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7

8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**
10

11 In the Matter of) FPPC Nos. 15/313 and 15/314
12)
13)
14 PATRICIA LÓPEZ, PATTY LÓPEZ) **STIPULATION, DECISION and ORDER**
FOR ASSEMBLY 2014, and)
15 CAROLINA PEREZ)
16 Respondents.)

17 **STIPULATION**

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
19 Respondents Patricia López, Patty López for Assembly 2014 (the Committee), and Carolina Perez,
20 hereby agree that this Stipulation will be submitted for consideration by the Fair Political Practices
21 Commission at its next regularly scheduled meeting.

22 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised by
23 this matter and to reach a final disposition without the necessity of holding an additional administrative
24 hearing to determine the liability of López, the Committee, and Perez.

25 López, the Committee, and Perez understand, and hereby knowingly and voluntarily waive, any
26 and all procedural rights set forth in Government Code Sections 83115.5, 11503 and 11523, and in
27 California Code of Regulations, title 2, Sections 18361.1 through 18361.9. This includes, but is not
28 limited to the right to personally appear at any administrative hearing held in this matter, to be

1 represented by an attorney at López', the Committee's, and Perez' own expense, to confront and cross-
2 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have
3 an impartial administrative law judge preside over the hearing as a hearing officer, and to have the
4 matter judicially reviewed.

5 It is further stipulated and agreed that Respondents violated the Political Reform Act as
6 described in Exhibit 1: López, the Committee and Perez: failed to timely file one semi-annual campaign
7 statements and two preelection campaign statements for reporting periods in 2014 by the applicable due
8 dates, violating Government Code Sections 84200, subdivision (a), 84200.5, subdivision (a), and
9 84200.7, subdivision (b) (1 count); failed to deposit contributions into a single, designated campaign
10 bank account prior to expenditure, violating Government Code Sections 85201, subdivisions (c) and (e)
11 (1 count); received cash contributions of \$100 or more totaling approximately \$1,300, and made cash
12 expenditures of \$100 or more, totaling approximately \$1,220, violating Government Code Section
13 84300, subdivisions (a) and (b) (1 count); failed to maintain supporting records for contributions and
14 loans received and expenditures made, violating Government Code Section 84104 (1 count); López:
15 failed to disclose required economic interests of real property and income in her Candidate Statement of
16 Economic Interests, violating Government Code Sections 87206 and 87207 (1 count). Exhibit 1 is
17 attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and
18 accurate summary of the facts in this matter.

19 López, the Committee, and Perez agree to the issuance of the Decision and Order, which is
20 attached hereto. López, the Committee, and Perez also agree to the Commission imposing an
21 administrative penalty in the total amount of Seven Thousand Five Hundred Dollars (\$7,500). A
22 cashier's check from López, the Committee, and Perez in said amount, made payable to the "General
23 Fund of the State of California," is submitted with this Stipulation as full payment of the administrative
24 penalty, and shall be held by the State of California until the Commission issues its Decision and Order
25 regarding this matter. The parties agree that in the event the Commission refuses to accept this
26 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
27 meeting at which the Stipulation is rejected, all payments tendered by López, the Committee, and Perez
28 in connection with this Stipulation shall be reimbursed to López, the Committee, and Perez. López, the

1 Committee, and Perez further stipulate and agree that in the event the Commission rejects the
2 Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither any
3 member of the Commission, nor the Executive Director, shall be disqualified because of prior
4 consideration of this Stipulation.

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6 Dated: _____
7 Galena West, Chief, on Behalf of the Enforcement Division
8 Fair Political Practices Commission

9 Dated: _____
10 Patricia López, Respondent, individually and on behalf of Patty
11 López for Assembly 2014, Respondent

12 Dated: _____
13 Carolina Perez, Respondent

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15 **DECISION AND ORDER**

16 The foregoing Stipulation of the parties “In the Matter of Patricia López, Patty López for
17 Assembly 2014, and Carolina Perez,” FPPC Case Nos. 15/313 and 15/314, including all attached
18 exhibits, is hereby accepted as the final decision and order of the Fair Political Practices Commission,
19 effective upon execution below by the Chair.

20 IT IS SO ORDERED.

21 Dated: _____
22 Joann Remke, Chair
23 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent Patricia López was a successful candidate for Assembly District 39 in the June 3, 2014 Primary Election, and in the November 4, 2014 General Election. Her term of office expires in November 2016, and she is running for re-election. Respondent Patty López for Assembly 2014 (the Committee) was her candidate controlled committee. At all relevant times, Respondent Carolina Perez was the treasurer of the Committee.

