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

July 20, 2010

Jason D. Kaune
Nielsen, Merksamer, Parrinello, Mueller & Naylor
Treasurer for Apple Inc.

REDACTED

Warning Letter Re: FPPC Case No. 10/249, Nielsen, Merksamer, Parrinello, Mueller & Naylor

Dear Mr. Kaune:

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 your client, Apple, Inc., that alleged that Apple, Inc., did not electronically file a major donor report. In response to the complaint, you sent a letter saying that the failure to file was yours as treasurer for Apple, Inc., and that Apple Inc., had no culpability in the matter.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that you did not file the required major donor statement (Form 461) electronically for your client Apple, Inc.

The Act requires that every committee, including a major donor committee, must have a treasurer. (G.C. § 84100.) The treasurer of a committee is required to verify that, to the best of his or her knowledge, the committee campaign statements are true and complete and must use all reasonable diligence in the preparation of the statements. (Regulation 18427(a).) Any person who has filing or reporting obligations under Act and who negligently causes any other person to violate any provision of the Act is liable under the provisions of Act. (G.C. § 83116.5.) The Act provides that failing to file the electronic version of a filing when required is a violation.

[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.

Specifically, the Act requires committees that reach a certain threshold of activity to file electronically with the Secretary of State. Section 84605(b), in pertinent part, requires a state general purpose committee[2] that cumulatively makes expenditures, defined in Section 82025 to include contributions, totaling $50,000 or more to support or oppose a state measure to file electronically. Apple, Inc.'s contributions for 2008 exceeded the $50,000 threshold for electronic filing.

As treasurer for Apple, Inc., your actions violated the Act because you failed to file a major donor report electronically. Because, however, you filed a paper version of the major donor report and, thus, did not appear to be avoiding disclosure, we have decided to close this case. ***However, you must immediately electronically file the required major donor report with the Secretary of State.***

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.

If you have questions regarding this matter, please contact Adrianne Korchmaros at (916) 322-8241.

Sincerely,

REDACTED

Gary S. Winuk, Chief
Enforcement Division

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cc: David Llewellyn

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[2] Defined to include major donors, meaning persons that make contributions of $10,000 or more in a calendar year. (See GC §§ 82013(c) and 82027.5.)