



FAIR POLITICAL PRACTICES COMMISSION

175 L Street • Suite 430 • Sacramento, CA 95814-2329

916/322-5660 • Fax 916/322-6886

October 15, 2012

✓ Mr. Chris Marston
California Future Fund for
Free Mkts, Yes on Prop. 32

REDACTED

Ms. Barbara Smeltzer
California Future Fund for
Free Mkts, Yes on Prop. 32

REDACTED

Warning Letter Re: FPPC No. 12/747, California Future Fund for Free Markets Yes on Proposition 32 with Major Funding by American Future Fund; Chris Marston and Barbara Smeltzer, Treasurers, Respondents

Dear Mr. Marston and Ms. Smeltzer:

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 subvendor payments used for media buys on your committee's pre-election campaign statement (Form 460) filed in connection with the November 2012 General Election.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that your committee failed to initially disclose approximately \$4,018,507 to various media outlets in your effort to support Proposition 32.

The Act provides that a campaign committee is required to disclose the name, street address, amount of expenditure and a brief description of the consideration for which each

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.

expenditure of \$500 or more that was made by an agent or contractor on behalf of the committee. (Section 84211(k)(6).) These payments, referred to as "subvendor payments," are reported on Schedule G of the Form 460.

In response to the filing of the complaint against your committee, you immediately filed amendments disclosing the specific television stations used for your media placements.

Your actions violated the Act because the committee failed to itemize the committee's extensive subvendor payments. However, since you immediately amended your campaign statements to provide this information to the voters several weeks before the election, we are closing this matter without action.

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/jt

cc: Mr. Lou Paulson