



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-3329

916) 322-5660 • Fax (916) 322-0880

February 25, 2013

Phil Green

Friends of Phil Green

REDACTED

Re: Warning Letter

FPPC No. 13/068: Friends of Phil Green; Phil Green

Dear Mr. Green:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act"),¹ found in Government Code section 81000, et seq. This letter is in response to your self-reported potential violation that alleged you violated the Act when you made an independent expenditure. We are closing this matter with a warning letter.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that you used campaign funds to produce and send a political mailer that supported Candidate Ivette Ricco for Pinole City Council in the November 6, 2012 election.

Section 85501 of the Act specifically prohibits a controlled committee of a candidate from making independent expenditures. An independent expenditure is an expenditure made by any person, including a committee, in connection with a communication that expressly advocates the election or defeat of a clearly identified candidate which is not made to or at the behest of the affected candidate or committee. (Section 82031.)

Additionally, Section 84506.5 requires an advertisement supporting or opposing a candidate that is paid for by an independent expenditure must include a statement that it was not authorized by a candidate or a committee controlled by a candidate. An advertisement is defined as general or public advisement, including a communication placed in print, or a

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

direct mailing to more than 200 recipients, which is authorized and paid for by a person or committee for the purpose of supporting or opposing a candidate for elective office. (Section 84501 and Regulation 18450.1.)

Your actions violated the Act because you made an independent expenditure that expressly advocated the nomination of Ivette Ricco, and the mailing failed to have the disclaimer language required by Section 84506.5. However, because you self-reported the violation, and you do not have an enforcement history, we are closing this matter with a warning letter.

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.

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.

In addition to disclosing the independent expenditure on your campaign disclosure form, Form 460, you were also required to file a Supplemental Independent Expenditure Report, Form 465, and depending on when the mailing was sent, you may have had the obligation to file the Late Independent Expenditure Report, Form 496. (Sections 84203.5 and 84204.) If you have not filed these additional reports, you must do so immediately.

The FPPC publishes forms and manuals to facilitate compliance with the provisions of the Act. If you need forms or a manual, or guidance regarding your obligations, please call the FPPC's Technical Assistance Division at 1-866-275-3772. Please also visit our website at www.fppc.ca.gov.

Please feel free to contact Teri Rindahl at 916.327.2018 with any questions you may have regarding this letter.

Sincerely,

REDACTED

Gary S. Winuk
Chief, Enforcement Division

GSW/tr