FAIR POLITICAL PRACTICES COMMISSION
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(916) 322-5660 • Fax (916) 322-0886

March 23, 2015

Thomas S. Knox
o/b/o California Retailers Association Issues Committee
Knox Lemmon & Anapolsky LLP
[redacted]

Warning Letter

Re: FPPC No. 14/1360

California Retailers Association Issues Committee; and Thomas S. Knox, Treasurer

Dear Mr. Knox,

The Enforcement Division of the Fair Political Practices Commission (the "Commission") 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 (the "Audit") performed by the Franchise Tax Board ("FTB") of California Retailers Association Issues Committee ("Issues Committee"), the results of which have been referred to this agency. The Audit found that you and Issues Committee violated the Act by failing to file a pre-election statement for the period covering January 1, 2012 through March 17, 2012, after making a contribution in excess of $500 during that period.

The Enforcement Division has completed its investigation into the facts in this case. We determined that the violation listed by the FTB was accurately stated in the audit report. However, based on the mitigating factors discussed below, the Enforcement Division has decided to close this matter with a warning letter.

Under the Act's campaign reporting system, state general purpose committees are required to file pre-election campaign statements disclosing their financial information if they make contributions or independent expenditures totaling $500 or more during the

[1] The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code. 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.

period covered by the pre-election statement.[2] Section 84200.7 provides for the filing of two pre-election campaign statements covering two reporting periods prior to elections held in June of an even-numbered year. The reporting period for the first pre-election campaign statement runs from January 1 to March 17.[3] The deadline for filing the first pre-election campaign statement is March 22.[4]

Under Section 81004, subdivision (b), Section 84100 and Regulation 18427, subdivision (a), a committee's treasurer has the duty to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Pursuant to Sections 83116.5 and 91006, the treasurer of a committee may be held jointly and severally liable, along with the committee, for the committee's violations.

Here, Issues Committee made a $25,000 campaign contribution to the primarily formed committee Californians to Protect Schools Universities and Public Safety a ballot measure committee ("Californians Committee") during the first pre-election period preceding the June 5, 2012 primary election. Californians Committee, which qualified as a committee on December 14, 2011, reported receiving the campaign contribution from Issues Committee on approximately March 5, 2012. By making a contribution of $500 or more to a qualified primarily formed committee, Issues Committee triggered its duty under the Act to file a pre-election statement for the first pre-election period preceding the June 5, 2012 primary election by the March 22, 2012 deadline. Issues Committee did not file the campaign statement by the deadline, and thus violated Sections 84200.5 and 84200.7 of the Act.

Nonetheless, the Enforcement Division has decided to close this matter with a warning letter. A fine was not sought because (1) neither you nor Issues Committee have a prior history of violating the Act; (2) the $25,000 contribution was disclosed on both Committees' subsequent semi-annual statements; and (3) it appeared you believed in good faith that the filing was not necessary because Californians Committee had not yet begun gathering signatures to place the matter on the ballot.

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 a Enforcement Division 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 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 Commission will rescind this

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[2] Section 84200.5, subd. (e).
[3] Section 84200.7, subd. (a)(1).
[4] Id.

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 Commission's website ten (10) days from the date of this letter.

Please feel free to contact me at (916) 322-5660 with any questions you may have regarding this letter.

Sincerely,

Adam Silver
Commission Counsel
Enforcement Division