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

October 5, 2010

Gill Action Fund
c/o Joseph M. Birkenstock
Caplin & Drysdale

REDACTED

and c/o Stephen J. Kaufman
Kaufman Legal Group

REDACTED

Warning Letter Re: FPPC Case No. 10/245, Gill Action Fund

Dear Mr. Birkenstock and Mr. Kaufman:

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, Gill Action Fund ("), alleging GAF did not file a required major donor report and that several contributions were not disclosed on the major donor reports that were filed.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that GAF did file the required major donor statement (Form 461); the confusion arose because two statements were filed, one under the name of Tim Gill, the founder of GAF, and the other under the name of Gill Action Fund. Secretary of State advised your client to merge the two filers into one. However, several campaign contributions were not disclosed on the major donor statements. These omitted contributions have now been disclosed in amendments.

[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 Act imposes reporting requirements on major donors, defined as persons that make contributions totaling $10,000 or more in a calendar year. (G.C. § 82013(c).) Specifically, the Act requires major donor committees to file semi-annual statements for each half of the year in which contributions have been made disclosing those contributions whether monetary or nonmonetary. (G.C. §§ 84200, 84200.5, and 84211.)

GAF's actions violated the Act because it failed to disclose several large contributions to various ballot measure committees. Because, however, GAF had no prior violations and, in fact, had made no prior contributions to a California committee and also because GAF immediately obtained counsel and a treasurer to locate missing contributions and, in fact, identified several missing contributions on its own and amended reports promptly, we have decided to close this case.

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