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

May 13, 2011

Southwest County Taxpayers For Responsible Government
REDACTED

Edward Shepherd
individually and o/b/o Southwest County Taxpayers For Responsible Government
REDACTED

Re: Warning Letter - FPPC No. 10/1123, Southwest County Taxpayers For Responsible Government, and Edward Shepherd

Dear Southwest County Taxpayers For Responsible Government, and Mr. Shepherd:

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 alleging violations of the Act's campaign reporting provisions.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that Southwest County Taxpayers For Responsible Government became a primarily formed ballot measure committee during the fourth quarter in 2010, but failed to change its name in accordance with the Act. Additionally, Southwest County Taxpayers For Responsible Government failed to file a late independent expenditure report.

The Act provides that a recipient committee (Section 82013, subd. (a).) is a primarily formed committee when it is formed or exists primarily to support or oppose two or more measures being voted upon in the same city, and if it makes more than 70 percent of its total contributions and expenditures on those measures. (Section 82047.5, and Regulation 18247.5.) Additionally, a committee is required to calculate the applicable percentage quarterly at the end of March, June, September and December (Regulation 18247.5, subd. (c).), and to file an amended statement of organization with any required changes to its status or its name. (Sections 84103 and 84107.) A committee and its treasurer are also required to file late independent expenditure reports pursuant to Government Code Section 84204.

---

[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.

Your actions violated the Act because the evidence shows that Southwest County Taxpayers For Responsible Government became a primarily formed ballot measure committee during the fourth quarter in 2010, and though it timely filed an amended statement of organization identifying itself as a primarily formed committee opposing Measures C, D, and E, it did not change its name by adding "a committee against Measures C, D, and E" pursuant to Section 84107. Additionally, Southwest County Taxpayers For Responsible Government failed to file a late independent expenditure report reporting a $1,335 independent expenditure for yard signs.

However, upon review of the evidence available, it appears there are mitigating circumstances. Southwest County Taxpayers For Responsible Government has no prior history of violating the Act in its seven year history, and its total campaign activity related to the November 2, 2010 election was relatively small.

Additionally, Southwest County Taxpayers For Responsible Government timely filed its amended statement of organization on January 7, 2011. Thus, even if Southwest County Taxpayers For Responsible Government had changed its name at that time, Southwest County Taxpayers For Responsible Government was not required to change its name pursuant to Regulation 18247.5 until nearly 2 months after the election, so there was minimal public harm due to the omission.

Lastly, while Southwest County Taxpayers For Responsible Government failed to report an independent expenditure before the election, Southwest County Taxpayers For Responsible Government did accurately report this independent expenditure in its post-election semi-annual statement.

This letter serves as a written warning. You are advised that your failure to comply with the provisions of the Political Reform Act in the future could result in an enforcement action. Additionally, the information in this case will be retained, and may be used against you should an enforcement action later become necessary based on future conduct and/or newly discovered information. Please be advised that your failure to comply with the provisions of the Act in the future may 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 your 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

Angela J. Brereton
Senior Commission Counsel
Enforcement Division