STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811

February 16, 2023

Fernando Dutra for City Council 2018
Dutra for City Council 2022
Fernando and Mary Dutra
[redacted]

Warning Letter Re: FPPC No. 2022-00817; Fernando Dutra, Fernando Dutra for City Council 2018, Mary Dutra, and Dutra for City Council 2022

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 two complaints alleging that Fernando Dutra for City Council 2018 (the "2018 Committee") and Dutra for City Council 2022 (the "2022 Committee") committed numerous violations of the Act. The Enforcement Division has completed its review of the matter and determined that the 2018 Committee and 2022 Committee failed to timely file certain campaign statements and reports and failed to timely report certain contributor information.

The Act requires candidate-controlled committees to file semi-annual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.[2] Also, each candidate or committee that makes or receives a late contribution[3] shall report the late contribution within 24 hours of the time it is made or received.[4]

When a committee receives contributions (including loans) totaling $100 or more from a person, the Act requires committees to report on the appropriate campaign statement the contributor's full name; street address; occupation; the name of their employer, or if self-

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[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 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

[2] Section 84200.

[3] "Late contribution" includes a contribution that totals in the aggregate $1,000 or more and is made to or received by a candidate or controlled committee during the 90-day period preceding the date of the election, or on the date of the election, at which the candidate is to be voted on. (Section 82036.)

[4] Section 84203.

employed, the name of the business; the date and amount received; and the cumulative amount of contributions.[5]

The 2018 Committee violated the Act by failing to timely file a semi-annual campaign statement for the reporting period of July 1, 2020 to December 31, 2020, due February 1, 2021; and by failing to timely file 24-hour contribution reports to disclose 10 late contributions received between March 1, 2018 and April 6, 2018, totaling $11,936.[6] The 2022 Committee violated the Act by failing to timely file a 24-hour contribution report for a $1,000 contribution it made to Miguel Bejarano on October 7, 2022. Since Miguel Bejarano appeared on the November 8, 2022 General Election ballot, the 2022 Committee was required to file a 24-hour contribution report to disclose this late contribution made, by the October 10, 2022 due date, but failed to do so.

Further, the 2018 Committee violated the Act by failing to timely report the employer of 45 contributors across the reporting periods occurring between January 1, 2018 and April 3, 2018, totaling $10,725. This amounts to approximately 18% of the total contributions received by the 2018 Committee. The 2022 Committee violated the Act by failing to report the employer of 39 contributors across the reporting periods occurring between January 1, 2021 and December 31, 2021, totaling $18,664. This amounts to approximately 39% of the total contributions received by the 2022 Committee.

However, there are several mitigating factors present in this case. After receiving contact from the Enforcement Division, the 2018 Committee hired a professional treasurer and filed two amendments to disclose the missing employer information for the reporting periods occurring between January 1, 2018 and March 24, 2018. The late-filed semi-annual campaign statement was filed only four days late and, aside from one late contribution received, each of the late contributions were disclosed prior to the election by the 2018 Committee on timely filed pre-election campaign statements. The late contribution that was not disclosed on the 2018 Committee's pre-election campaign statements was timely disclosed on a 24-hour contribution report filed by the contributor and was disclosed on the 2018 Committee's post-election semi-annual campaign statement. For the 2022 Committee, all other campaign statements were timely filed and no other 24-hour reports were required. Further, the 2018 Committee has since terminated and Respondents do not have a 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,

[5] Section 84211, subd. (f).

[6] Additionally, the 2018 Committee failed to timely file a semi-annual campaign statement for the reporting period ending December 31, 2017 and failed to timely file 24-hour contribution reports for two late contributions received on January 12, 2018 and February 5, 2018. However, the applicable statute of limitations for these violations has expired.

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 with minimal public harm that were corrected upon contact.[9] This resolution may not be used as a comparable case for other enforcement matters.[10]

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 yourselves 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 their 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 JRinehart@fppc.ca.gov or (916) 323-6302 (voicemail) with any questions you may have regarding this letter.

Sincerely,

Jenna Rinehart

Jenna C. Rinehart,
Commission Counsel
Enforcement Division

cc: Stephanie Vallejo [redacted]

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[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] See Regulation 18361.5, subd. (e)(3).