



FAIR POLITICAL PRACTICES COMMISSION

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March 20, 2014

Jesse Mainardi
The Sutton Law Firm
o/b/o Community for Accountability, Opposing Cindy Chavez for Supervisor 2013 and Ben Roth, Treasurer

REDACTED

RE: In the Matter of Community for Accountability, Opposing Cindy Chavez for Supervisor 2013 and Ben Roth, Treasurer; FPPC No. 13/521

Dear Mr. Mainardi:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act")¹ found in Government Code Section 81000, and following. This letter is in response to a sworn complaint alleging that your client, Community for Accountability, Opposing Cindy Chavez for Supervisor 2013 ("CAOCCS"), sent out seven mailers at the behest of Teresa Alvarado's 2013 campaign for Santa Clara Board of Supervisors that resulted in violations of the Act's disclosure provisions.

The Act provides that independent expenditures are expenditures made by a person in connection with a communication that advocates for the election or defeat of a candidate or ballot measure, but which are not made to or at the behest of the affected candidate or committee. (Section 82031.) Section 85500, subdivision (b), provides that an expenditure is made at the behest of a candidate, and thus not independent, if the expenditure is made in concert with, or at the request or suggestion of, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate. The Act presumes an expenditure is made at the behest of a candidate if the expenditure is based on information provided to the expending person by the candidate or committee concerning the candidate's campaign needs or plans. Expenditures made at the behest of candidates are considered campaign contributions under the Act, and are subject to all applicable reporting requirements.

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.

Under Section 84203, subdivisions (a) and (b), when a committee makes or receives a “late contribution,” the committee must disclose that contribution within 24 hours of making or receiving the contribution. Section 82036 defines a “late contribution,” in relevant part, as a contribution which totals in the aggregate one thousand dollars (\$1,000) or more that is made to or received by a candidate, controlled committee, or committee formed or existing primarily to support or oppose a candidate or measure within 90 days before the date of the election at which the candidate or measure is to be voted on.

As alleged in the complaint, our investigation confirmed that an agent of Ms. Alvarado’s campaign, Mr. Jim Gonzalez, shared specific details of Ms. Alvarado’s overall campaign strategy to the San Jose Silicon Valley Chamber of Commerce PAC (“Chamber PAC”) Board at the June 19, 2013 Chamber PAC Board Meeting. However, in contrast to the allegations in the complaint, we were unable to find sufficient evidence to demonstrate that the seven mailers sent out by CAOCCS following that meeting were made at the behest of Ms. Alvarado’s campaign. Therefore, CAOCCS is not in violation of the Act’s disclosure provisions, as it properly reported each of the mailers sent out following the June 19th Chamber PAC Board Meeting with timely filed independent expenditure reports.

Based on the foregoing facts and circumstances, we will be closing your client’s case without further action.

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

Sincerely,

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Adam Silver
Commission Counsel
Enforcement Division