

1 GALENA WEST  
Chief of Enforcement  
2 MICHAEL W. HAMILTON  
Commission Counsel  
3 Fair Political Practices Commission  
1102 Q Street, Suite 3000  
4 Sacramento, CA 95811  
Telephone: (916) 322-5772  
5 Email: [mhamilton@fppc.ca.gov](mailto:mhamilton@fppc.ca.gov)

6 Attorneys for Complainant  
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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA  
10

11 In the Matter of:

12 ALEJO FOR ASSEMBLY 2014 AND  
13 LUIS ALEJO,

14 Respondents.

FPPC Case No. 16/188

15 STIPULATION, DECISION AND ORDER

16 INTRODUCTION

17 Respondent Luis Alejo (“Alejo”) was a successful candidate for the California State Assembly in  
18 2014. Respondent Alejo for Assembly 2014 (“Alejo for Assembly”) was Alejo’s candidate controlled  
19 committee. Alejo served as treasurer of Alejo for Assembly. The Political Reform Act (the “Act”)<sup>1</sup>  
20 requires candidates and their controlled committees to timely file a 24-hour report to disclose late  
21 contributions received and late contributions made, and 10-day reports for contributions of \$5,000 or  
22 more received outside the election cycle. Alejo for Assembly and Alejo violated the Act by failing to  
23 timely file these reports for late contributions and contributions of \$5,000 or more made outside the  
24 election cycle.

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27  
28 <sup>1</sup> The Political Reform Act is contained in Government 81000 through 91014. The regulations of the Fair Political are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations.

1 **SUMMARY OF THE LAW**

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

3 When enacting the Political Reform Act, the people of the state of California found and declared  
4 that previous laws regulating political practices suffered from inadequate enforcement by state and local  
5 authorities.<sup>2</sup> To that end, the Act must be liberally construed to achieve its purposes.<sup>3</sup>

6 Election Cycle

7 Election Cycle

8 Per the Act, “” Election cycle,” for purposes of Sections 85309 and 85500, means the period of  
9 time commencing 90 days prior to an election and ending on the date of the election...”<sup>4</sup>

10 Online Disclosure of Contributions

11 The Act requires any candidate who is required to file statements, reports, or other documents in  
12 connection with a state elective office or measure to file online “...provided that the total cumulative  
13 reportable amount of contributions received, expenditures made, loans made, or loans received is  
14 \$25,000 or more.”<sup>5</sup> A state candidate that qualifies as an online filer is required to file online or  
15 electronically with the Secretary of State a report disclosing receipt of a contribution of \$1,000 or more  
16 received during an election cycle within 24-hours of receipt of the contribution.<sup>6</sup>

17 A state candidate that qualifies as an online filer is required to electronically file a Form 497  
18 within 10 days disclosing the receipt of any contribution of \$5,000 or more received outside of the  
19 election cycle.<sup>7</sup>

20 24-hour Report

21 The Act defines a late contribution as “...a contribution including a loan, that totals in the  
22 aggregate one thousand dollars (\$1,000) or more and is made to or received by a candidate, a controlled  
23 committee, or a committee formed or existing primarily to support or oppose a candidate or measure  
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26 <sup>2</sup> Section 81001, subdivision (h).

27 <sup>3</sup> Section 81003.

28 <sup>4</sup> Section 85204.

<sup>5</sup> Section 84605, subdivision (a)(1).

<sup>6</sup> Section 85309, subdivision (a).

<sup>7</sup> Section 85309, subdivision (c) and Section 85204.