A formal complaint was submitted to the Enforcement Division (FPPC Case No. 15/313) alleging that López failed to disclose certain economic interests in her Candidate Statement of Economic Interests. Based upon a second formal complaint (FPPC Case No. 15/314), the Enforcement Division conducted an audit of the Committee for the period from January 1, 2013 through December 31, 2014. During that period, the Committee reported contributions totaling \$14,314 and reported expenditures totaling \$11,551. A case based upon a third formal complaint was closed due to lack of evidence.

The Political Reform Act (the “Act”)¹ requires candidates and committees to timely file campaign statements and reports, maintain one campaign bank account and maintain detailed campaign records. And the Act prohibits candidates and committees from accepting cash contributions of \$100 or more, and making cash expenditures of \$100 or more. López, the Committee, and Perez violated these provisions of the Act. Additionally, López failed to disclose required economic interests in her Candidate Statement of Economic Interests.

SUMMARY OF THE LAW

All legal references and discussions of law pertain to the Act’s provisions as they existed in 2014.

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

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

There are many purposes of the Act. One purpose is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully

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.

² § 81001, subd. (h).

³ § 81003.

informed, and improper practices may be inhibited.⁴ Another is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁵

Definition of Controlled Committee

A “committee” includes any person or combination of persons who receives contributions totaling \$1,000 or more in a calendar year,⁶ commonly known as a “recipient committee.” A recipient committee which is controlled directly or indirectly by a candidate, or which acts jointly with a candidate in connection with the making of expenditures, is a “controlled committee.”⁷

Duty to File Campaign Statements and Reports

Recipient committees are required to file certain specified campaign statements and reports.⁸

Duty to File Semi-Annual Campaign Statements

The Act requires all candidates and committees pursuant to Section 82013, subdivision (a), to file semi-annual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.⁹ All filing obligations continue until the recipient committee is terminated by filing a statement of termination with the Secretary of State (SOS) and a copy with the local filing officer receiving the committee’s original campaign statements.¹⁰

Duty to File Preelection Campaign Statements

All candidates for offices voted upon in the November 4, 2014 General Election, and their controlled committees were required to file preelection statements as follows:

- 1) For the period ending September 30, the statement must have been filed no later than October 6;
- 2) For the period ending October 18, the statement must have been filed no later than October 23.¹¹

All candidates voted upon in the election for which the statement was filed and their controlled committees must have filed the preelection statement due October 23 by guaranteed overnight delivery service or by personal delivery.¹²

⁴ § 81002, subd. (a).

⁵ § 81002, subd. (f).

⁶ § 82013, subd. (a).

⁷ § 82016, subd. (a).

⁸ See §§ 84200 – 84225.

⁹ § 84200, subd. (a); Reg. 18116, subd. (a).

¹⁰ § 84214; Reg. 18404, subd (b) – (e).

¹¹ §§ 84200.5, subd. (a), and 84200.7, subd. (b); Reg. 18116, subd. (a).

¹² § 84200.7, subd. (b)(2).

Where to File Campaign Statements

Candidates for Members of the Legislature and their controlled committees must file the original and one copy of all campaign statements with the SOS.¹³ And all candidates and committees must file one copy of the campaign statements required by Section 84200 with the elections official of the county in which the candidate is domiciled.¹⁴

Prohibited Cash Contributions of \$100 or More

No contribution of \$100 or more may be made or received in cash.¹⁵ All contributions of \$100 or more must be made in the form of a written instrument containing the name of the contributor and the name of the payee, and drawn from the account of the contributor.¹⁶

Prohibited Cash Expenditures of \$100 or More

The Act prohibits making an expenditure of one hundred dollars or more in cash.¹⁷ The Act defines “expenditure” as a payment, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes.¹⁸

Duty to Deposit Campaign Funds into a Single, Designated Campaign Bank Account Prior to Expenditure

To ensure full disclosure of campaign activity and to guard against improper use of campaign funds, a candidate must establish a single, designated campaign bank account upon filing a statement of intention to be a candidate.¹⁹ All campaign contributions and loans must be deposited into the campaign account.²⁰ Personal funds of the candidate that will be used for the campaign must be deposited in the campaign account prior to expenditure.²¹ All campaign expenditures must be made from the campaign account.²²

Duty to Maintain Campaign Records

To ensure accurate campaign reporting, the Act imposes a mandatory duty on each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to comply with the campaign provisions.²³ This requirement includes a duty to

¹³ § 84215 subd. (a).

¹⁴ § 84215.

¹⁵ § 84300, subd. (a).

