



FAIR POLITICAL PRACTICES COMMISSION

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

(916) 322-5660 • Fax (916) 322-0886

December 12, 2014

Mr. Cary Catalano  
Catalano for Council 2014



Mr. David Wilson  
Catalano for Council 2014



**Warning Letter Re: FPPC No. 14/1232; Catalano for Council 2014; Cary Catalano; David Wilson, Treasurer, Respondents**

Dear Messrs. Catalano and Wilson:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act"),<sup>1</sup> found in Government Code section 81000, et seq. This letter is in response to a sworn complaint filed against your committee that alleged you failed to report expenditures and in-kind contributions on your campaign statements.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that you failed to accurately itemize an accrued expense of the committee and also failed to report the value of in-kind contributions at the time that they were received by your committee.

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<sup>1</sup> 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.

The Act provides that candidates and committees must report specific information on campaign disclosure statements. Specifically, the Act requires that for expenditures of \$100 or more, the committee must report the full name of each person to whom an expenditure is made, as well as the person's street address, the amount of the expenditure and a brief description of the expenditure. (Section 84211(i).) An expenditure includes an accrued expense. (Section 84211(k).) An accrued expense must be reported as of the date the goods or services are received. If the exact amount of the expenditure is not known, the campaign statement shall report the estimate of the accrued expense, state it to be an estimate and amend the report at a later date once the exact amount is known. (Regulation 18421.6.)

The committee placed an advertisement in the Fresno Reel Pride Film Festival flyer and should have reported that expenditure at the time the advertisement was published. If the value of the expenditure was not known at that time, the committee should have reported that value as an accrued expense on the campaign statement stating that the value was an estimate.

Additionally, the committee received the value of radio advertisements from Jewel fm 99.3 and from 790 AM espn 2 and failed to report the value of those contributions at the time they were received. A committee must itemize cumulative contributions of \$100 or more received from a person during the period covered by the campaign statement by reporting that person's name, street address, occupation; name of employer and date and amount for each contribution received during the period covered by the campaign statement. (Section 84211(f).) Contributions in the form of non-monetary contributions (in-kind contributions) must be reported on the date that the funds are expended by the contributors for goods or services, or the date that the candidate or committee otherwise receives the benefit of the expenditure, whichever occurs first. (Regulation 18421.1(f).) The committee received the value of the radio advertisements the day the advertisements were aired and those in-kind contributions should have been reported on the campaign statement that covered that period of time.

The campaign disclosure statements you filed in connection with the November 2014 City of Fresno election did not timely report the advertisement placed in the Fresno Reel Pride Film Festival flyer as an accrued expense, nor did your campaign statements timely report the airing of the radio advertisements as in-kind contributions. Your actions violated the Act because you failed to itemize contributions and expenditures as required by Section 84211. However, since you have now reported these items on your campaign statements, albeit after the fact, we are closing our file on this matter.

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,

A black rectangular redaction box covering the signature of Gary S. Winuk.

Gary S. Winuk  
Chief, Enforcement Division

GSW/jt