



FAIR POLITICAL PRACTICES COMMISSION

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July 30, 2012

Mr. Khatchik Achadjian
Achadjian for Assembly 2010, Katcho

Ms. Melinda Hansen, Treasurer
Achadjian for Assembly 2010, Katcho

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Warning Letter Re: FPPC No. 11/1040, Khatchik Achadjian and Melinda Hansen

Dear Mr. Achadjian and Ms. Hansen:

The Fair Political Practices Commission ("FPPC") enforces the provisions of the Political Reform Act (the "Act"),¹ found in Government Code section 81000, et seq. This letter is the result of an audit of your campaign committee, Achadjian for Assembly 2010, Katcho, ("Committee") conducted by the Franchise Tax Board ("FTB"). The audit showed that you violated the Act by accepting three campaign contributions after the election date even though the campaign did not have any net debt.

The FPPC has completed its investigation of the facts in this case. Mr. Achadjian was elected to the State Assembly on November 2, 2010. The FPPC found that on November 5, 2010, supporter Eileen Trujillo hand-delivered a campaign contribution check in the amount of \$50 to the Committee. That same day, Donald Parker also delivered a campaign contribution to the Committee. This contribution was a check for \$100. On November 7, 2010, the Committee received a campaign contribution check in the mail from Excelaron LLC in the amount of \$3,000. All three checks were deposited in the Committee's campaign account on November 10, 2010.

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.

Bank records indicate the Committee account had a positive balance of \$108,370.07 on the day after the election. The account had a positive balance of \$104,318.84 on November 9, 2010 prior to the deposit of the three late contributions. That deposit of \$3,150 on November 10, 2010 was the last deposit made to the account. After the last campaign debt was paid on December 29, 2010, the Committee's account showed a positive balance of \$31,549.88. At no time after the election did the account have a negative balance.

Section 85316, subdivision (a) permits a candidate to accept a contribution for an election after the date of the election only to the extent that the contribution does not exceed the net debts outstanding from the election. For purposes of the Act, a candidate or committee receives a contribution on the date that the candidate or committee obtains possession or control of the check. (Regulation §18421.1, subdivision (c).) Under Section 84100 and Regulation §18427, subdivision (a), it is the duty of a committee's treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under Sections 83116.5 and 91006, a committee's treasurer may be held jointly and severally liable, along with the committee and the candidate, for any violations of the Act.

Accepting the three contributions after the election violated the Act because the Committee did not have net debts outstanding after the election. At all times after the election, the Committee account balance far exceeded any remaining debts as evidenced by the account's final positive balance of over \$31,000.

Despite your violation of the Act, mitigating factors exist such that the FPPC has decided to issue you a warning letter rather than impose a fine. You do not have a history of violating the Act and you properly reported the post-election contributions without attempting to conceal or mislead regarding your receipt of the contributions. Also, the checks were delivered after the election but each was dated on or before the election so they were not the result of post-election fundraising activities, which is what Section 85316 subdivision (a) is intended to prevent.

However, FPPC's decision to issue a warning letter instead of a fine in this matter is contingent upon you refunding the three post-election contributions to the corresponding contributors.

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. 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. 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.

If you need forms or a manual, or guidance regarding your obligations, please call the Commission's Toll-Free Advice Line at 1-866-275-3772 or visit our website at www.fppc.ca.gov.

Please feel free to contact me at (916) 322-7182 with any questions you may have regarding this letter.

Sincerely

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Dave Bainbridge
Commission Counsel

cc: Danielle Camp, Franchise Tax Board