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

August 19, 2010

Mr. Charles Bell
Bell, McAndrews & Hiltachk, LLP
o/b/o California Citizens for Ethics in Government
REDACTED

RE: FPPC No. 10/556; California Citizens for Ethics in Government; Bob Davis, President; and Charles Bell, Treasurer

Dear Mr. Bell:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act") found in Government Code Section 81000, and following. As you may be aware, the Commission was investigating whether your client, California Citizens for Ethics in Government, was in violation of the Act's disclosure and reporting requirements in connection with radio ads pertaining to Tim Thiesen and Phil Wyman.

After the Commission's August 12, 2010 commission meeting, we have decided to close this case without further action for reasons described in the enclosed letter.

If you have any questions, please feel free to contact us at 916-322-5660.

Sincerely,

REDACTED

Gary Winuk
Chief, Enforcement Division

FAIR POLITICAL PRACTICES COMMISSION
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August 19, 2010

Mr. James O'Hearn

REDACTED

Re: FPPC File No. 10/556; California Citizens for Ethics in Government, Bob Davis, and Charles Bell, Treasurer

Dear Mr. O'Hearn:

In response to the sworn complaint you submitted regarding the above-referenced persons, please be advised that the Enforcement Division is closing this matter without instituting an enforcement action at this time.

The Fair Political Practices Commission (the "Commission") enforces the provisions of the Political Reform Act ("Act") found in Government Code section 81000,[1] and following. Your complaint alleges the California Citizens for Ethics in Government (CCEG) failed to file late reports in connection with two radio advertisements supporting Tim Thiesen and opposing Phil Wyman, and as a 527 organization, is prohibited from advocating the election or defeat of a specific candidate. Please note, that the Commission does not enforce federal laws governing 527 organizations. After review of your complaint, the information you provided is insufficient to establish a violation of the Act.

Your complaint suggests certain advertisements contained expressed advocacy and therefore the person(s) that paid for the advertisements should follow the Act's disclosure requirements. When a campaign advertisement "expressly advocates" the election or defeat of a candidate or measure, the Act requires disclosure of the person(s) paying for it. Regulation 18225(b)(2) states that a communication "expressly advocates" in two cases: (1) when it employs explicit words of advocacy (e.g. "magic words" such as

[1] The Political Reform Act is contained is 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.

"vote for," "vote against," etc.) or (2) when taken as a whole, the message unambiguously urges a particular result in an election. In 2003, the Commission voted to suspend enforcement of the second half of this definition pending clarification from the U.S. Supreme Court of the constitutional sufficiency of its language.[2]

At the Commission's August 12, 2010 meeting, the Commission reconsidered the meaning of express advocacy. It decided to continue with its 2003 decision to suspend enforcement of the second half of Regulation 18225(b)(2) and currently will only enforce those violations that include the "magic words" until the November 2010 election. The Commission plans to take further action over the next few months on Regulation 18225(b)(2), in light of recent United States Supreme Court cases. Our analysis of future similar ads may change depending upon the Commission's action on Regulation 18225(b)(2).

Your allegation that the radio ads were independent expenditures and were not properly reported was not a violation of the Act at the time it occurred. In order for the expenditures for the media ads to be reported as independent expenditures, the ads must "expressly advocate" the election or defeat of a clearly identified candidate. (Section 82031.) The ads submitted with the complaint failed to contain express advocacy.

As for your allegation that CCEG failed to report late contributions in excess of $1,000, and major donor reporting in excess of $5,000, there is insufficient to establish a violation of the Act.

Thank you for taking the time to bring this matter to our attention. If you have any questions regarding this decision, please contact the Enforcement Division at (916) 322-5660.

Sincerely,

REDACTED

Gary S. Winuk
Chief, Enforcement Division

GSW/tr

cc. California Citizens for Ethics in Government; Bob Davis, and Charles Bell

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[2] *The Governor Gray Davis Committee v. American Taxpayer Alliance*, 102 Cal.App.4th 449 (2002)