



FAIR POLITICAL PRACTICES COMMISSION

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April 13, 2012

Via US Mail

Jennie Skelton, Esq.
Nielsen, Merksamer, Parrinello, Gross & Leoni, LLP
o/b/o Juan Hernandez, Juan M. Hernandez for City Council 2010, and Ernesto Olivares

REDACTED

**Re: Juan Hernandez, Juan M. Hernandez for City Council 2010, and Ernesto Olivares;
FPPC No. 11/182**

Dear Ms. Skelton:

The Fair Political Practices Commission (“Commission”) enforces the provisions of the Political Reform Act (the “Act”)¹. As you are aware, the Commission received a complaint against your clients, Juan Hernandez, a candidate for Santa Rosa City Council in the November 2, 2010 election, Juan M. Hernandez for City Council 2010 (“Committee”), and Ernesto Olivares, the treasurer for the Committee, alleging that Mr. Hernandez and the Committee sent out at least two mailers in which Jake Ours, Scott Bartley and Juan Hernandez were all featured, but failed to appropriately disclose the expenditures. The Commission has decided to close this case with this warning letter.

The Commission has completed its investigation into the facts of this case. Specifically, the Commission’s Enforcement Division (“Enforcement Division”) found that Mr. Hernandez and the Committee failed to disclose the expenditures and accrued expenses to the Bartley for City Council 2010 committee and the Ours for City Council 2010 committee for the mailers. These expenditures were not disclosed as apportioned between the candidates. However, we have determined that all three candidates agreed to pay one third of these mailers, but failed to properly disclose the apportioned cost of the mailers. On or about May 27, 2011, Mr. Hernandez, the Committee and Mr. Olivares amended the 10/1/10 through 10/16/10 pre-election campaign statement, disclosing the apportioned cost of the mailers.

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.

The failure to disclose and itemize expenditures and accrued expenses in campaign statements are violations of the Act. (Government Code sections 84211, subdivisions (b)(i) and (k).) In the opinion *In the matter of John St. Croix*, 18 FPPC Ops. 1, the Commission advised that three candidates are permitted to combine their funds to finance a mailing. If three candidates split the cost of a mailer proportionately, no contribution resulted. In order for there to be no contribution, each candidate would have to pay full and adequate consideration for his or her portion of the mailer. However, we are closing this matter with a warning letter, based, in part, on the facts that Mr. Bartley, Mr. Ours and Mr. Hernandez agreed to split the cost of the mailers, have no history with the Enforcement Division, and Mr. Hernandez amended the campaign statements disclosing the accrued expenses prior to contact from the Enforcement Division.

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 your clients with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Fair Political Practices Commission. If your clients wish to avail themselves of these proceedings by requesting that this 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.

The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act. If you need forms or manuals, or guidance regarding your obligations, please call the Commission's Technical Assistance Division at 1-866-275-3772. Please also visit our website at www.fppc.ca.gov.

Sincerely,

REDACTED

Bridgette Castillo
Commission Counsel
Enforcement Division