FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

October 21, 2010

Kevin Heneghan
The Sutton Law Firm
Redacted

Re: FPPC No. 10/932; Yes on Prop B Pension & Benefits Reform with Jeff Adachi, Controlling Candidate, and Craig Weber, Treasurer

Dear Mr. Heneghan:

This letter is to notify you that the Enforcement Division of the Fair Political Practices Commission (the "FPPC") will investigate the allegations, under the jurisdiction of the FPPC, of the sworn complaint you submitted in the above-referenced matter. You will receive notification from us upon final disposition of the case. However, please be advised that at this time we have not made any determination about the validity of the allegations you have made or about the culpability, if any, of the persons you identify in your complaint.

Thank you for taking the time to bring this matter to our attention.

Sincerely,

Redacted

Roman G. Porter
Executive Director

RGP: ak

cc: Craig Weber

SWORN COMPLAINT FORM

(Form May Be Subject to Public Disclosure)*

AS REQUIRED BY GOVERNMENT CODE SECTION 83115, please complete the form below to file a sworn complaint with the Fair Political Practices Commission. **This form must be completed in its entirety and all pertinent information must be stated on this form, not as an attachment.**

Mail the complaint to:

Enforcement Division
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, California 95814

Person Making Complaint

Last name: Heneghan

First Name: Kevin

Street Address:

City:

Zip:

Tele

Fax:

E-mail:

Redacted

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*IMPORTANT NOTICE

Under the California Public Records Act (Gov. Code Section 6250 and following), this sworn complaint and your identity as the complainant may be subject to public disclosure. Unless the Chief of Enforcement deems otherwise, within three business days of receiving your sworn complaint we will send a copy of it to the persons(s) you allege violated the law.

In some circumstances, the FPPC may claim your identity is confidential, and therefore not subject to disclosure. A court of law could ultimately make the determination of confidentiality. If you wish the FPPC to consider your identity confidential, do not file the complaint before you contact the FPPC (916-322-5660 or toll free at 866-ASK-FPPC) and discuss the complaint with an Enforcement Division attorney.

Complaint

Person or Persons who Allegedly Violated the Political Reform Act: (If there are multiple parties involved, attach additional pages as necessary.)

Last Name: Yes on Prop B Pension & Benefits Reform/Jeff Adachi

First Name: FPPC ID# 1326739

Street Address:

City:

Zip:

Tele

Fax:

E-mail:

Redacted

Provision or Provisions of the Political Reform Act Allegedly Violated: (If specific sections are not known, please provide a brief summary of the nature of the violation(s), and when it (they) occurred.) **You must state the suspected violation(s) on this form.**

California Government Code sections 84503 & 84504.

FPPC Regulation section 18450.4.

See the attached letter for a description of the violations.

Description, With as Much Particularity as Possible, of Facts Constituting Alleged Violation and how you have personal knowledge that it occurred**

See the attached letter for a description of the violations.

Please attach copies of any available documentation that is evidence of the violation, (for example, checks, campaign materials, etc., if applicable to the complaint). **Note that a newspaper article is NOT considered evidence of a violation.

Name and Addresses of Potential Witnesses, in addition to yourself, if Known:

Last Name: Adachi

First Name: Jeff

Street Address:

City:

Zip:

Telepho

Fax:

E-mail:

Redacted

Last Name: _____

First Name: _____

Street Address:

_____

City: _____ State: _____

Zip: _____-_____

Telephone: (_____) _____-_____

Fax: (_____) _____-_____

E-mail: _____

Last Name: _____

First Name: _____

Street Address:

_____

City: _____ State: _____

Zip: _____-_____

Telephone: (_____) _____-_____

Fax: (_____) _____-_____

E-mail: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Redacted

_____ 10/15/10

(Signature) **(Date)**

Kevin Heneghan

(Please print your name)

THE SUTTON LAW FIRM

RECEIVED
FAIR POLITICAL
PRACTICES COMMISSION
10 OCT 18 AM 10: 14

October 15, 2010

VIA FAX & OVERNIGHT DELIVERY

Mr. Roman Porter
Executive Director
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

RE: Complaint Against YES ON PROP B PENSION & BENEFITS REFORM, Supported by Public Defender Jeff Adachi, Harriet Heyman and Michael (FPPC ID #1326739)

Dear Roman:

As counsel for Standing Up For Working Families, a committee opposed to the passage of Proposition B in San Francisco, we demand that the Fair Political Practices Commission ("FPPC") immediately compel the "YES ON PROP B PENSION & BENEFITS REFORM, Supported by Public Defender Jeff Adachi, Harriet Heyman and Michael Moritz" committee ("Committee") to comply with the disclaimer requirements of the Political Reform Act.

