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7
8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
STATE OF CALIFORNIA
9

10 In the Matter of:

FPPC Case No. 18/321

11 SAN BERNARDINO RESIDENTS FOR
RESPONSIBLE LOCAL
12 GOVERNMENT, A COMMITTEE
OPPOSING VALDIVIA FOR MAYOR
13 2018 and COREY ADDISON,

STIPULATION, DECISION AND ORDER

14 Respondents.

15
16 **INTRODUCTION**

17 San Bernardino Residents for Responsible Local Government, a Committee Opposing Valdivia
18 for Mayor 2018 (the “Committee”), is a primarily formed committee created to oppose John Valdivia, a
19 member of the San Bernardino City Council who was a candidate for Mayor of San Bernardino in the
20 June 5, 2018 Primary and November 6, 2018 General Elections. The principal officer of the Committee is
21 Corey Addison (“Addison”).

22 Respondents committed multiple violations of the Political Reform Act (the “Act”),¹ arising from
23 a mailer advertisement sent in advance of the primary election that was not compliant with the Act’s
24 advertising disclosure provisions. More specifically, Respondents failed to include the phrase “Paid for
25 by” on the mailer, disclose that the mailer was not authorized by a candidate or candidate-controlled
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27 ¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to this code.
28 The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the
California Code of Regulations. All regulatory references are to this source.

1 committee, identify the Committee by its correct name, and meet the display requirements for print
2 advertisements.

3 **SUMMARY OF THE LAW**

4 The Act and its regulations are amended from time to time. The violations in this case occurred in
5 2018. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
6 existed at that time—unless otherwise noted.

7 Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

8 When enacting the Political Reform Act, the people of California found and declared that
9 previous laws regulating political practices suffered from inadequate enforcement by state and local
10 authorities.² Thus, it was decreed that the Act “should be liberally construed to accomplish its
11 purposes.”³

12 Advertisement Disclosure

13 An “advertisement” under the Act means any general or public communication that is authorized
14 and paid for by a committee for the purpose of supporting or opposing a candidate(s) for elective office
15 or a ballot measure(s).⁴

16 Under the Act, any advertisement paid for by a primarily formed committee shall include the
17 words “Paid for by” followed by the name of the committee.⁵ On print advertisements designed to be
18 individually distributed, including mailers, the disclosure area shall have a solid white background and
19 shall be in a printed or drawn box on the bottom of at least one page that is set apart from any other
20 printed matter. The text shall be in a contrasting color, in an Arial equivalent type, with a type size of at
21 least 10-point.⁶

22 Further, the Act requires that an advertisement supporting or opposing a candidate, paid for by an
23 independent expenditure, include disclaimer language stating that it was not authorized by a candidate or
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26 ² Section 81001, subd. (h).

27 ³ Section 81003.

28 ⁴ Section 84501.

⁵ Section 84502.

⁶ Section 84504.2, subd. (a).

1 a committee controlled by a candidate.⁷

2 Joint and Several Liability of Committee and Principal Officer

3 It is the duty of the committee's principal officer to authorize the content of communications
4 made by the committee, authorize expenditures made by the committee, and determine the committee's
5 campaign strategy.⁸ A principal officer may be held jointly and severally liable, along with the
6 committee, for violations committed by the committee.⁹

7 **SUMMARY OF THE FACTS**

8 The Committee qualified as a committee on May 10, 2018. The Committee filed its initial
9 statement of organization on May 14, 2018. As of October 20, 2018, the Committee had received a total
10 of \$22,500 in contributions and made a total of \$22,197.24 in expenditures.

11 The Committee paid for and distributed a mailer advertisement opposing John Valdivia's
12 campaign for San Bernardino Mayor. Around 16,000 copies of the mailer were sent out on or around
13 May 10, 2018 and June 1, 2018, with both versions of the mailer nearly identical. The Committee spent a
14 total of \$8,668.31 on the mailers, which it timely report on the pertinent campaign statement and a 24-
15 hour independent expenditure report.

16 Both versions of the mailer were not compliant with multiple disclosure provisions of the Act.
17 The mailers failed to disclose the correct name of the Committee, which is San Bernardino Residents for
18 Responsible Local Government, a Committee Opposing Valdivia for Mayor 2018; instead, they
19 identified the Committee as "San Bernardino Residents for Responsible Local Representation." The
20 mailers also failed to include the requisite "Paid for by" phrase. Further, the Committee failed to include
21 the necessary disclaimer notifying the reader that the mailer was not authorized by a candidate or
22 candidate-controlled committee, and failed to place the committee information and disclosures in a
23 drawn or printed box at the bottom of at least one page. The only identifying information on the mailer
24 was the inaccurate name of the Committee and a street address.

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27 ⁷ Section 84506.5.

⁸ Section 82047.6; Regulation 18402.1, subd. (b).

28 ⁹ Sections 83116.5 and 91006.

1 Valdivia advanced to a runoff in the November 6, 2018 General Election, after receiving
2 approximately 35.8 percent of the vote in the June 5, 2018 Primary Election. According to the unofficial
3 election results of San Bernardino County, Valdivia was successful in the General Election, receiving
4 approximately 51.2 percent of the vote, and will therefore become the next mayor of San Bernardino.

5 **VIOLATION**

6 Count 1: Failure to Comply with Disclosure Requirements for Advertisements

7 The Committee and Addison paid for mailer advertisements that did not include the correct name
8 of the Committee, requisite “Paid for by” phrase, or disclosure that the mailer was not authorized by a
9 candidate or candidate-controlled committee; and failed to place the disclosures in a printed or drawn
10 box, in violation of Sections 84502, 84504.2, subdivision (a), and 84506.5.

11 **PROPOSED PENALTY**

12 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
13 count. Thus, the maximum penalty that may be imposed is \$5,000.¹⁰

14 In determining the appropriate penalty for a particular violation of the Act, the Commission
15 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
16 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
17 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
18 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
19 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
20 record of violations.¹¹

21 Here, although there was no evidence of deliberate omission or attempts to conceal, the incorrect
22 naming of the Committee on the mailer may have led to confusion as to who paid for the advertisement.
23 Respondents do not have a prior history of violating the Act.

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¹⁰ See Section 83116, subd. (c).

¹¹ Regulation 18361.5, subd. (d).

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

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

11 5. Respondents agree to the issuance of the decision and order set forth below. Also,
12 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
13 \$2,500. One or more payments totaling this amount, to be paid to the General Fund of the State of
14 California, is/are submitted with this stipulation as full payment of the administrative penalty described
15 above, and they will be held by the State of California until the Commission issues its decision and order
16 regarding this matter.

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

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

Galena West, Chief of Enforcement
Fair Political Practices Commission

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8 Dated: _____

Corey Addison, individually and on behalf of San
Bernardino Residents for Responsible Local Government, a
Committee Opposing Valdivia for Mayor 2018

1 The foregoing stipulation of the parties “In the Matter of San Bernardino Residents for
2 Responsible Local Government, a Committee Opposing Valdivia for Mayor 2018, and Corey Addison,”
3 FPPC Case No. 18/321 is hereby accepted as the final decision and order of the Fair Political Practices
4 Commission, effective upon execution below by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

_____ Alice T. Germond, Chair
Fair Political Practices Commission