FAIR POLITICAL PRACTICES COMMISSION
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October 1, 2009

Mr. Ronald Alvarez, Treasurer
Concerned Citizens of Carlsbad

REDACTED

Warning Letter Re: FPPC No. 06/855, Ronald Alvarez and Concerned Citizens of Carlsbad

Dear Mr. Alvarez:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act").[1] This letter is in response to two written complaints involving you and a committee known as Concerned Citizens of Carlsbad.[2] The complaints raised concerns about the alleged failure to identify the sender of a mass mailing, and one of the complaints raised concerns about the type of committee that Concerned Citizens of Carlsbad filed as and behaved as in 2005 and 2006.[3]

The FPPC has completed preliminary investigation of the allegations in this case and found that at all relevant times, you were the treasurer of Concerned Citizens of Carlsbad. In 2006, you ran for the Carlsbad City Council, and Concerned Citizens of Carlsbad became a candidate controlled committee because you had significant influence on the actions/decisions of the committee. However, the statement of organization for Concerned Citizens of Carlsbad did not reflect that the committee was

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[1] The 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.

[2] One of the complaints included additional proposed respondents, but failed to allege how they may have violated the Act.

[3] One of the complaints included additional allegations, but the additional allegations did not rise to the level of a significant violation of the Act and were not supported by information discovered during the preliminary investigation.

your candidate controlled committee, and it appears that you never filed an amended statement of organization to reflect that the committee was your candidate controlled committee.

At the time in question, the Act provided (and still provides) that a committee is a candidate controlled committee if it is controlled directly or indirectly by a candidate or if it acts jointly with a candidate in connection with the making of expenditures. A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee. (See Section 82016, subd. (a).)

Also, the Act provided (and still provides) that a statement of organization must include a statement whether the committee is independent or controlled, and if it is controlled, the name of each candidate by which it is controlled. (Section 84102, subd. (e).) Additionally, whenever there is a change in any of the information contained in a statement of organization, an amendment must be filed within 10 days to reflect the change. (Section 84103, subd. (a).)

You violated the Act because you failed to file an amended statement of organization to reflect that Concerned Citizens of Carlsbad became your candidate controlled committee in 2006.

With respect to the allegations regarding failure to identify the sender of mass mailings, we found insufficient evidence to determine whether or not you and Concerned Citizens of Carlsbad violated the Act.

For future reference, please bear the following in mind:

1. Mass mailings sent by a candidate controlled committee must bear required sender identification information, which includes the name of the person controlling the committee, as well as the name, street address and city of the committee. (See Section 84305.)

2. The name of a committee controlled by a candidate for purposes of the election of the controlling candidate must include the last name of the controlling candidate, the office sought, and year of the election. (See Regulation 18402, subd. (c).)

3. Please note that our Legal Division and Technical Assistance Division can provide advice and assistance for issues which may arise in the future. You may contact either division by calling our toll-free number: 1-866-ASK-FPPC (1-866-275-3772). Also, you may refer to the FPPC website at www.fppc.ca.gov for current information.

This letter serves as a written warning. The information in this case will be retained and may be considered should an enforcement action become necessary based upon 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

Neal P. Bucknell
Commission Counsel
Enforcement Division

cc: Mr. Michael Babowal, II
Ms. Julianne Nygaard