FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

April 11, 2011

Mr. Rudy Baron
Business & Community Political Action Committee
of the Newport Beach Chamber of Commerce
REDACTED

Warning Letter Re: FPPC No. 10/971; Business & Community Political Action Committee of the Newport Beach Chamber of Commerce, Respondent(s)

Dear Mr. Baron:

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 that a mailer produced by your committee failed to include a disclaimer that the mailer was not authorized by any of the candidates named, and that the committee failed to report printing costs for that mailer, leading the complainant to believe that someone, other than your committee, paid for the mailer.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that your committee failed to include the disclaimer that the mailer was not authorized by a candidate or any committee controlled by a candidate. (Section 84506.5.) Additionally, the FPPC found that your committee failed to report on the second pre-election reporting period for the period October 1 through October 16, 2010, an accrued expense in the amount of $2,728.56 incurred for the production of the mailer. (Section 84211(k)(6); Regulation 18421.6.)

Specifically, with regard to the required disclaimer, the Act requires that any advertisement that is paid for by an independent expenditure must include a statement that it was not authorized by a candidate or a committee controlled by a candidate. (Section 84605.5.) Additionally, the Act requires that with respect to any expenditure of $100 or more that has been

[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 18109 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.

made during the period covered by the campaign statement, that the statement include the payee's full name, street address, amount of the expenditure and a brief description of the consideration for which each expenditure was made. The term expenditure includes an individual payment, or an accrued expense. (Section 84211(k)(6); Regulation 18421.6.)

Your actions violated the Act because your mailer failed to include the disclaimer required by Section 84605.5, and the expenditure for production of that mailer, incurred on October 13, 2010, was not reported as an accrued expense. However, since the committee did report that expenditure on a subsequent campaign statement, we are closing 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,

REDACTED

Gary S. Winuk, Chief
Enforcement Division

GSW/jt