1 within 90 days before the date of the election at which the candidate or measure is to be voted on...<sup>8</sup>

2 The Act also defines a late contribution as “A contribution, including a loan, that totals in the  
3 aggregate one thousand dollars (\$1,000) or more and is made to or received by a political party  
4 committee within 90 days before the date of the state election...”<sup>9</sup>

5 The Act requires candidates that receive and make a late contribution to report it on a Form 497  
6 within 24 hours of receipt of such contribution or the making of the contribution.<sup>10</sup>

### 7 Candidate and Treasurer Liability

8 Under the Act, it is the duty of the candidate and treasurer of a controlled committee to ensure  
9 that the committee complies with all the requirements of the Act concerning the receipt, expenditure, and  
10 reporting of funds.<sup>11</sup> The candidate may be held jointly and severally liable, along with the committee,  
11 for violations committed by the committee.<sup>12</sup>

## 12 **SUMMARY OF THE FACTS**

13 On June 3, 2014 and November 4, 2014, Alejo was a successful candidate in the Primary and  
14 General Elections in California’s 30<sup>th</sup> Assembly District. This matter was opened based on an audit  
15 conducted by the Franchise Tax Board (“FTB”). Alejo for Assembly reported receiving approximately  
16 \$612,997 in contributions and making approximately \$466,177 in expenditures. Alejo for Assembly  
17 failed to timely file a total of eleven 24-hour and four 10-day reports.

18 The following charts detail the contributions Alejo for Assembly received and the contributions  
19 Alejo for Assembly made.

### 20 **10-Day Reports Not Timely Filed**

21 Alejo for Assembly and Alejo failed to timely file four 10-day reports. Specifically, they failed to  
22 file four 10-day reports after receiving contributions from three different sources. Two of the four reports  
23 were not filed until after the election, however, all the contributions received were timely reported on the  
24 appropriate campaign statement prior to the election. The contributions are detailed below:

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26 <sup>8</sup> Former Section 82036, subdivision (a) (2013 and 2014).

27 <sup>9</sup> Former Section 82036, subdivision (b) (2013 and 2014).

28 <sup>10</sup> Section 84203, subdivisions (a) and (b).

<sup>11</sup> Sections 81004, 84100, 84213, and Regulation 18427.

<sup>12</sup> Sections 83116.5 and 91006.

CONTRIBUTIONS RECEIVED

| <b>Date Received</b> | <b>Contributor</b>  | <b>Amount</b> | <b>Days Late</b> | <b>Filed Before or After Election</b> |
|----------------------|---|---------------|------------------|---------------------------------------|
| 8/31/13              | Northern California Carpenters Regional Council Small Contributor Committee | \$6,800       | 630              | After                                 |
| 9/18/13              | California Correctional Peace Officers Association PAC                      | \$8,200       | 614              | After                                 |
| 12/23/13             | California State Council of Service Employees Small Contributor Committee   | \$8,200       | 23               | Before                                |
| 12/31/13             | California State Council of Service Employees Small Contributor Committee   | \$8,200       | 16               | Before                                |

**24-Hour Reports Not Timely Filed in 2013**

In 2013, Alejo for Assembly and Alejo failed to timely report making late contributions on 24-hour reports. One of the three 24-hour reports were filed late, but before the election and the remaining two 24-hour reports were filed after the election. All of the contributions were timely reported on the appropriate campaign statements, but these were not due until after the election. The contributions are detailed below:

CONTRIBUTIONS MADE

| <b>Date Made</b> | <b>Recipient</b>                    | <b>Amount</b> | <b>Days Late</b> | <b>Filed Before or After Election</b> |
|------------------|-------------------------------------|---------------|------------------|---------------------------------------|
| 9/13/13          | Madrigal for Council 2013           | \$1,000       | 16               | Before                                |
| 6/17/13          | Freddie Rodriguez for Assembly 2013 | \$1,000       | 37               | After                                 |
| 10/16/13         | California Democratic Party         | \$34,000      | 599              | After                                 |

**24-Hour Reports Not Timely Filed in 2014**

In 2014, Alejo for Assembly and Alejo failed to timely report making and receiving approximately eight contributions. Five of the eight 24-hour reports were filed late, but before the election with the remaining three 24-hour reports filed after the election. All of the contributions were reported on either pre-election statements filed prior to the election or semi-annual campaign statement due after the election. The contributions are detailed below:

