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

March 6, 2023

Re-Elect Scott Wiener for State Senate 2020
Scott Wiener and Stacy Owens
c/o Marissa Quaranta
[redacted]

Warning Letter Re: FPPC No. 2022-00197; Re-Elect Scott Wiener for State Senate 2020, Scott Wiener, and Stacy Owens

Dear Marissa Quaranta:

The Enforcement Division of the Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act").[1] This letter is in response to a referral from the Franchise Tax Board's ("FTB") Political Reform Audit Program resulting from an audit of Re-Elect Scott Wiener for State Senate 2020 (the "Committee"), for the audit period of January 1, 2016 through December 31, 2020.

The FTB audit report concluded that the Committee substantially complied with the Act's disclosure and recordkeeping provisions, but that the Committee violated the Act by failing to timely file two pre-election campaign statements and 24-hour contribution reports for 15 late contributions received, and by failing to timely report accrued expenses. The Enforcement Division has completed its review and determined the Committee failed to timely file two pre-election campaign statements prior to the June 5, 2018 Primary Election, failed to timely file six 24-hour contribution reports prior to the March 3, 2020 Primary Election and November 3, 2020 General Election, and failed to timely report accrued expenses prior to the March 3, 2020 Primary Election.

The Act requires all elected state officers, and their controlled committees, who are not appearing on the ballot at the next statewide election, and who, during the pre-election reporting periods, contributes $500 or more in connection with a statewide election to file pre-election

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[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.

campaign statements.[2] Also, each candidate or committee that makes or receives a late contribution[3] shall report the late contribution within 24 hours of the time it is made or received.[4]

Further, the Act requires candidate-controlled committees to disclose specific information on their campaign statements. For expenditures of $100 or more, the committee must report the full name of each person to whom an expenditure is made, as well as the person's street address, the amount of the expenditure and a brief description of the expenditure.[5] An accrued expense is required to be reported as of the date on which the goods or services are received.[6] If the exact amount of the expenditure is not known, the statement shall state that the amount reported is an estimate.[7] Once the exact amount is determined, the committee shall either amend the statement containing the estimate or indicate the correct amount on the statement for the reporting period in which such amount is determined.[8] Controlling candidates and committee treasurers are jointly and severally liable, along with the committee, for violations by the committee.[9]

The Committee violated Section 84200.5, subdivision (b), of the Act by failing to timely file pre-election campaign statements for the reporting periods of January 1, 2018 to April 21, 2018 and April 22, 2018 to May 19, 2018, by the applicable due dates. Also, the Committee violated Section 84203 of the Act by failing to timely file six 24-hour contribution reports for 14 late contributions received totaling $24,950. Further, the Committee violated Section 84211, subdivision (k), of the Act by failing to timely report $144,833 worth of accrued expenses on the pre-election campaign statement for the reporting period of January 19, 2020 to February 15, 2020, by the applicable due date.

However, there are several mitigating factors present in this case and for the following reasons, the Enforcement Division has decided to close this case with this warning letter. The late contributions the Committee made in 2018, that triggered the pre-election reporting obligations, were disclosed by the Committee on timely filed 24-hour contribution reports. Further, the recipients of these late contributions disclosed them on timely filed pre-election campaign statements and 24-hour contribution reports. Aside from one late contribution received in 2020, the Committee disclosed all of its late contributions received on timely filed pre-election campaign statements. The remaining late contribution was disclosed on the Committee's timely filed post-election semi-annual campaign statement. Also, the contributors timely filed 24-hour

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[2] Section 84200.5, subd. (b).

[3] "Late contribution" includes a contribution that totals in the aggregate $1,000 or more and is made to or received by a candidate or controlled committee during the 90-day period preceding the date of the election, or on the date of the election, at which the candidate is to be voted on. (Section 82036.)

[4] Section 84203.

[5] Section 84211, subd. (k).

[6] Regulation 18421.6, subd. (b).

[7] *Id*.

[8] *Id*.

[9] Sections 83116.5 and 91006.

contribution reports for over half of the late contributions received by the Committee. Further, these late contributions received were a small percentage of the Committee's overall activity for the audit period, amounting to less than 1%. Throughout the audit period, the Committee timely filed 24-hour contribution reports for 514 late contributions received or made totaling $1,368,847.

As for the late reported accrued expenses, the unreported amount was a small percentage of the Committee's overall activity during the audit period, amounting to approximately 4.64%. Also, the Committee filed an amendment prior to the General Election and prior to receiving contact from the Enforcement Division and reported approximately 99.8% of the undisclosed accrued expenses. Finally, the Committee has since terminated and neither the candidate nor the Committee have a prior enforcement history.

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 yourselves 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 this case. If we do not receive such notification, this warning letter will be posted on the Commission's website ten days from the date of this letter.

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If you need forms or a manual, or guidance regarding their obligations, please visit our website at www.fppc.ca.gov. Please feel free to contact me at JRinehart@fppc.ca.gov or (916) 323-6302 (voicemail) with any questions you may have regarding this letter.

Sincerely,

Jenna Rinehart

Jenna C. Rinehart,
Commission Counsel
Enforcement Division

cc: Franchise Tax Board dawn.hadid@ftb.ca.gov; Ramandeep.Kaur@ftb.ca.gov; Danielle.Moscato@ftb.ca.gov