FAIR POLITICAL PRACTICES COMMISSION
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March 20, 2014

Brian Hildreth, Attorney
Bell, McAndrews & Hiltachk, LLP
o/b/o Peter McHugh and McHugh for Assembly-2012

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RE: Warning Letter Re: FPPC Case No. 14/107; In the Matter of Peter McHugh and McHugh for Assembly-2012

Dear Mr. Hildreth:

The Fair Political Practices Commission ("FPPC") enforces the provisions of the Political Reform Act ("Act") [1], found in Government Code section 81000, et seq. This letter is in response to an audit of your client Peter McHugh and his committee McHugh for Assembly-2012 conducted by the Franchise Tax Board. The FPPC has completed its investigation of the facts in this audit. Specifically, the FPPC found that your client failed to file the following Election Cycle Reports on time:

Name of Contributor	Date Received	Amount
Peter A. McHugh	03/07/12	$ 5,000
Coastal Americare Inc.	03/23/12	1,000
Daniel Smith	03/26/12	2,000
McCarthy Ranch	03/28/12	3,900
Trumark Homes LLC	03/29/12	1,000
Preston Pipelines Inc.	04/05/12	3,000
Wilson Management	04/11/12	2,000
Milpitas Police Officers Assn	04/27/12	3,900
Peter A. McHugh[1]	05/17/12	11,760
		$33,560

[1] This contribution by your client to his committee was not processed through the committee's designated campaign bank account, but, instead, was paid by the candidate using his personal credit card in violation of the one bank account requirement in Section 85201 and reported as an expenditure and as a loan from the candidate to his committee.

Your client also failed to file a Late Contribution Report for a $2,500 contribution received HB Consulting Group on June 4, 2012.

Section 85309 of the Act provides that a candidate for elective state office, which includes a candidate running for a seat in the Assembly, who is required to file electronically, which your client was, must file online with the Secretary of State a report disclosing receipt of any contribution of $1,000 or more received during an election cycle. An "election cycle" is defined as the period of time commencing 90 days prior to an election and ending on the date of the election. (§ 85204.) In 2012, in addition to the Election Cycle Report, a "Late Contribution Report" was required to be filed when a candidate received a contribution that totaled in the aggregate $1,000 or more before the date of the election at which the candidate was to be voted on but after the closing date of the last campaign statement required to be filed before the election.[2] (§§ 82036 and § 84203.) Both the Election Cycle Report and the Late Contribution Report are, and were, required to be filed within 24 hours of receiving the triggering contribution.

Your client's actions violated the Act because he failed to file these required campaign reports by the specified deadlines. However, because Franchise Tax Board states that, in their opinion, your client substantially complied with the disclosure and recordkeeping provisions of the Act and because his committee is now terminated, we are closing your client's case with this warning letter. 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 FPPC is not seeking a penalty in the current matter, your client is responsible for any late filing fees assessed by Secretary of State. (Section 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. Although the FPPC is not seeking a penalty in the current matter, you are still responsible for any late filing fees assessed by your filing officer. (Section 91013.) 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 or visit our website at www.fppc.ca.gov.

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[2] The definition of a "Late Contribution" has changed to encompass a contribution that totals in the aggregate $1,000 or more within the 90-days before an election.

Please feel free to contact Adrianne Korchmaros at (916) 322-8241 with any questions you may have regarding this letter.

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Gary S. Winuk
Chief, Enforcement Division

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