



FAIR POLITICAL PRACTICES COMMISSION

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July 16, 2014

Via US Mail

Diane Fishburn
Olson Hagel & Fishburn LLP
o/b/o NRDC Action Fund
o/b/o Ann Nutthoff

Re: Warning Letter: FPPC No. 13/932; In the Matter of NRDC Action Fund and Ann Nutthoff

Dear Ms. Fishburn:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act")¹. As you are aware, this letter is in response to an audit report referred to the FPPC by the Franchise Tax Board regarding your clients, NRDC Action Fund ("Committee") and Ann Nutthoff. The Committee was a state general purpose committee at the time of the violations. The audit covered the period January 1, 2010, through December 31, 2010. During this audit period, the Committee received approximately \$2,087,379 in contributions and made expenditures of approximately \$2,080,347.

The audit found that the Committee failed to file a pre-election campaign statement for the period January 1, 2010, through March 17, 2010, failed to itemize \$12,386 in contributions and failed to retain records for \$1,537.

As a general purpose committee, the Committee was required to file pre-election campaign statements if it made contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the pre-election statement. (Section 84200.5, subdivision (d)² and 84200.7). The audit found that the Committee made non-monetary contributions of \$3,150 during the first pre-election campaign statement for the reporting period January 1, 2010, through March 17, 2010, due by March 22, 2010, triggering

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.

² All statutory references and discussions of law pertain to the Act's provisions as they existed during the time of the violations. While the requirement in this instance remains the same, the subdivisions have since been renumbered.

the pre-election filing requirement. Additionally, the Committee was required to disclose information for contributions received of \$100 or more from an individual, including the contributor's name, address occupation, employer, date the contribution was received and the cumulative amount of the contributions from one source. (Section 84211, subd. (f)). Lastly, the Act requires that each candidate, treasurer, and elected officer maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed and otherwise comply with the provisions of this chapter. (Section 84104).

However, based, in part, on the facts that the campaign activity regarding the violations was relatively small in comparison to the campaign activity during the audit period and the Committee does not have a history with the Enforcement Division, we have decided to close this case with this 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 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.

Please feel free to contact me at (916)324-8787 with any questions you may have regarding this letter.

Sincerely,


Bridgette Castillo
Senior Commission Counsel
Enforcement Division