



FAIR POLITICAL PRACTICES COMMISSION

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April 14, 2010

Mr. Richard Stewart
ReElect Mayor McCloud

REDACTED



Mr. Clayton Berling
ReElect Mayor McCloud

REDACTED

Warning Letter Re: FPPC No. 10/257: Susan McCloud, ReElect Mayor McCloud, Richard Stewart, Treasurer, and Clayton Berling, Assistant Treasurer

Dear Messrs. Stewart and Berling:

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 a complaint filed against you that alleged you failed to disclose expenditures in connection with newspaper advertisements. 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 failed to disclose on your pre-election campaign statement, Form 460, expenditures associated with the purchase of political ads that ran in the *Monterey County Weekly* and the *Carmel Pine Cone* newspapers.

Section 84211, subd. (b) requires candidates to disclose the use of their campaign funds. Specifically, subdivision (k) requires the itemization of any expenditure of \$100 or more. An expenditure is made on the date the payment is made or the date the committee receives the goods or services, whichever is earlier. (Section 82025.) When amounts owed by the committee for goods or

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.

services that are received but are not paid for by the end of the reporting period, Schedule F of the Form 460 is used to disclose this information. If the exact amount is unknown, an estimate may be reported. (Regulation 18421.6.)

Your actions violated the Act because you failed to disclose the expenditures for the newspaper advertisements as accrued expenses. However, you filed an amendment to disclose this information, and the information was available to the public prior to the election. Therefore we are closing this case 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.

Please feel free to contact me with any questions you may have regarding this letter.

Sincerely

REDACTED

Gary S. Winuk, Chief
Enforcement Division

GSW/tr

cc: Adam Moniz