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

October 4, 2023

Hrepsima Rita Topalian
Individually and on behalf of Rita Topalian for Senate 2018
[redacted]

Lillian Moloian, Treasurer
[redacted]

**Re: Warning Letter re: FPPC No. 2020-01140, In the Matter of Rita Topalian for Senate 2018, Hrepsima Rita Topalian, and Lillian Moloian**

Dear All:

The Enforcement Division of the Fair Political Practices Commission ("FPPC") enforces the provisions of the Political Reform Act (the "Act").[1] The committee, Rita Topalian for Senate 2018 ("Committee"), was the subject of a Franchise Tax Board ("FTB") audit, which covered the audit period of January 1, 2018 through December 31, 2018. The FTB audit found and the Enforcement Division confirmed that the Committee, Topalian, and Mololian violated the Act, as described below in detail.

No contribution shall be made, directly or indirectly, by any person in the name of another.[2] This prohibition keeps the public informed of the sources of campaign contributions, and it ensures that contributors abide by the Act's contribution limits. The Act prohibits any person from making a contribution while acting as the intermediary of another, without disclosing to the recipient of the contribution both the intermediary's own full name, street address, occupation, and employer, and the true contributor's full name, street address, occupation, and employer, if any, or principal place of business if self-employed.[3] Contributions made to committees and candidates are reportable and subject to contribution limits. Contributions include loans.[4] A loan received by a candidate is considered a contribution unless the loan is received from a commercial lending institution in the ordinary course of business, or it is clear from the surrounding circumstances that it is not made for political purposes.[5] A loan, whether or not there is a written contract for the loan, shall be reported when any of the following apply: 1) the loan is a contribution, 2) the loan is received by a committee, or 3) the loan is received by a candidate and is used for political purposes.[6] The Act also states that a person is an intermediary for a contribution if the recipient of the contribution would consider 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 84301.
[3] Section 84302.
[4] Section 81002, subd. (f).
[5] Section 84216, subdivision (a).
[6] Section 84216, subdivision (b).

person to be the contributor without the disclosure of the identity of the true source of the contribution.[7]

Further, the Act requires that all committee statements and reports disclose information fully and accurately. For contributions, including loans, the full name, address, employer and/or occupation must be disclosed on campaign statements and reports. A candidate for statewide elective office may not accept from a person any contribution exceeding the applicable limit for that election.[8] In 2018, the contribution limit in effect for candidates for the Senate or Assembly for an election occurring between January 1, 2017 and December 31, 2018 was $4,400 per person per election.[9] Therefore, for a candidate running in both the Primary and General Election the total that a candidate could accept from a single source was $8,800.

During the reporting period of September 23, 2018 through October 20, 2018, the Committee reported receiving a loan from the candidate, Topalian, in the amount of $10,000 on October 9, 2018. However, bank records show that the true source of these funds was a trust fund called the Hyla Marrow Trust ("Trust.") On the day that Topalian transferred $10,000 to the Committee, she deposited $10,000 from the Trust into her personal account. Topalian confirmed that she was the trustee of the Trust, not the beneficiary, and secured a loan to herself for the funds at an interest rate of 10%.

By this date, the Committee had received the maximum contribution from this source. Therefore, the Committee and Topalian improperly accepted a contribution over the limit. Topalian failed to disclose that she was acting as an intermediary for the funds from the Trust.

As the true source of the funds were from the Trust, the Committee and Topalian should have disclosed that Topalian was an intermediary for the funds and reported the Trust as the contributor of the loan. Therefore, the disclosures made on the campaign statement for the reporting period of September 23, 2018 through October 20, 2018 were false and misleading. In addition, the Committee filed a 24-hour late contribution report that failed to disclose that Topalian was serving as the intermediary for the $10,000 loan made on October 9, 2018 and failed to disclose that the Trust was the true source of the loan.

Respondents violated the Act when the candidate, Topalian, made a contribution without disclosing that she was acting as an intermediary for a 3rd party. Further, the Committee, Topalian, and Moloian failed to accurately disclose information on a campaign statement and report and accepted a contribution over the limit. With respect to the finding of violations, the Enforcement Division has determined that mitigating circumstances exist here. There is no evidence that Topalian intentionally violated the Act's contribution limits or the Act's requirements to disclose the true source of campaign contributions. There is evidence that Topalian thought that the funds were her personal funds, as she had personally assumed the liability for the debt. If the funds could be considered personal funds under the Act, the contribution limits would not apply and the

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[7] Regulation 18432.5, subd. (a).
[8] Section 85301.
[9] Regulation 18545, subdivision (c).

reporting would have been accurate.[10] The $10,000 contribution received comprised approximately 10% of the campaign's total contributions. In addition, the Committee terminated in 2019, the candidate was unsuccessful, and the Respondents have no prior 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.[11] This resolution may not be used as a comparable case for other enforcement matters.[12]

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 have any questions regarding this letter, please contact Theresa Gilbertson at tgilbertson@fppc.ca.gov.

Sincerely,

Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

CC: Franchise Tax Board

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[10] See Section 85301, subdivision (d).

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

[12] See Regulation 18361.5, subdivision (e)(3).