In television commercials recently aired in San Francisco, the Committee skirts the requirements of the Political Reform Act by hiding its name, the name of its controlling candidate, and, most importantly, that the ads are funded by wealthy financiers. Although the ad in question contains the Committee's name, the Committee has violated the law by failing to air the required information for at least 5 seconds as required by law.

The Committee is a primarily formed committee supporting Proposition B on San Francisco's November 2010 ballot. According to recent filings (copy enclosed), the Committee is controlled by San Francisco Public Defender Jeff Adachi and is supported by several wealthy individuals. In fact, as of September 30, two individuals had provided approximately one-third of the Committee's entire budget – the Committee's reports indicate that Silicon Valley venture capitalist Michael Moritz and his wife and author Harriet Heyman had both provided $122,500, for a total of $720,000. (Copy of Committee's Campaign Report enclosed.) The Committee recently began airing a television ad in support of Proposition B. (Enclosed is a DVD showing two airings of the ad on local television.)

150 Post Street, Suite 405 ■ San Francisco, CA 94108
Tel: 415/732-7700 ■ Fax: 415/732-7701 ■ www.campaignlawyers.com

It is clear that the Committee did all it could to minimize the opportunity for voters to read the information in the disclaimer at the end of the ad – specifically the names of its major donors and the name of its controlling candidate. Not only is the disclaimer almost illegible, but it appears on screen for at most two seconds. This renders the disclaimer entirely ineffective, thus depriving voters of information which the law has deemed essential to their consideration of the ad.

By reducing the disclaimer to a blip on the screen at the end of the commercial, the Committee violates a clear requirement of state law. As you know, the Committee is required to list the names and economic interests of its major donors to inform voters which special interests are behind the ad. (Cal. Govt. Code sections 84503, 84504 & 84507.) Specifically, in order "to give the . . . observer . . . adequate notice of the identity" of those funding the ad, any television commercial paid for by a ballot measure committee must present a disclaimer "in a clear and conspicuous manner" and "of a sufficient size to be readily legible to an average viewer." (2 Cal. Code of Regs. section 18450.4(b)(3)(A).) In order to meet these legal standards, the FPPC has determined that television commercials paid for by a ballot measure committee must at a minimum air a written statement on the screen containing the name of the committee, its controlling candidate, and its major funders <u>for at least five seconds</u>.[1] (2 Cal. Code of Regs. section 18450.4(b)(3)(A).)

The Committee's ad clearly violates this requirement. The disclaimer appears for only a moment at the end of the ad, falling far short of the five second requirement. By truncating the appearance of the disclaimer, the ad deprives voters of information regarding the elected official who is behind the measure and the private individuals who are financing the campaign. This information is deemed so vital to voters that the law allows the FPPC to levy fines for incorrect disclaimers of up to <u>three times the cost of the ad</u> (which here is likely over $100,000). (Cal. Govt. Code section 84510.)

The Committee's evasion of state law is not merely a technical flaw in the ad. As an elected official and an attorney, the Committee's controlling candidate Jeff Adachi is well aware of the straightforward legal requirements for disclaimers in television commercials. Obscuring this information from voters can be seen as nothing less than a calculated maneuver to avoid disclosing the exact type of important information that the requirement is intended to provide to voters – who is controlling and funding the campaign.

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[1]Because this information is not spoken during the ad, the five second requirement would apply.

The Committee's egregious deception of voters must be stopped immediately. Just as importantly, the Committee should be fined for this violation of the law before the election to deter any other attempts to mislead voters. We therefore request that the FPPC immediately use its authority to issue an injunction to stop the Committee's illegal campaign tactics, and that it use its authority to fine the Committee for its violation of the law; we also request that the FPPC commence a civil action, if necessary, pursuant to Government Code section 91007, and should consider this letter and accompanying complaint form grounds for such a cause of action. Please feel free to contact us with any questions about this complaint.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Redacted

Kevin R. Heneghan

10/15/10
Date

cc: Gary Winuk, Esq., Enforcement Division Chief (w/out enclosures)
Enclosures
KRH/lc
#1421.01