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

September 14, 2023

Benjamin Ao, Principal Officer
Peggy Paddock, Treasurer
o/b/o United Homeowners Alliance

[redacted]

Warning Letter: FPPC No. 2018-01288; United Homeowners Alliance, Benjamin Ao and Peggy Paddock

Dear Respondents,

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 sworn complaint alleging United Homeowners Alliance ("the Committee") failed to include proper disclosures on mass mailings and failed to timely file campaign statements in connection with the November 6, 2018 General Election.

The Enforcement Division has completed its investigation of this case. Specifically, the Enforcement Division found the Committee failed to include the proper disclosure on mass mailings, yard signs, flyers, and banners. Additionally, the Enforcement Division found the Committee failed to timely file one pre-election campaign statement, one 24-hour contribution report, and failed to timely report all contributions on a pre-election campaign statement, and a semiannual statement.

Under the Act, a mass mailing means over two hundred substantially similar pieces of mail.[2] The Act requires mass mailings, yard signs, flyers, and banners to include the words "paid for by" followed by the committee name as it appears on the committee's statement of organization.[3]

The Act also requires general purpose committees to file the applicable pre-election campaign statements if it makes contributions or independent expenditures totaling $500 or more in connection with the General Election during the period covered by the pre-election campaign statements.[4] The first pre-election campaign statement, for the period ending in 45 days before the election, shall be filed no later than 40 days before the election.[5] A committee must file a second pre-election statement for the reporting period ending 17 days before the election no later than 12

[1] The Political Reform Act is contained in Government Code Sections 81000 through 91014.
[2]Section 82041.5.
[3]Sections 84504.2 and 84502.
[4] Section 84200.5, subd. (e)
[5] Section 84200.8, subd. (a).

days before the election.[6] If the committee has not previously filed a campaign statement, the period covered begins on January 1.[7]A committee must also file semi-annual campaign statements beginning in the period in which the committee qualified and continuing until the committee terminates.[8] A committee must file a semi-annual statement by January 31 for the period ending December 31 of the previous year, and by July 31 for the period ending June 30.[9] Whenever the deadline falls on a Saturday, Sunday or official state holiday, the filing deadline for a statement shall be extended to the next regular business day.[10]

Under the Act, a "late independent expenditure" means an independent expenditure that totals in the aggregate $1,000 or more and is made to or received by a candidate, a controlled committee, or a committee formed or existing primary to support or oppose a candidate or measure during the 90-day preceding the date of the election, or on the date of the election, at which the candidate or measure is to be voted on.[11] Each committee that makes a late independent expenditure shall report the late independent expenditure within 24 hours of the time it is received.[12]

The Act requires committees to report all contributions and expenditures.[13] Each campaign statement must contain certain information about the campaign's financial activity, including total contributions, total expenditures, and identifying information about sources of contributions and recipients of expenditures. Campaign contributions include payments, forgiveness of a loan, payment of a loan by a third party, or an enforcement promise to make a payment, including non-monetary or in-kind contributions.[14] For contributions of $100 or more, including loans, the statement must include the name, street address, occupation, employer, and amount received from each source.[15] For loans, the statement must include the original date and amount of each loan, the due date and interest rate of the loan, the cumulative payment made or received to date, the outstanding balance at the end of the reporting period, and the cumulative amount of contributions.[16]

Here, the Enforcement Division specifically found the Committee failed to include the words "paid for by" on mass mailings, yard signs, flyers and banners in connection with the November 6, 2018 General Election. The Committee also failed to include the proper committee name on the advertisements. The disclosure read "United HOA" instead of the committee name as it appears on the statement of the organization, "United Homeowners Alliance."

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[6] Section 84200.8, subd, (b).
[7] Section 842046, subd, (b).
[8] Section 84200, subd. (a).
[9] Section 84200.
[10] Regulation 18116, subd. (a)
[11] Section 82036.5.
[12] Section 84204.
[13] Section 84211.
[14] Section 82015.
[15] Section 84211, subd. (f).
[16] Section 84211, subd. (g).

The Committee also failed to timely file the pre-election campaign statement covering the period July 1, 2018 to October 20, 2018 by the October 25, 2018 due date and failed to timely file one 24-hour late independent expenditure report for an independent expenditure made on October 9, 2018, in the amount of $11,999. Finally, the Committee failed to timely report $12,615 in loans on the pre-election campaign statement covering July 1, 2018 to October 10. 2018 and $333 in loans on the semiannual statement covering the period of October 21, 2018 to December 31, 2018.

However, the Enforcement Division has determined mitigating circumstances exist here. The evidence shows that the Committee's advertisements were not misleading because other identifying information, including the Committee website and ID number were included in the advertisements. The Committee filed a semiannual statement covering July 1, 2018 to December 31, 2018 instead of a pre-election statement covering July 1, 2018 to October 20, 2018 and semiannual statement covering October 21, 2018 to December 31, 2018. Additionally, the Committee attempted to report all contributions by reporting the loans on Schedule H instead of Schedule F. Finally, the Committee was unsuccessful in their efforts to oppose Measure B, raised and spent a low amount regarding the election, is terminated and has no prior Enforcement history. 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

cc: complainant, Richard Hathaway at [redacted]