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

October 13, 2009

Kinde Durkee, treasurer
Citizens to Save the Rose Bowl and Friends of the Rose Bowl

REDACTED

Re: FPPC No. 06/109, Citizens to Save the Rose Bowl and Friends of the Rose Bowl

Dear Ms. Durkee:

On February 24, 2006, the Enforcement Division of the Fair Political Practices Commission ("FPPC") received a complaint regarding the activities of two organizations that were actively trying to qualify a ballot measure in the City of Pasadena related to the Rose Bowl Stadium. The organizations were the Citizens to Save the Rose Bowl and the Friends of the Rose Bowl, for which you served as the treasurer. An initiative entitled "Proposal for the National Football League Renovating the Rose Bowl Stadium for Professional Football Use (the "NFL Initiative") was circulated in early 2006 to qualify a measure for the November 2006 ballot. Measure A eventually qualified, but was defeated in the November 2006 general election by 72% of the vote. The allegations in the complaint stemmed from the early efforts of these two organizations to qualify Measure A.

The complaint alleged that the Citizens to Save the Rose Bowl ("CSRB") failed to timely file a statement of organization within 10 days of qualifying as a committee. Based on our review, it appears that you filed the statement on October 11, 2005, instead of September 6, 2005. Although it appears you violated the Act by failing to timely file CSRB's statement of organization, we have determined that prosecution for this relatively minor violation is not warranted. However, please be advised of this requirement in future campaign filings.

The complaint also alleged that the Friends of the Rose Bowl ("FRB"), a non-profit organization under section 501(c)(3) of the Internal Revenue Code, should have filed as a recipient committee rather than a major donor committee based on its political activity in 2005. FRB would only be required to file campaign statements as a "recipient committee" under Section 82013(a), if it received contributions totaling $1,000 or more during a calendar year. Generally, payments made to a tax exempt, non-profit organization, such as FRB, are not considered as contributions. However, Regulation 18215(b)(1) specifies that a "contribution" includes a payment made to an organization other than a candidate or committee, when, at the time of making the payment, the donor knows or has reason to know that the payment will be used to make contributions or expenditures. There is a presumption that the donor does not have reason to know that all or part of the payment will be used to make expenditures or contributions, unless the person or organization has made expenditures or contributions of at least $1,000 in the aggregate during the calendar year in which the payment occurs, or any of the immediately preceding four calendar years." (Regulation 18215(b)(1).)

The Commission established the above rule for multi-purpose organizations, such as FRB, where the members are presumed to have no reason to suspect their payments will be used for political purposes because the organization has not made contributions or expenditures in the past. Once the organization makes its first political contributions or expenditures totaling $1,000 or more, the presumption that the donors do not have a reason to know that later payments will be used to make contributions or expenditures no longer applies. If contributions or expenditures of $1,000 or more are again made by the organization during the current year, or in any of the four following years, the organization becomes a recipient committee, and any donations or membership fees it receives or uses for political purposes after the "one bite" contribution or expenditure of $1,000 or more, are deemed to have been made for political purposes. The organization would then be required to file campaign statements as a recipient committee and disclose the contributions on a reasonably apportioned basis. This is referred to as the "one bite of the apple" rule.

In light of the above rule, it appears that FRB qualified as a recipient committee when it made a $10,000 contribution to CSRB on September 12, 2005. This was after making $3,476.60 in non-monetary contributions to CSRB on August 27, 2005. Thereafter, donations to CSRB would be considered as contributions and campaign reporting duties under the Act would apply.

In addition to filing as a recipient campaign committee as discussed above, the FPPC recently developed an alternative reporting method that can be used by 501(c)(3) and (c)(4) entities, such as FRB. The alternative method found in Regulation 18413 (copy enclosed), provides for limited reporting requirements for organizations, such as FRB, who occasionally engage in campaign activity by making contributions or independent expenditures in connection with a ballot measure issue.

Based on our investigation, it appears that CSRB violated the Act by failing to timely file its statement of organization on or before September 6, 2005. In addition, it appears that FRB, a 501(c)(3) non-profit organization, may have qualified as a recipient committee under the Act's campaign reporting provisions in September 2005. However, based on the 2007 federal decision in *California ProLife Council, Inc. v. Randolph, et al.*, which led to the Commission's implementation of Regulation 18413 to deal with event-based reporting by non-profit organizations, we have determined not to prosecute FRB for this apparent reporting violation. However, please be advised of these reporting requirements in the future. Accordingly, our file has been closed.

The FPPC publishes forms and manuals to facilitate compliance with the provisions of the Act. If you need forms or manuals, or guidance regarding your obligations, please call the FPPC's Technical Assistance Division at 1-866-275-3772. Please also visit our website at www.fppc.ca.gov. If you have any questions regarding our resolution of this matter, please contact Division Chief Gary Winuk at (916) 322-5660, as I will be retired from state service after October 15, 2009.

Sincerely,

REDACTED

Melodee A. Mathay
Staff Counsel IV
Enforcement Division

Enclosure