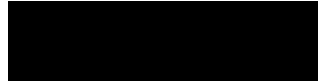




STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811

December 13, 2022

Edward "Ty" Peabody
Committee to Elect Edward Ty Peabody City Council Indian Wells 2022



Warning Letter Re: FPPC No. 20-00807; Edward "Ty" Peabody and Committee to Elect Edward Ty Peabody City Council Indian Wells 2022

Dear Edward "Ty" Peabody:

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 opened a commission-initiated investigation regarding certain communications sent in 2020. We also received an anonymous complaint and two AdWatch submissions in 2022, in part, related to your candidate-controlled committee, Committee to Elect Edward Ty Peabody City Council Indian Wells 2022 (the "Committee"), which were combined into this case.

The Enforcement Division has completed its review of the facts in this case. Specifically, we found that, in 2020 and 2022, you sent certain communications and, in 2022, you and the Committee sent a mass mailing that failed to include the required disclaimers under the Act.

Under the Act, a candidate² or candidate-controlled committee established for an elective office shall not send a mass mailing unless the candidate or committee's name, street address, and city are shown on the outside of each piece of mail and on at least one of the inserts included within each piece of mail in no less than 6-point type that is in a color or print that contrasts with the background so as to be easily legible.³ This identification must be preceded by the words "Paid for by." The words "Paid for by" must be immediately adjacent to and above or

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 "Candidate" includes an officeholder and anyone who has received a contribution. (Section 82007.)

³ Section 84305, subd. (a)(1).

immediately adjacent to and in front of the required identification.⁴ A “mass mailing” has been made when more than 200 substantially similar pieces of mail are sent in a calendar month.⁵

Further, under the Act, a candidate or a candidate-controlled committee established for an elective office shall not send a mass electronic mailing unless the full name of the candidate or committee is shown in the electronic mailing preceded by the words “Paid for by” in at least the same size font as a majority of the text in the electronic mailing.⁶ “Mass electronic mailing” means sending more than 200 substantially similar pieces of electronic mail within a calendar month.⁷

In 2020, as a candidate, you violated the Act by disseminating a mass mailing and a mass electronic mailing, supporting two candidates for Indian Wells City Council, that failed to meet the disclaimer requirements. In particular, the mass electronic mailing failed to include the necessary “Paid for by” phrase, and the mass mailing failed to include the “Paid for by” phrase or your name and address on the outside of the mailer. In 2022, as a candidate, you violated the Act by disseminating two mass electronic mailings that failed to include the “Paid for by” phrase. Further, you and the Committee sent out a mass mailing that failed to include the “Paid for by” phrase and identify the Committee by its complete name. However, the Enforcement Division is closing this case with this warning letter, rather than a fine, for the following reasons: although not on the outside, your name and street address were included on the inside of the 2020 mass mailing; the candidates supported in the 2020 communications reported the activity on their campaign statements; each of the communications were in letter form, clearly identified you as the author, and there was no confusion regarding the identity of the sender; and, in 2022, you made corrections to subsequent mailers.

The Enforcement Division is closing this case with this warning letter rather than a fine. 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 respondents with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Commission. If your clients wish to avail themselves of these proceedings by requesting that this 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.

⁴ Regulation 18435, subd. (c).

⁵ Section 82041.5; Regulation 18435, subd. (a).

⁶ Section 84305, subd. (c)(1).

⁷ Section 84305, subd. (e)(1).

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

Please feel free to contact me at (916) 322-5021 or cburton@fppc.ca.gov with any questions you may have regarding this letter.

Sincerely,

Christopher B. Burton

Christopher B. Burton

Assistant Chief

Enforcement Division