



## FAIR POLITICAL PRACTICES COMMISSION

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April 1, 2015

Council Member Tony Madrigal  
City of Modesto



### **Warning Letter Re: FPPC Case No. 15/154; In the Matter of Tony Madrigal**

Dear Mr. Madrigal:

The Enforcement Division of the Fair Political Practices Commission (“FPPC”) enforces the provisions of the Political Reform Act (“Act”),<sup>1</sup> found in Government Code section 81000, et seq. This letter is in response to an article in the *Modesto Bee* regarding your admission of having used campaign funds to pay the entirety of your cellphone bills including the costs for your personal use. The Enforcement Division has completed its investigation of the facts in this matter. Specifically, the Enforcement Division found that you violated the Act’s prohibitions against personal use of campaign funds with regard to paying for your cellphone use, both for political purposes and personal use, with campaign funds.

The Act provides that an expenditure to seek office is within the lawful execution of the trust in which campaign funds are to be held for expenses associated with the election of the candidate if the expenditure is reasonably related to a political purpose. (Sections 89510 and 89512(a).) Any cellphone use, which includes calls and other data usage, for a primarily personal purpose is not reasonably related to a political purpose. Commission advice has been that if a candidate is using one phone for both political and personal use, the payments should be pro-rated between campaign funds and personal funds. The Commission’s *Rubin* Advice Letter advised a candidate using a personal telephone for campaign telephone calls that “upon receipt of the billing, the campaign portion of the bill must be paid with a campaign check. The other portion must be paid with your personal funds.” (*Rubin* Advice Letter, No. I-94-304.) Your actions violated the Act when you paid for personal cellphone use with campaign funds. However, because you have no prior cases with the Enforcement Division and because the total amount of the cellphone bill was small, we are closing your case with this warning letter.

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<sup>1</sup> 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.

We further caution that Section 89517 permits campaign funds to be used for the purchase of equipment and appliances so long as (1) the legal title of the equipment is in the name of the committee, and (2) any other use is only incidental to its use for political, legislative, or governmental purposes. (Section 89517.) In this event, the cellphone continues to be a campaign asset and can only be purchased by the candidate from the committee at fair market value.

A warning letter is an 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 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 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 10 days from the date of this letter. 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](http://www.fppc.ca.gov).

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

Sincerely,

A black rectangular redaction box covering the signature of Galena West.

Galena West  
Acting Chief, Enforcement Division

GW:AK:ak