CONTRIBUTIONS RECEIVED

| Date Received | Contributor   | Amount                      | Days Late | Filed Before or After Election |
|---------------|---|-----------------------------|-----------|--------------------------------|
| 3/6/14        | Michael Allen for Assembly 2012   | \$1,000                     | 6         | Before                         |
| 3/14/14       | NUHW Committee for Quality Patient Care and Union Democracy – Candidate PAC | \$1,000                     | 3         | Before                         |
| 8/15/14       | R.C. Farms, LLC.  | \$1,000                     | 6         | Before                         |
| 10/1/14       | Scheid Vineyards  | \$1,200                     | 14        | Before                         |
| 6/3/14        | Chevron Policy Government & Public Affairs                                  | \$2,000                     | 369       | After                          |
| 6/3/14        | The Boeing Company PAC  | \$1,000                     | 369       | After                          |
| 9/29/14       | Apartment Association of Greater Los Angeles                                | \$1,000 (aggregated amount) | 251       | After                          |
| 11/4/14       | Rincon Band of Luiseno Mission Indians of the Rincon Reservation, CA        | \$4,100                     | 215       | After                          |

CONTRIBUTIONS MADE

| Date Made | Recipient                             | Amount  | Days Late | Filed Before or After Election |
|-----------|---------------------------------------|---------|-----------|--------------------------------|
| 3/5/14    | Sharon Quirks Silva for Assembly 2014 | \$4,100 | 12        | Before                         |
| 3/14/14   | David Campos for State Assembly       | \$1,000 | 1         | Before                         |
| 3/14/14   | Tony Thurman for Assembly 2014        | \$1,000 | 1         | Before                         |

**VIOLATIONS**

**Count 1: Failure to Timely File 10-Day Reports**

Alejo for Assembly and Alejo failed to timely file 10-day reports for contributions totaling approximately \$31,400, in violation of Government Code Section 85309, subdivision (c).

**Count 2: Failure to Timely File 24-Hour Reports**

In 2013, Alejo for Assembly and Alejo failed to timely file three 24-hour reports after making \$36,000 in late contributions, in violation of Government Code Section 84203.

**Count 3: Failure to Timely File 24-Hour Reports**

In 2014, Alejo for Assembly and Alejo failed to timely file eight 24-hour reports after receiving

1 and making late contributions totaling approximately \$18,400, in violation of Government Code Sections  
2 84203 and 85309, subdivision (a).

### 3 **PROPOSED PENALTY**

4 This matter consists of 3 counts. The maximum penalty that may be imposed is \$5,000 per count.  
5 Thus, the maximum penalty that may be imposed is \$15,000.<sup>13</sup> In determining the appropriate penalty for  
6 a particular violation of the Act, the Commission considers the facts of the case, the public harm  
7 involved, and the purposes of the Act. Also, the Commission considers factors such as: (a) the  
8 seriousness of the violation; (b) the presence or absence of any intention to conceal, deceive or mislead;  
9 (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was isolated  
10 or part of a pattern; (e) whether corrective amendments voluntarily were filed to provide full disclosure;  
11 and (f) whether the violator has a prior record of violations.<sup>14</sup> Additionally, the Commission considers  
12 penalties in prior cases with comparable violations.

13 The Enforcement Division did not find any evidence of intentional concealment, but Alejo for  
14 Assembly demonstrated a pattern of failing to timely file 24-hour reports over a two-year period that  
15 appears to have been the result of negligence. Neither Alejo for Assembly or Alejo have a previous  
16 history of violating the requirements of the Act. Additionally, Alejo hired a professional accounting  
17 service to prepare and file Alejo for Assembly's campaign disclosure reports.

18 The Commission recently approved a penalty for failing to timely file 10-day reports and 24-hour  
19 reports in the following cases:

20 *In the Matter of Dr. Weber for Assembly 2014, Dr. Shirley Weber and Xavier Martinez;* FPPC  
21 Case No. 16/038 (approved Mar. 22, 2018). In this matter, the Commission approved a penalty of \$1,000  
22 in Count 1 for the respondent's failure to file a 10-day report. *Weber* failed to file a 10-day report after  
23 received a contribution of \$8,200. The contribution was timely reported on *Weber's* semi-annual  
24 campaign statement.

25 *In the matter of Bloom for Assembly 2014, Richard H. Bloom, and David L. Gould;* FPPC No.  
26 16/456 (approved Jan. 18, 2018) the Commission approved a penalty of \$2,000 in Count 2 against the

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28 <sup>13</sup> See Section 83116, subdivision (c).

