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

August 6, 2019

Adam Silver
Chief Counsel, Assembly Special Committee on Legislative Ethics
o/b/o The Honorable Tom Lackey
California State Assembly
Via email at: adam.silver@asm.ca.gov

Warning Letter Re: FPPC No. 2019-00433; Tom Lackey

Dear Assemblyman Lackey:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the "Act").[1] As you are aware, the Enforcement Division received a referral from the Commission's Legal Division that alleged you failed to timely file a behested payment report (Form 803) after receiving two payments of $2,500 aggregating to $5,000 from AT&T, made at your behest, to the non-profit organizations Cherished High Desert and Advancing Communities Together.

The Enforcement Division has completed its review of the facts in this case. Specifically, we found that you received a payment of $5,000 in the aggregate, made at your behest, on August 14, 2017 from a single source that triggered behested payment reporting obligations under the Act.

The Act provides that payments that are made principally for a legislative, governmental, or charitable purpose are neither contributions nor gifts to the elected official. However, the payments made at the behest of a candidate who is an elected official must be reported by the official within 30 days following the date on which the payment or payments are made, if they equal or exceed $5,000 in the aggregate, and are from the same source in the same calendar year.[2]

Your actions violated the Act because you failed to timely file a behested payment report (Form 803) within 30 days of the date of the payment. However, mitigating factors exist such that the Enforcement Division has decided to close this case with this warning letter rather than issue a fine. The payment amount just met the threshold to require behested payment reporting, you filed

[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.
[2] Section 82015, subdivision (b)(2)(B)(iii).

the outstanding report prior to contact by the Enforcement Division, therefore there was minimal public harm with the late disclosure. Further, you have no prior history of violating this section.

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 Chloe Hackert at (916) 322-8190 or chackert@fppc.ca.gov with any questions you may have regarding this letter.

Sincerely,

GWest

Galena West, Chief
Enforcement Division

GW/ch
cc: FPPC Legal Division