



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

October 14, 2009

✓ Fabian Nuñez
c/o Olson Hagel & Fishburn LLP

REDACTED

Re: FPPC No. 07/651, Fabian Nuñez

Dear Mr. Nuñez:

On October 9, 2007, our office received a formal complaint regarding you and your controlled campaign committee, Friends of Fabian Nuñez 2006, while you were a member of the California Legislature. The complaint alleged that numerous expenditures made by you and your committee appeared inappropriate and were in violation of the personal use provisions of the Political Reform Act (the "Act").¹ The complaint included detailed listings of expenditures made by your campaign committee, identifying over \$155,000 in payments made between January 2005 and June 2007. (A copy of the complaint is enclosed for your reference.)

The complaint targeted various expenditures, including expenses for florists, books, clothing, gifts, meetings, meals, and travel. The complainant opined that the amount and nature of the expenditures, and the repeated use of various vendors, "suggested" that they were not made for a legitimate political, legislative or governmental purpose, and that they "appeared" to be for a personal rather than a political purpose, in violation of Sections 89510 et seq.

We reviewed the information in the complaint, and also noted that your campaign statements, which were at issue, were audited by the Franchise Tax Board (FTB), for the reporting periods from January 2004 through December 2006. During the course of the audit, the FTB obtained campaign records from you and your committee, and reviewed them for violations of the Act. The FTB did not make any findings with regard to the improper expenditure of campaign funds. We also obtained copies of campaign statements for reporting periods in 2007, and independently reviewed them to determine if there were any violations as alleged in the complaint.

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.

Mr. Nuñez
October 14, 2009
Page 2

Based on our review, it appeared likely that the expenditures identified in the complaint were legitimate and would not violate the personal use laws. Expenditures for items such as florists, food, gifts, meetings, fundraising, and travel are routinely made by many candidates and officeholders using campaign funds, and these expenditures are reasonably related to a political, legislative or governmental purpose. For expenditures that may have conferred a substantial personal benefit on you, we determined that it appeared likely or that you would be able to establish that these expenditures were directly related to a political, legislative or governmental purpose.

Based on the foregoing, we did not conduct an in-depth investigation of the allegations in the complaint, and have closed our file in this matter. If you want to respond further to any of the allegations in the complaint, or provide supporting detail for any of the identified expenditures, please feel free to submit this information to our office under the above case number, and we will include it in the closed case file.

If you have any questions regarding our resolution of this matter, please contact Division Chief Gary Winuk at (916) 322-5660, as I will be retired from state service after October 15, 2009.

Sincerely,

REDACTED

Melodee A. Mathay
Staff Counsel IV
Enforcement Division

Enclosure