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

December 8, 2010

Mr. Philip Puhek, Treasurer
Newport Beach Firefighters Association PAC
Redacted

Warning Letter Re: FPPC Case No. 10/977 (Newport Beach Firefighters Association PAC)

Dear Mr. Puhek:

The Fair Political Practices Commission ("FPPC") enforces the provisions of the Political Reform Act (the "Act").[1] This letter is in response to a sworn complaint received in October 2010 alleging that the Newport Beach Firefighters Association PAC failed to comply with the independent expenditure advertising disclosure requirements of the Act. Also, the complaint raises a question as to whether the expenditure in question, which involved a political mailer, was authorized by the candidates that were supported by the mailer. After investigation, the FPPC is closing its file on this matter without initiating an enforcement action. This is a warning letter.

Section 84506.5 provides that: "An advertisement supporting or opposing a candidate that is paid for by an independent expenditure must include a statement that it was not authorized by a candidate or a committee controlled by a candidate."

Our investigation found that the Newport Beach Firefighters Association PAC paid for and sent a mailer supporting two candidates for Newport Beach City Council in connection with the November 2010 election. The mailer was an independent expenditure, and it was not authorized by the candidates in question. The mailer did not include the statement required by Section 84506.5.

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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 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 failure to include the required statement is a violation of the Act. However, the FPPC has decided not to pursue an enforcement action at this time, in part because of the nature of the violation and the committee's cooperation with the FPPC. Also, it appears that the committee may not have been aware of the current state of the law insofar as Section 84506.5 is concerned.

Although we have decided not to pursue an enforcement action in this matter, the information in this case will be retained and may be used against you should an enforcement action become necessary due to newly discovered information and/or failure to comply with the Act in the future. Failure to comply with the provisions of the Act in the future may result in monetary penalties of up to $5,000 per violation.

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.

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.

Your cooperation in ensuring that the requirements of the Act are consistently satisfied is greatly appreciated. Please feel free to contact me at (916) 322-5660 with any questions you may have regarding this letter.

Very truly yours,

Redacted

Neal P. Bucknell
Senior Commission Counsel
Enforcement Division

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cc: Mr. Robert Rush
Mr. Brian McDonough