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

July 12, 2011

Mayor Ryan Coonerty
City Manager Martin Bernal
City of Santa Cruz

REDACTED

Warning Letter Re: FPPC No. 11/502, City of Santa Cruz; Ryan Coonerty, Mayor; and Martin Bernal, City Manager

Dear Messrs. Coonerty and Bernal:

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 the City of Santa Cruz's (the "City") self-reported potential violation and a sworn complaint that alleged you and the City violated the Act's mass mailings at public expense prohibition.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that the City violated section 89001 of the Act when a mass mailing featuring the mayor was sent a public expense.

Specifically regulation 189001 provides that a mailing is prohibited by section 89001 if the item delivered features an elected officer affiliated with the agency which produced the mailing or is prepared in cooperation, consultation or coordination with the elected officer; any cost of the mailing is paid for with public funds; and more than two hundred items are sent. Furthermore, subsection (c)(2) of regulation 18901 defines "features an elected officer" as the item sent includes the elected officer's photograph or signature.

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[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.

The mailing violated the Act because the article titled *Santa Cruz-A breathtaking year* included the mayor's signature. Additionally, since the City's newsletter contained an article written by the mayor, the newsletter was prepared in cooperation, consultation or coordination with the mayor.

However, because the City self-reported the violation, the mayor is not seeking re-election, the city manager failed to consult with the city attorney prior to the mailing and there is no prior enforcement actions against the mayor, the city manager or the City, we are closing this matter with a warning letter.

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 Teri Rindahl at 916.327.2018 with any questions you may have regarding this letter.

Sincerely,

REDACTED

Gary S. Winuk
Chief, Enforcement Division

GSW/tr

cc: Gillian Greensite
John Barisone, City Attorney