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

August 31, 2023

Angela Fawcett, Treasurer and Principal Officer
o/b/o Friends of Crab Cove

[redacted]

Warning Letter: FPPC No. 2019-00350; Friends of Crab Cove and Angela Fawcett

Dear Committee and Angela Fawcett,

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 by treasurer and principal officer, Angela Fawcett, who self-reported Friends of Crab Cove ("the Committee") for failing to include a solid white background around the "Paid for by" disclosure on printed material.

The Enforcement Division has completed its investigation of this case. Specifically, the Enforcement Division found the Committee was a primarily formed committee in support of Measure B and opposing Measure A and failed to timely file as a primarily formed committee with regard to the identification and naming requirements that apply to primarily formed committees. The Committee's advertisement disclosures on door hangers, flyers, yard signs, mailers, postcards, business cards and banners therefore included the incorrect committee name, and the Committee's yard signs and banners failed to include a solid white background around the disclosure. Additionally, the Enforcement Division also found the committee failed to timely file two quarterly reports, failed to report $916 in subvendor payments, and failed to send one major donor notice.

Under the Act, "primarily formed committee" includes a recipient committee which is formed or exists primarily to support or oppose a single candidate or measure.[2] A recipient committee is considered to be "formed or existing primarily to support or oppose" a candidate or measure if the committee's primary purpose and activities are to support or oppose candidates or measures, or if the committee makes more than 70% of its total contributions and expenditures on all candidates and measures on those specific candidates or measures during the relevant time period.[3] The name of a non-candidate controlled committee primarily formed to support or oppose one or more candidates or measures must include the last name of each candidate or measure the committee

[1] The Political Reform Act is contained in Government Code Sections 81000 through 91014.
[2] Section 82047.5, subd (a).
[3] Regulation 18247.5, subd. (c)(3).

supports or opposes as listed on its statement of organization, the office sought, year of the election, and whether the committee supports or opposes the candidate.[4]

Both Measure A and B appeared on the ballot in the City of Alameda for its April 9, 2019 Special Election. Measure A and B received the ballot measure letter designation on or around January 22, 2019. The Enforcement Division found the Committee was a primarily formed ballot measure committee formed to support Measure B and oppose Measure A. The Act requires primarily formed ballot measure committees to amend the name of the committee to include a statement indicating support or opposition to the measure the committee was formed to support or oppose within 30 days of designation.[5] Here, the Committee was required to include a phrase similar to "supporting Measure B and opposing Measure A" in its name by February 21, 2019 and failed to do so. The failure to comply with the Act's naming requirements caused the advertisement disclosure statements on all the Committee's ads to be incomplete. Additionally, the Committee was required to include a solid white background around the disclosure on its printed advertisements.[6]

The Act requires committees primarily formed to support or oppose a measure to file quarterly campaign statements, in addition to required pre-election statements and semi-annual statements.[7] Here, the Committee failed to timely file two quarterly reports covering the periods of July 1, 2018 to September 30, 2018 and March 24, 2019 to March 31, 2019 by their respective due dates.

The Act further requires committees to report all contributions and expenditures.[8] For expenditures of $100 or more, the committee must disclose: (1) the full name of each person to whom an expenditure is made; (2) the person's street address; (3) the amount of the expenditure; and (4) a brief description of the expenditure.[9] An expenditure also includes payments made by an agent or independent contractor, commonly referred to as "subvendor payments," of $500 or more.[10] Here, the Committee failed to timely report a sub-vendor payment of $916 to Liza Morse for Facebook Ads on Schedule G.

Finally, the Act requires committees that receive contributions of $5,000 or more from any person to notify the contributor within two weeks of receipt of the contribution that the person may be required to file campaign reports.[11] This notice is generally referred to as a major donor notice. Here, in 2019 the Committee received three contributions from Neptune Properties that cumulatively triggered the $5,000 threshold required in Section 84105. On February 25, 2019 a $3,500 contribution was received, on March 25, 2019 a $1,200 contribution was received and finally on March 29, 2019 a contribution of $1,000 was received. Therefore, two weeks from March

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[4] Regulation 18402, subd. (c)(3).
[5] Section 84107
[6] Section 84504.2, subd. (a).
[7] Section 84202.3
[8] Section 84211
[9] Section 84211, subd. (k)
[10] Sections 84211, subd. (k)(6), and 84303, subd. (a).
[11] Section 84105

29, 2019, April 12, 2019, the major donor notice was due and the Committee failed to timely send the major donor notice to Neptune Properties.

However, the Enforcement Division has determined mitigating circumstances exist here. The evidence shows that the Committee self-reported one of the advertisement violations, all of the advertisements included a “paid for by” disclosure and were not misleading. The Committee also timely filed both pre-election statements, and the Committee failed to report a small percentage of its overall activity. In addition, the evidence shows the Committee has a low level of experience with the Act, the efforts of the Committee were unsuccessful in opposing Measure A and supporting Measure B, the Committee has no prior Enforcement history, the Committee was only in existence for a little over a year and the Committee is now terminated. 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. Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances. This resolution may not be used as a comparable case for other enforcement matters.

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. Although the Enforcement Division is closing this case without seeking a penalty, the Committee is still required to pay any late filing fees assessed by the filing officer. Please contact the Committee’s filing officer for further information about required filings. Any future non-filings may result in monetary penalties and this warning letter may be considered in any future enforcement actions.

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 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.

If you have any questions regarding this letter, please contact me at (916) 322-5772 or MCorona@fppc.ca.gov

Sincerely,

Marissa Corona

Marissa Corona
Commission Counsel
Enforcement Division