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BEFORE THE  
SAN FRANCISCO ETHICS COMMISSION

In the Matter of:

JOHN AVALOS FOR MAYOR 2011 AND JOHN  
AVALOS, RESPONDENT

CASE NO. 13-150618

**ACCUSATION**

**BACKGROUND**

On May 7, 2018, the Ethics Commission (“the Commission”) held a Probable Cause Hearing in closed session concerning the above-captioned matter and determined that probable cause exists to believe that John Avalos (“Respondent”) committed ten violations of the California Government Code and of the San Francisco Campaign and Governmental Conduct Code by failing to maintain campaigns records and failing to disclose campaign expenditures. This Accusation has been issued pursuant to Section IX(A) of the San Francisco Ethics Commission Regulations for Investigations and Enforcement Proceedings effective March 28, 2016 (“Enforcement Regulations”) and is a public document.

**JURISDICTION**

The San Francisco Charter authorizes and requires the Ethics Commission to investigate alleged violations of the charter or City ordinances relating to campaign finance, lobbying, conflicts of interest and governmental ethics whenever the Commission, upon the sworn complaint or on its own initiative, determines that there is sufficient cause to conduct an investigation. S.F. Charter § C3.699-13(a). The Commission enforces the Campaign Finance Reform Ordinance (“CFRO”), San Francisco Campaign &

1 Governmental Conduct Code (“SF C&GCC”) Article 1, Chapter 1, and the Political Reform Act (“PRA”),  
2 California Government Code section 81000 *et seq.*, which the Campaign & Governmental Conduct Code  
3 incorporates as to local elections. SF C&GCC § 1.106.

4 The PRA was enacted by California voters with the purpose, in part, that “[r]eceipts and expenditures  
5 in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed  
6 and improper practices may be inhibited.” *See* Gov’t Code § 81002. In enacting CFRO, it was the purpose and  
7 intent of the People of the City and County of San Francisco to, among other things, “provide full and fair  
8 enforcement of all the provisions in this Chapter;” “assist voters in making informed electoral decisions and  
9 ensure compliance with campaign contribution limits through the required filing of campaign statements  
10 detailing the sources of campaign contributions and how those contributions have been expended,” and  
11 “[h]elp restore public trust in governmental and electoral institutions.” *See* SF C&GCC § 1.100(b).

#### 12 **PROBABLE CAUSE STANDARD**

13 The Commission may find that probable cause exists to believe a violation of law has occurred only if a  
14 person of ordinary caution and prudence would conclude, based on the evidence, that there is a reasonable  
15 ground to suspect that the respondent has committed the violation. Enforcement Reg. § VIII(A)(4).

#### 16 **APPLICABLE LAW**

17 California Government Code section 84104 provides that it is the duty of each candidate, treasurer,  
18 and elected officer to maintain detailed accounts, records, bills, and receipts that are necessary to prepare  
19 campaign statements, and to retain the documents for a period of four years following the date the  
20 appropriate campaign statement is filed. Section 84104 is incorporated into the Campaign Finance Reform  
21 Ordinance at S.F. C&GCC sections 1.106 and 1.109.

22 California Government Code, section 84200(a), incorporated into local law by San Francisco Campaign  
23 and Governmental Conduct Code, section 1.106, provides that elected officers, candidates, and committees  
24 pursuant to California Government Code, section 82013(a), shall file semi-annual statements each year no  
25 later than July 31 for the period ending June 30, and no later than January 31 for the period ending December  
26 31. These public disclosure statements report itemized campaign contributions, expenditures, outstanding  
27 debts and cash on hand.

1 **SUMMARY OF ALLEGED FACTS**

2 On April 18, 2011, then-Supervisor John Avalos formed the committee "John Avalos for Mayor 2011"  
3 ("the Committee") as a candidate-controlled committee for the purpose of advancing his candidacy for Mayor  
4 in the November 2011 election. In the course of the campaign, Respondent qualified for the City's public  
5 financing program and received \$461,479 in public funds in support of his candidacy.

6 On June 15, 2015, Ethics Commission audit staff completed the final audit for Respondent's  
7 Committee. On June 18, 2015, audit staff referred the audit report to enforcement staff, which included the  
8 material findings that the Committee failed to maintain complete campaign records for contributions and  
9 expenditures and failed to disclose campaign expenditures. Also on June 18, 2015 and pursuant to the  
10 requirement under Charter section C3.699-13(a), enforcement staff referred the matter to the City Attorney  
11 and District Attorney, thereby satisfying the statute of limitations for administrative enforcement that CFRO  
12 provides. SF C&GCC § 1.168(c)(3).

13 In December of 2015, Respondent provided the Commission additional documents for review, and on  
14 February 29, 2016, the Commission provided Respondent a letter summarizing its analysis of the documents  
15 Respondent had submitted and updated its audit findings accordingly. The Commission's updated audit still  
16 included findings that the Committee failed to maintain complete campaign records for contributions and  
17 expenditures and failed to disclose campaign expenditures.

18 Following issuance of the updated audit and further investigation into its findings, Ethics Commission  
19 staff issued a probable cause report on January 31, 2018. On March 31, 2018, Respondent provided a written  
20 response to the Commission. The Ethics Commission held a probable cause hearing regarding this matter on  
21 May 7, 2018. Respondent attended the Probable Cause Hearing with representation. At the conclusion of the  
22 hearing and on the basis of the entire evidentiary record, the Commission determined that there was probable  
23 cause to believe that Respondent committed all ten violations as presented in the Probable Cause Report.

24 **SUMMARY OF ALLEGED VIOLATIONS**

25 The Commission's finding of Probable Cause alleges ten counts against the Respondent.

26 **Counts 1 and 2**

27 **Failure to maintain complete records for contributions received.**

28 In total, Respondent failed to provide documentation to the Ethics Commission evidencing \$2,278 in  
non-monetary contributions, or 1 percent of the Committee's total contributions.



