



FAIR POLITICAL PRACTICES COMMISSION

1501 STREET • SUITE 720 • SACRAMENTO, CA 95811-1329

TEL: 916 227-9600 • FAX: 916 227-8866

December 10, 2012

Jack M. Stewart, Treasurer
California Manufacturers & Technology Issues Political Action Committee, No on 39

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Warning Letter Re: FPPC Case No. 12/658, California Manufacturers & Technology Issues Political Action Committee, No on 39 and Jack M. Stewart, Treasurer

Dear Mr. Stewart and Committee Members:

The Fair Political Practices Commission ("FPPC") enforces the provisions of the Political Reform Act ("Act"),¹ found in Government Code section 81000, et seq. This letter is in response to a sworn complaint alleging California Manufacturers & Technology Issues Political Action Committee, No on 39, may have violated the Act's requirements regarding the reporting of independent expenditures.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that you and your committee violated the Act's independent expenditure reporting requirements.

The Act requires that independent expenditures be singled out and reported differently from other committee expenditures. An independent expenditure is defined by the Act as "an expenditure made ... in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a

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.

clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee." (GC § 82031.) Independent expenditures made by a recipient committee are required to be reported on the Form 460's Schedule D, Summary of Expenditures, Supporting/Opposing Other Candidates, Measures and Committees, of the Form 460 and, if the expenditure totals \$1,000 or more in a calendar year to support or oppose a measure or qualification of a measure, the expending committee must file an independent expenditure report Form 465 at the same time, covering the same periods, and in the places where the candidate or committee would be required to file campaign statements under this article, as if it were formed or existing primarily to support or oppose the candidate or measure or qualification of the measure. (GC §§ 8420.3.5 and 84211.)

Your actions violated the Act because California Manufacturers & Technology Issues Political Action Committee failed to report the independent expenditure made to oppose Proposition 39 on the Form 460's Schedule D, Summary of Expenditures, Supporting/Opposing Other Candidates, Measures and Committees, of the Form 460 you filed on October 4, 2012, as well as failed to file the Form 465. However, because the committee has prior violations of the Act and because you quickly filed and amended the statements when notified, we are closing your case with this warning letter. 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 Adrienne Korchmaros at (916) 322-8241 with any questions you may have regarding this letter.

Sincerely,

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Gary S. Winuk
Chief, Enforcement Division

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cc: Thomas Adams ✓