



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

September 14, 2023

William Klump, Treasurer
Alameda Firefighters Association PAC Local 689
2217 South Shore Center Suite 240
Unit 824-110C
Alameda, CA 94501

c/o Alan Davis
[REDACTED]

Warning Letter Re: FPPC No. 2018-01362; Alameda Firefighters Association PAC Local 689 and William Klump

Dear Alan Davis,

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 complaint alleging Firefighters Association PAC Local 689 (“the Committee”) violated the Act’s advertisement disclosure provisions when the Committee sent a mailer opposing Tony Daysog and Robert Matz and supporting Jim Odie and John Knox White for Alameda City Council, candidates on the November 6, 2018 General Election ballot (“the mailer”). The Enforcement Division has completed its investigation and determined the Committee violated the Act’s advertisement disclosure provisions by failing to include a “not authorized by” disclaimer on the mailer.

The Act requires advertisements supporting or opposing a candidate paid for by an independent expenditure must include the following statement: This advertisement was not authorized or paid for by a candidate for this officer or a committee controlled by a candidate for this office.² The statement is commonly referred to as the “not authorized by” disclaimer. Under the Act, “independent expenditure” includes an expenditure made by an organization in connection with a communication which expressly advocates the election of a clearly identified candidate(s).³ The Act defines “advertisement” as any communication that is authorized and paid for by a committee for the purpose of supporting or opposing a candidate(s) for elective office 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 18104 through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

²Section 84506.5

³ Section 82031.

a ballot measure(s).⁴ Additionally, the disclosure on a print advertisement must have a solid white background and shall be in a printed or drawn box on the bottom of at least one page that is set apart from any other printed matter.⁵ The text shall be in a contrasting color and shall be an Arial equivalent type with a type size of at least 10-point.⁶

The Committee violated the Act by failing to include the disclaimer “This advertisement was not authorized or paid for by a candidate for this officer or a committee controlled by a candidate for this office” on the mailer. Additionally, the Committee violated the Act because the format of the disclaimer on the advertisement was 9-point font, instead of 10-point, and was missing a solid white background around the disclosure. However, there are several mitigating factors present. There was no confusion regarding who paid for the mailer because the advertisement included a “paid for by” disclosure and the Committee’s address. The Committee was also unsuccessful in its efforts to support and oppose candidates and 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.⁷ Here, discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.⁸ Additionally, discretion was used for violations that caused minimal public harm when lack of experience or knowledge of the Act’s requirements caused multiple violations.⁹ Further, discretion was used because the committee spent less than \$10,000.¹⁰ This resolution may not be used as a comparable case for other enforcement matters.¹¹

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 your client with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Commission. If

⁴ Section 84501, subd. (a)(1).

⁵ Section 84505.2, subd. (a)(1).

⁶ Section 84505.2, subd. (a)(1) and subd. (a)(2).

⁷ <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

⁸ Regulation 18360.1.

⁹ Regulation 18360.2.

¹⁰ *Id.*

¹¹ See Regulation 18361.5, subd. (e)(3).

your client wishes to avail themselves 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.

If you need forms or a manual, or guidance regarding your obligations, please visit our website at www.fppc.ca.gov. Please feel free to contact me at MCorona@fppc.ca.gov or (916) 322-5772 (voicemail) with any questions you may have regarding this letter.

Gratefully,

Marissa Corona

Marissa Corona
Commission Counsel
Enforcement Division