

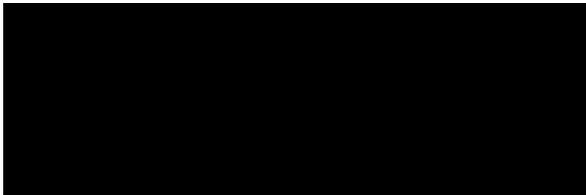


STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811

November 10, 2020

Jonathan Berkon
Aria C. Branch
Perkins Coie LLP

o/b/o Fund For Policy Reform Nonprofit 501(c)(4), Sponsored by Fund For Policy Reform, Yes on Propositions 57, 62, and 64, K and L and No on Proposition 66, in Support of Marijuana Legalization, Parole for Nonviolent Offenders, Repeal of the Death Penalty, November Runoffs, and Voting on Initiatives and Referenda in November, and Maija Arbolino



Warning Letter re: In the Matter of Fund For Policy Reform Nonprofit 501(c)(4), Sponsored by Fund For Policy Reform, Yes on Propositions 57, 62, and 64, K and L and No on Proposition 66, in Support of Marijuana Legalization, Parole for Nonviolent Offenders, Repeal of the Death Penalty, November Runoffs, and Voting on Initiatives and Referenda in November, and Maija Arbolino, FPPC Case No. 2016-19653:

Dear Mr. Berkon and Ms. Branch:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the "Act").¹ The Enforcement Division initiated an investigation into whether your clients violated the Act's committee naming requirements.

The Enforcement Division has completed its investigation of the facts in this case. Specifically, we found that the Committee and Arbolino failed to include the name of the sponsor and the ballot measures the Committee supported and opposed in the committee name, and failed to timely file three 24-hour contribution reports related to the November 8, 2016 election.

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 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

The Act requires the name of a sponsored committee to include the name of its sponsor.² And a committee which is primarily formed to support or oppose a ballot measure must include the measure designations and whether the committee supports or opposes each measure in its committee name.³ Also, a primarily formed committee that makes or receives a late contribution must report this contribution on a 24-hour contribution report filed within 24-hours of making or receiving the contribution.⁴

Your client's actions violated the Act because the Committee and Arbolino failed to include the name of the sponsor and the ballot measures the Committee supported and opposed in the Committee's committee name. The Committee and Arbolino also failed to timely file three 24-hour contribution reports for contributions totaling \$2,670,000.

However, the Enforcement Division has decided to close this case with a warning letter.

Regarding the committee naming violations, the Committee and Arbolino failed to identify the Committee as a sponsored committee and failed to identify the sponsor name in the Committee's name. But, since the name of the committee shares the name of the sponsor, there is minimal public harm from that omission.

Additionally, when the Committee and Arbolino learned of the violations from the Enforcement Division, they made the recommended changes to the Committee's name. But despite following the instructions from the Commission regarding the committee naming requirements, the SOS filing system would not allow the Committee to change the name in its campaign statements. The evidence shows that the SOS directed the Committee to file the amended Form 410 in paper with the full name and stated that the name would be updated in SOS's system after the paper version was received and when time allowed. In the meantime, other campaign statements were due, and the SOS system continued to include the incorrect committee name.

Even so, the Committee and Arbolino disclosed all of the Committee's activity in preelection statements timely filed before the election, including all of the funds received from its sponsor and the contributions it made to other committees. Additionally, the Committee and Arbolino properly included the Committee's full name in its Form T-10 filed with the Commission on October 26, 2016. That form was not part of the SOS system.

² §§ 84102 and 84106.

³ § 84107.

⁴ § 84203.

Lastly, none of the Committee's contributions triggered advertisement disclosure requirements, so there were no incorrect or misleading advertisement disclosures as a result of the incorrect committee name.

Regarding the 24-hour contribution reports, the Committee did not make contributions directly to ballot measure committees. Instead the Committee made contributions to other multipurpose organizations who qualified as primarily formed ballot measure committees. At a later date, these committees made contributions to ballot measure committees and, using the last in, first out accounting method, identified the Committee as a contributor. Under these circumstances, the Committee and Arbolino were dependent upon the other committees to notify the Committee and Arbolino when those committees made contributions that required 24-hour disclosure. The Committee and Arbolino produced evidence that showed that the Committee and Arbolino filed the 24-hour contribution reports within 24 hours of receiving notices from the other committees of the late contributions. The evidence also showed that three out of five of the notices were sent to the Committee after 24 hours had passed from the time the late contributions were made.

But all of the Committee's 24-hour contribution reports were filed before the election (two were filed timely), and outside of the last 16 days before the election. And all of the contributions were also disclosed on timely filed preelection campaign statements. Additionally, the other committees disclosed all of the contributions from the Committee to the ballot measure committees.

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 Enforcement Division case resolution without administrative prosecution or fine. The Commission has adopted Regulation 18360.1 to authorize the Enforcement Division to issue warning letters to conclude cases in specified circumstances. 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 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 Enforcement Division 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 Commission's website ten (10) days from the date of this letter.

If you need forms or a manual, or guidance regarding your obligations, please call the Commission's Toll-Free Advice Line at 1-866-275-3772 or visit our website at www.fppc.ca.gov.

Please feel free to contact Angela Brereton at (916) 322-5771 or abrereton@fppc.ca.gov with any questions you may have regarding this letter.

Sincerely,



Angela J. Brereton
Chief, Enforcement Division