



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

January 31, 2012

Mr. Mark Carney

/Citizens for Honest Candidates

REDACTED

RE: Warning Letter

FPPC No. 11/212, Citizens for Honest Candidates and Mark Carney

Dear Mr. Carney:

The Fair Political Practices Commission (“Commission”) enforces the provisions of the Political Reform Act (the “Act”) found in Government Code Section 81000, and following. As you are aware, the Commission received a complaint alleging a failure to file campaign statements. The Commission has decided to close this case with this warning letter.

The FPPC has completed its investigation of the facts in this case. Citizens for Honest Candidates (the “Committee”) qualified as a committee under the Act on or about October 21, 2010, when it first made expenditures exceeding \$1,000. As such, the committee had a duty to file specified campaign statements. Specifically, the FPPC found that you failed to timely file a Supplemental Independent Expenditure Report, Form 465, and failed to disclose the Independent Expenditure on Schedules D and E of the termination campaign statement.

The FPPC has determined to close this case with this warning letter, in part because the Committee made the relevant pre-election disclosures of its expenses and filed Form 465 after being contacted by the Commission.

The Committee filed as a general purpose committee, but did not engage in any campaign activity outside of the opposition to Ric Clough in the Brea City Council election. Under Regulation 18247.5(a), a committee is primarily formed if it makes more than 70 percent of its total contributions and expenditures to support or oppose a single candidate. Since the Committee raised and spent its money in opposition to Ric Clough for Brea City Council before filing termination statements, the committee was primarily formed, not general purpose.

The name of a non-candidate controlled committee primarily formed to support or oppose one or more candidate, shall include the last name of each candidate whom the committee supports or opposes as listed on its statement of organization, the office sought, and year of the election; and shall state whether the committee supports or opposes the candidate, pursuant to

Regulation 18402(c)(3). The committee should have included in its name a statement that it was opposed to the election of Ric Clough to the Brea City Council in 2010.

The Form 460 semi-annual/termination statement covering the period of October 19, 2010 through January 10, 2011 does not cover the proper time period. Since this was the first statement filed by the committee, it should have listed January 1, 2010 as the start date for the period covered. The statement should be amended to include the January 1, 2010 starting date for the period covered, and to include disclosure of the independent expenditure previously reported on the Form 496.

By failing to amend the Committee's name and file a proper termination statement, you violated the Act.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to \$5,000 for each violation.

Although the Enforcement Division is not seeking a penalty in this matter, you are still required to amend the Form 460 semi-annual/termination statement to indicate January 1, 2010 as the start date for the period covered, disclose the independent expenditure on Schedules D and F, and will be responsible for any late filing fees assessed by your filing officer. (Govt Code §91013).

A warning letter is an FPPC case resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Fair Political Practices Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the FPPC will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the FPPC's website ten (10) days from the date of this letter.

Please feel free to contact me with any questions you may have regarding this letter.

Sincerely,

REDACTED

Zachary W. Norton
Commission Counsel
Enforcement Division