<sup>14</sup> Regulation 18361.5, subdivision (d).

1 respondents for failing to timely file five 24-hour reports totaling approximately \$15,420. Four of the five  
2 reports were filed late, but prior to the election with the remaining one being filed after the election.

3 Regarding Count 1, a penalty higher than one approved by the Commission in Count 1 of *Weber*  
4 is being sought due to the difference in circumstances. In this matter, *Alejo* failed to timely file four 10-day  
5 reports totaling \$31,400 in contributions. Whereas in the comparable case, *Weber* failed to timely file one  
6 10-day report totaling \$8,200. Based on the differences in the amount of contributions that were not  
7 timely reported on 10-day reports, a penalty of \$3,000 is recommended.

8 Regarding Count 2, a higher penalty than approved by the Commission in Count 2 of *Bloom* is  
9 recommended. Two factors distinguish *Alejo* from *Bloom*. First, *Alejo* and *Bloom* involve different  
10 amounts of contributions that were not timely disclosed. *Alejo* failed to timely report \$36,000 in  
11 contributions on 24-hour reports and *Bloom* failed to timely report \$15,420 on 24-hour reports. Second,  
12 the bulk of the contributions *Alejo* did not timely report were not reported until after the election.  
13 Specifically, \$35,000 of the \$36,000 was reported by *Alejo* after the election. Whereas the respondents in  
14 *Bloom* reported \$10,020 of \$15,420 in late contributions prior to the election. Based on the differences in  
15 circumstances, a penalty of \$3,000 is recommended.

16 Regarding Count 3, the same penalty approved by the Commission in Count 2 of *Bloom* is  
17 recommended due to the similarities in circumstances. First, both *Alejo* and *Bloom* involve similar  
18 amounts of contributions that were not timely disclosed. In *Bloom*, the respondents failed to timely report  
19 \$15,420 on 24-hour reports and in *Alejo* the respondents have failed to timely report \$18,400 in late  
20 contributions on 24-hour reports. Second, in both cases the respondents reported the majority of the  
21 contributions late, but before the election. In *Alejo*, \$10,300 of the \$18,400 was reported prior to the  
22 election. Similarly, in *Bloom* reported \$10,020 of \$15,420 in late contributions prior to the election.  
23 Based on the similarities, a penalty of \$2,000 is recommended.

## 24 CONCLUSION

25 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
26 Respondents Alejo for Assembly and Alejo hereby agree as follows:

- 27 1. Respondents violated the Act as described in the foregoing pages, which are a true and  
28

1 accurate summary of the facts in this matter.

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

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

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

15         5. Respondents agree to the issuance of the decision and order set forth below. Also,  
16 Respondents agree to the Commission imposing against it an administrative penalty in the amount of  
17 \$8,000. One or more payments totaling said amount—to be paid to the General Fund of the State of  
18 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
19 above, and same shall be held by the State of California until the Commission issues its decision and  
20 order regarding this matter.

21         6. If the Commission refuses to approve this stipulation—then this stipulation shall become  
22 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
23 rejected, all payments tendered by the Respondents in connection with this stipulation shall be  
24 reimbursed to the Respondents. If this stipulation is not approved by the Commission, and if a full  
25 evidentiary hearing before the Commission becomes necessary, neither any member of the Commission,  
26 nor the Executive 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.  
4

5 Dated: \_\_\_\_\_

\_\_\_\_\_  
Galena West, Chief of Enforcement  
Fair Political Practices Commission

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8  
9 Dated: \_\_\_\_\_

\_\_\_\_\_  
Luis Alejo, individually, and o/b/o Alejo for Assembly  
2014

1           The foregoing stipulation of the parties “Alejo for Assembly 2014 and Luis Alejo,” FPPC Case  
2 No. 16/188 is hereby accepted as the final decision and order of the Fair Political Practices Commission,  
3 effective upon execution below by the Chair.

4           IT IS SO ORDERED.

5  
6 Dated: \_\_\_\_\_

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Alice T. Germond, Chair  
Fair Political Practices Commission

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