¹⁶ § 84300, subd. (c).

¹⁷ § 84300, subd. (b).

¹⁸ § 82025.

¹⁹ § 85201, subd. (a).

²⁰ § 85201, subd. (c).

²¹ § 85201, subd. (d).

²² § 85201, subd. (e).

²³ § 84104.

maintain detailed information and original source documentation for all contributions and expenditures.²⁴

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Candidate and Treasurer Liability

Every committee must have a treasurer.²⁵ It is the duty of a committee's candidate and treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds.²⁶ A committee's candidate and treasurer may be held jointly and severally liable with the committee for any reporting violations.²⁷

Duty to Disclose Economic Interests in Statements of Economic Interests

Candidates for elective state office, including Members of the Legislature, must file Statements of Economic Interests (SEI's) no later than the final filing date of a declaration of candidacy.²⁸ Members of the Legislature must also file an assuming office SEI and SEI's on an annual basis.²⁹

Among other things, SEI's must include certain information about interests in real property worth \$2,000 or more, such as the location of the property and information about the value of the property.³⁰

Additionally, SEI's must include certain information about sources of income of \$500 or more during the period covered by the statement, such as the name and address of each source of income, information about the amount of income, and a description of the consideration (if any) for which the income was received.³¹ Income includes any payment for rent, and any community property interest in the income of a spouse.³²

SUMMARY OF THE FACTS

An initial statement of organization was filed for the Committee with SOS on June 10, 2013, but the Committee had not yet qualified as a committee. According to the Committee's available records, the Committee qualified in or about March 2014. López was a first-time candidate for elective office.

The Enforcement Division's audit found that López, the Committee, and Perez did not comply with several of the Act's campaign requirements.

²⁴ Reg. 18401.

²⁵ § 84100.

²⁶ § 84100; Reg. 18427.

²⁷ §§ 83116.5 and 91006; Reg. 18316.6.

²⁸ §§ 87200 and 87201.

²⁹ §§ 87202, subd. (b), and 87203.

³⁰ §§ 82033 and 87206.

³¹ § 87207, subd. (a).

³² § 82030, subd. (a).

Campaign Statements

López, the Committee, and Perez failed to timely file campaign statements with SOS by the required deadlines in 2014 as follows:

Period Covered	Date Due	Date Filed w/LA	Date Filed w/SOS	Amendment Filed?	Amended Reported Receipts	Amended Reported Expenditures
05/18 – 06/30/14	07/31/14	08/01/14	05/18/15	Yes	679.52	691.52
07/01 – 09/30/14	10/06/14	10/16/14	05/18/15	Yes	2,134.72	2,024.72
10/01 – 10/18/14	10/23/14	11/18/14	12/05/14	Yes	556.05	581.05
Total					13,242.01	10,965.95

López, the Committee, and Perez filed original campaign statements for the above 2014 reporting periods with the Los Angeles County Registrar/Recorder between August 1, 2014 and November 18, 2014. But López, the Committee, and Perez did not file the statements with SOS until after the General Election – two were filed seven months after the election. López, the Committee, and Perez had previously filed campaign statements for 2013 reporting periods with SOS, and SOS sent several notices to them for failure to file campaign statements timely.

Campaign Bank Account

During the audit period, López, the Committee, and Perez made campaign expenditures totaling \$4,698 which were not paid from the campaign bank account, but instead were paid for with López’ personal funds. Of the total \$4,698, \$545.97 was not reported on the Committee’s campaign statements, as follows:

Date	Payee	Description	Amount
04/25/2014	Printing Q	Postcards	315.36
05/26/2014	PennySaver	Advertisement	230.61
Total			545.97

Additionally, López, the Committee, and Perez failed to deposit approximately \$800 in contributions received for two fundraisers selling tamales and papusas into the Committee’s bank account.

Cash Contributions and Expenditures

López, the Committee, and Perez received five contributions of \$100 or more in cash as follows:

Name of Contributor	Date	Amount
Carolina Perez	09/11/2013	400.00

Name of Contributor	Date	Amount
Jackie Izarararaz	09/11/2013	100.00
Padres Activos of the San Fernando Valley	03/27/2014	200.00
Carolina Perez (Schedule I)	07/20/2014	100.00
Unknown-Cash deposit in bank	11/10/2014	500.00
Total		1,300.00

Additionally, López, the Committee, and Perez made five expenditures of \$100 or more in cash as follows:

Name of Payee	Date	Amount
ATM Withdrawal	11/24/2014	160.00
ATM Withdrawal	12/01/2014	300.00
Cash Withdrawal	12/03/2014	300.00
ATM Withdrawal	12/23/2014	160.00
ATM Withdrawal	12/23/2014	300.00
Total		1,220.00

