



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

December 20, 2022

Dan Hathaway for AUD board 2022
Dan Hathaway, Candidate
Diane Madsen, Treasurer
[REDACTED]

Warning Letter Re: FPPC No. 2022-01052; Dan Hathaway for AUD Board 2022, Dan Hathaway, and Diane Madsen

Dear Dan Hathaway, Diane Madsen, and Committee:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the “Act”).¹ As you are aware, in response to the Enforcement Division’s pre-election outreach program, we were made aware by San Luis Obispo County that you failed to timely file the second pre-election campaign statement in connection with the November 8, 2022 election. The Enforcement Division has completed its review of the facts in this case. Specifically, we found that you failed to timely file the second pre-election campaign statement and failed to timely disclose nonmonetary contribution(s) on Schedule C.

The Act requires candidate-controlled committees to file two pre-election campaign statements at specified times prior to the election in which the candidate will be on the ballot, as well as semi-annual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.² The obligation to file semi-annual campaign statements continues until the candidate or treasurer terminates the committee. Controlling candidates and committee treasurers are jointly and severally liable for violations by the committee.³

Any goods or services received by a campaign committee at no charge are considered nonmonetary (in-kind) contributions.⁴ The Act requires campaign committees and candidates to disclose on their campaign statements all contributions they receive valued at \$100 or more.⁵ A non-monetary contribution is “made” by the contributor, and “received” by the candidate or committee, on the earlier of the following dates: (1) the date that the funds are expended by the contributor for goods or services, if the specific expenditure is made at the behest of the candidate or committee; or (2) the date that the candidate or committee, or agent of the candidate

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 Sections 84200.5 and 84200.

³ Sections 83116.5 and 91006.

⁴ Regulation 18215(b)(3)

⁵ Section 84211(f).

or committee, obtains possession or control over the goods or services, or the date that the candidate or committee otherwise receives the benefit of the expenditure.⁶

Your actions violated the Act because you failed to timely file the second pre-election campaign statement by the October 27, 2022 deadline. You also failed to timely disclose non-monetary contribution(s) totaling \$757.12 on Schedule C of your first pre-election campaign statement. However, the Enforcement Division has decided to close your case with this warning letter rather than a fine because you were referred as part of the proactive pre-election program, you filed the pre-election campaign statement before you were contacted by the Enforcement Division, the non-monetary contribution(s) were disclosed on the Summary Page, you were an unsuccessful candidate, and you have no history of violating the Act. Please note that while the Enforcement Division is closing this matter without a fine, your filing officer may assess late filing penalties.

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.

Please feel free to contact Shaina Elkin at selkin@fppc.ca.gov or (916) 327-2020 with any questions you may have regarding this letter.

Sincerely,

Angela J. Brereton

Angela J. Brereton, Chief
Enforcement Division

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⁶ Regulation 18421.1(f)(1)(2).