



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

August 28, 2023

Thomas Hiltachk
Bell, McAndrews & Hiltachk, LLP o/b/o
Yes 4 Children's Hospitals, Yes on Proposition 4, sponsored by California Children's Hospital
Association
Ann-Louise Kuhns
Via email: tomh@bmhlaw.com

**Warning Letter re: FPPC No. 2019-01344; Yes 4 Children's Hospitals, Yes on Proposition
4, sponsored by California Children's Hospital Association, and Ann-Louise Kuhns**

Dear Thomas Hiltachk:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the "Act").¹ This letter is in response to an AdWATCH submission against Yes 4 Children's Hospitals, Yes on Proposition 4, sponsored by California Children's Hospital Association (the "Committee"), alleging that the Committee failed to use the proper advertisement disclaimers in an advertisement paid for by the Committee. The Enforcement Division found that the Committee failed to include the proper advertisement disclaimers in a video advertisement on the Committee's website.

An advertisement is any general or public communication that is authorized and paid for by a committee for the purpose of supporting or opposing one or more candidates for elective office or one or more ballot measures.² In 2018, advertisements paid for by a recipient committee, other than a political party committee or a candidate controlled committee, were required to include a disclosure statement including specific disclaimers.³ Video advertisements, including those disseminated over the Internet, were required, among other things, to have the disclaimers appear on a solid black background on the entire bottom one-third of the video display screen with the text in contrasting color.⁴

Your clients' actions violated the Act by failing to include the proper advertisement disclaimers in a video advertisement on the Committee's website. However, mitigating factors exist here. First, the video advertisement was posted on the Committee's website, and the Committee's website included the correct disclaimers, so the public harm was minimal. Second, the video advertisement was also posted on YouTube.com and included the proper advertisement disclaimers. Third, the correct disclaimers were added to the video advertisement posted on the

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 18104 through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Section 84501.

³ See Sections 84502, subd. (a)(1), and 84503.

⁴ Section 84504.1, subd. (b)(1).

Committee's website immediately after Enforcement contact, which was well before the election. Fourth, the Committee has since terminated. And finally, the Committee has no prior history of violating the Act. Based on the foregoing, and in accordance with the Enforcement Division Policy Directives formally adopted by the Commission on January 26, 2023, which requires the Enforcement Division to take all appropriate actions within their discretion to decrease the Division's annual carryover caseload, the Enforcement Division is closing this case with this warning letter.⁵ Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.⁶ This resolution may not be used as a comparable case for other enforcement matters.⁷

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 or your clients need forms, 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 me at (916) 322-7771 or abreron@fppc.ca.gov with any questions regarding this letter.

Sincerely,

Angela J. Breron

Angela J. Breron
Assistant Chief
Enforcement Division

⁵ <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

⁶ Regulations 18360.1 and 18360.3.

⁷ See Regulation 18361.5, subd. (e)(3).