Recordkeeping

López, the Committee, and Perez failed to keep pertinent records of all contributions received and all expenditures made for the audit period January 1, 2013 through December 31, 2014. The copies of deposit slips, receipts and loan agreements were not provided for monetary contributions received totaling \$800, and loans received totaling \$1,100. And detailed records, such as copies of the canceled checks, invoices, bills and receipts, were not provided to substantiate expenditures from the campaign bank account totaling \$2,225. Additionally, detailed records were not provided for campaign related expenditures made from López' personal funds, which were reported as non-monetary contributions on the campaign statements, totaling approximately \$3,351. López stated during an interview with Enforcement Division staff that the Committee did not establish a good record keeping system due to lack of prior experience with the Act and due to lack of funds.

SEI Non-Disclosure

On March 10, 2014, López filed her Candidate SEI with the Commission, stating that she had "no reportable interests." But Lopez should have disclosed the following economic interests: her interest in Real Property for APN 3052-043-030, rental income from that real property, and her spouse's salary from Ronan Engineering Company. López filed her Assuming Office/2014 Annual SEI on March 2, 2015, disclosing each of these interests, and filed her Amended Candidate SEI on July 9, 2015 to reflect the same.

Several economic interests identified in the complaint were not required to be reported by public officials, such as salary from a governmental source, or property used primarily as a family residence.

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VIOLATIONS

Count 1: Failure to Timely File Campaign Statements

López, the Committee, and Perez failed to timely file with SOS one semi-annual campaign statements and two preelection campaign statements for reporting periods in 2014 by the applicable due dates, violating Government Code Sections 84200, subdivision (a), 84200.5, subdivision (a), and 84200.7, subdivision (b).

Count 2: Failure to Use One Campaign Bank Account

López, the Committee, and Perez failed to deposit contributions into a single, designated campaign bank account prior to expenditure, violating Government Code Sections 85201, subdivisions (c) and (e).

Count 3: Prohibited Cash Contributions and Expenditures

López, the Committee, and Perez received cash contributions of \$100 or more totaling approximately \$1,300, and made cash expenditures of \$100 or more, totaling approximately \$1,220, violating Government Code Section 84300, subdivisions (a) and (b).

Count 4: Recordkeeping

López, the Committee, and Perez failed to maintain supporting records for contributions and loans received and expenditures made, violating Government Code Section 84104.

Count 5: SEI Non-Disclosure (López only)

López failed to disclose required economic interests of real property and income in her Candidate SEI, violating Government Code Sections 87206 and 87207.

CONCLUSION

This matter consists of five counts of violating the Act, which carries a maximum administrative penalty of \$25,000.

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Commission considers the facts and circumstances of the violation in the context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the respondents demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether respondent voluntarily amended.

The Commission also considers penalties in prior cases involving similar violations. Recent similar cases involving the failure to timely file campaign statements (Count 1) include:

- *In the Matter of Virginia Mari Goodman, Mari Goodman for Assembly 34-2012, and Joan Slater*; FPPC No. 13/1327. Respondent, an unsuccessful candidate for State Assembly, her controlled committee and its treasurer, failed to file two preelection campaign statements for the November 2012 election, violating Sections 84200.5, subdivision (a), and 84200.7 (1 count). During 2012, Mari Goodman for Assembly 34-2012 received contributions totaling \$20,466 and made expenditures totaling \$16,673. On June 18, 2015 the Commission approved a \$2,500 penalty for this count.

Recent similar cases involving the failure to deposit funds into the campaign bank account prior to expenditure (Count 2) include:

- *Laurette Healey, Healey for Assembly 2012, and Marcia Davalos*, FPPC No. 14/105. Respondents, an unsuccessful candidate for State Assembly, her controlled committee and the committee treasurer, failed to deposit \$31,500 in contributions into a single, designated campaign bank account prior to expenditure, violating Section 85201 (1 count). On August 20, 2015, the Commission approved a \$2,500 penalty for this count.
- *In the Matter of Jacob Angel and Jacob Angel for Peninsula Health Care District 2012*, FPPC No. 12/287 (Default Decision). Respondent, a candidate for Peninsula Health Care District in the November 6, 2012 election, and his controlled committee, failed to deposit all campaign contributions into, and failed to make all expenditures from a single, designated campaign bank account during calendar years 2011 and 2012, violating Section 85201 (1 count). On April 25, 2013, the Commission approved a \$1,000 penalty for this count.

