



FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811

December 27, 2017

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RE: Warning Letter: City of Dunsmuir and Randy Johnsen; FPPC No. 16/19924

Dear All:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the “Act”).¹ We received a sworn complaint alleging that the City of Dunsmuir (the “City”) sent campaign related mailers concerning four ballot measures at public expense, just days prior to the November 8, 2016 election, in violation of Section 89001. The Enforcement Division has completed its investigation and found that the City sent a campaign related mailing at public expense.

The Act prohibits sending a newsletter or other mass mailing at public expense.² Specifically, mass mailing is prohibited if (1) the item is a tangible item; (2) the item expressly advocates the qualification, passage, or defeat of a clearly identified measure, or unambiguously urges a particular result in an election; (3) public moneys are paid to distribute the item, or to prepare the item, for more than \$50, with the intent of sending the item; and (4) more than 200 substantially similar items are sent during the course of an election.³ This prohibition limits the public subsidy of political campaigns, which would grant an unfair advantage to governmental bodies that desire to use public resources in pursuit of favorable election results.

Our investigation found that the City sanctioned the distribution of a campaign related mass mailer and used public resources to produce that mailer. The mailer in question was a 4-page document that expressly advocated a vote for Measure D and against Measures V, W, and Y. As

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations.

² Section 89001.

³ Regulation 18901.1, subd. (a).

indicated on the first page of the mailer, the City Council voted in its November 3, 2016 regular meeting to approve the mass mailer for distribution.

Aware that public funds could not be used in relation to this mass mailer, the interim City Manager, Randy Johnsen, paid for postage with his personal funds. Mr. Johnsen stated that he did not receive reimbursement for this purchase, and the Enforcement Division did not find evidence to the contrary. However, 1,383 copies of this 4-page mailer were printed from the City's copy machine, so some public resources have been expended on this mailer. We estimate that the total cost amounted to more than the \$50 needed to be a prohibited mass mailing but likely less than \$100. Given the minimal amount of public funds used, the Enforcement Division decided not to pursue a penalty far in excess of the amount spent. Therefore, we are closing this matter with this warning letter.

A warning letter is an Enforcement Division case resolution without administrative prosecution. This resolution does not provide you with the opportunity for a probable cause hearing or administrative hearing. 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 days from the date of this letter. Upon this notification, the Enforcement Division will rescind this warning letter and proceed with administrative prosecution of your case. If we do not receive such notification, this warning letter will be posted on the Commission's website.

Although we are closing our file on this matter, please be advised of the provisions in the Act and regulations regarding campaign related mailings sent at public expense. Should you have any questions regarding this letter, please feel free to contact me at (916) 322-7771 or ryang@fppc.ca.gov.

Sincerely,

Ruth Yang

Ruth Yang
Commission Counsel
Enforcement Division