$6,000.

DATED: July 9, 2018

DocuSigned by:

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ERIN R. KOCH-GOODMAN
Administrative Law Judge
Office of Administrative Hearings