Recent similar cases involving cash contributions and expenditures (Count 3) include:

- *In the Matter of Familias por Maywood aka Familias por Maywood Supporting Aguirre Magaña Varela for Maywood City Council, and Felipe Aguirre*; FPPC No. 12/422 (Default Decision). Respondents made cash deposits totaling \$2,934 and made cash expenditures totaling \$2,020. On January 15, 2015, the Commission approved a penalty of \$1,500 for this count.

Recent similar cases involving the failure to maintain records (Count 4) include:

- *In the Matter of Andrew M. Cohen and Elect Andy Cohen for Supervisor 2012*; FPPC No. 14/329. Respondents, an unsuccessful candidate for the San Mateo County Board of Supervisors and his controlled committee, failed to maintain the detailed accounts, records, bills, and receipts that were necessary to prepare campaign statements for reporting periods occurring from January 1 through June 30, 2012, violating Section 84104 (1 count). On February 19, 2015, the Commission approved a penalty of \$1,000 for this count.

Recent similar cases involving the failure to disclose interests in SEI's (Count 5) include:

- *In the Matter of Carlos Villapudua*, FPPC No. 14/395. Respondent, Carlos Villapudua, San Joaquin County Supervisor, failed to disclose various business, investment, and real property interests, as well as sources of income and gifts, on his 2012 and 2013 Annual Statements of Economic Interests, due on April 2, 2013 and April 1, 2014, in violation of Government Code Sections 87300 and 87207, subdivision (a) (1 count). On August 21, 2014, the Commission approved a penalty of \$1,000 for this count.

Regarding Counts 1 through 4, the evidence in this case shows that López, the Committee, and Perez failed to comply with several of the Act's campaign reporting requirements. Because Lopez was a candidate for elective state office, López, the Committee, and Perez were required to file campaign statements with both SOS and Los Angeles County. But López, the Committee, and Perez failed to timely file three campaign statements with SOS, which deprived the public of information regarding the Committee's finances.

López, the Committee, and Perez also failed to exclusively use the campaign bank account for contributions received and expenditures made. López's, the Committee's, and Perez's failure to use the campaign bank account for all campaign expenditures and contributions, in conjunction with their failure to maintain all required records, made tracking and accounting for campaign funds difficult to impossible, and it is unclear whether López, the Committee, and Perez further violated the Act's requirements. Additionally, because many of the transactions were in cash, the full nature and extent of the campaign activity cannot be verified with the available records.

López and the Committee have prior Enforcement activity for similar violations. On August 21, 2014, the Commission imposed a penalty of \$400 against López and the Committee as part of the Enforcement Division's Streamline Program for failing to timely file two preelection campaign statements for the June 3, 2014 Primary Election.

But several mitigating factors influence Counts 1 through 4. López, the Committee, and Perez filed all of the campaign statements with Los Angeles County Registrar/Recorder within a few days or weeks of the filing deadlines. López, the Committee, and Perez fully cooperated with the Enforcement Division investigation, and they voluntarily filed amended campaign statements in response to this investigation. The Committee's amended campaign statements show that the Committee received and spent a small amount of money compared to many campaigns for elective state office, and many of the contributions were from López, her family, and her friends. The evidence shows that López, the Committee, and Perez attempted to comply with the requirements of the Act. But López, a first-time candidate, and Perez, a first-time treasurer, had no campaign experience, and they contend that the Committee could not afford to hire professionals to help. The Enforcement Division investigation did not reveal any evidence that López, the Committee, and Perez intended to conceal information from the public, and López, the Committee, and Perez contend that the violations were unintentional. López has since hired a professional treasurer to assist her in complying with the Act's campaign requirements.

Regarding Count 5, López did not disclose any reportable interests on her candidate statement of economic interests before the election. But in mitigation, López was a first-time candidate who never held public office, and she was unfamiliar with the economic disclosure requirements. López amended her candidate statement of economic interests after receiving the complaints in this matter to include the required economic interests. Additionally, because López was not a public official at the time she was a candidate, the unreported interests did not cause López to have a conflict of interests.

PROPOSED PENALTY

The factors listed in Regulation 18361.5, prior similar cases, and other relevant facts, justify a total penalty of \$7,500:

Count	Description	Penalty per count Total
1	Failure to Timely File Campaign Statements	\$2,500
2	Failure to Use One Campaign Bank Account	\$1,500
3	Prohibited Cash Contributions and Expenditures	\$1,500
4	Recordkeeping	\$1,000
5	SEI Non-Disclosure (López only)	\$1,000
	Total Agreed Upon Penalty	\$7,500

* * * * *