FAIR POLITICAL PRACTICES COMMISSION
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(916) 322-5660 • Fax (916) 322-0886

August 31, 2009

Mr. William Galstan
Interim City Attorney

REDACTED

Warning Letter Re: FPPC No. 090624; City of Oakley

Dear Mr. Galstan:

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. I am writing in response to your self-reporting letter of August 12, 2009 in which you assert that the City of Oakley may have committed a violation of the Act.

The FPPC has completed its investigation of the facts identified in your letter. Specifically, your letter asserted that the City of Oakley may have violated the mass mailing statutes and regulations. Our investigation has determined that the City of Oakley violated the mass mailing prohibition of the Act. However, we have decided to close this case with a warning letter because the City has no prior violations of the Act, the City self-reported the violation and has taken steps to prevent future violations of this type, and the elected officials featured in the mailing were not aware that their photographs were being added to the mailing by staff members.

Government Code section 89001 and Commission regulation 18901 prohibit a mass mailing from being "sent" at public expense if it "features an elected officer." A mass mailing is more than 200 "substantially similar" items sent in a calendar month. An item is "sent" if it is delivered, by any means, to the recipient at his or her residence and is a tangible item, such as a

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[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 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.

videotape, record, button or written document. (Commission regulation 18901, subdivision (a)(1).) Regulation 18901, subdivision (c)(2) states that "features an elected officer" means that the item mailed includes the elected officer's photograph or signature, or singles out the elected officer by the manner of display of his or her name or office in the layout of the document, such as headlines, captions, type size, typeface or type color.

In this case, *The Oak Leaf*, which describes itself as "The Official Newsletter of the City of Oakley," featured the Mayor, Carol Rios, by the headline "Message from the Mayor" and accompanying photograph. It also featured the Vice-Mayor, Pat Anderson, by the headline "Reflections from Pat Anderson, 1st Mayor of Oakley and Current Vice-Mayor," also with accompanying photograph. Neither item was placed on the front page of the newsletter. The newsletter was distributed to more than 200 City residents at a cost to the City in excess of $50.

Both of these items violated the mass mailing provisions of the Act detailed above by featuring an elected officer in a mass mailing that was sent to more than 200 City residents and cost the City in excess of $50. None of the exceptions to this prohibition identified in Regulation 18901 applies in this instance.

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 future conduct or newly discovered information. 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.

The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act and provides guidance regarding filing obligations over the telephone and through written advice. Please call the Commission's Technical Assistance Division at 1-866-275-3772 or visit our website at www.fppc.ca.gov.

Sincerely

REDACTED

Gary Winuk, Chief
Enforcement Division

GW/fp