



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

April 5, 2023

Cary Davidson, Treasurer
Friends of Long Beach to Recall Jeannine Pearce
cary@politicallaw.com

Warning Letter re: FPPC Case No. 2018-00572; Cary Davidson and Friends of Long Beach to Recall Jeannine Pearce

Dear Cary Davidson:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act.¹ This matter arises from a Commission-initiated investigation regarding the committee known as Friends of Long Beach—for which you served as treasurer. As discussed in more detail below, this case is being closed with a warning letter.

The Act defines a “committee” to include any person receiving contributions totaling \$2,000 or more in a calendar year.² This type of committee commonly is referred to as a “recipient committee.”

A “primarily formed committee” includes any recipient committee that is formed or exists primarily to support or oppose a single candidate or ballot measure—or a group of specific candidates or a group of measures being voted upon in the same city, county, or multicounty election. If a committee does not meet these criteria, then the committee is a “general purpose committee.”³

If the spending of a general purpose committee becomes concentrated on certain candidate(s) or measure(s)—the committee must determine whether it has become primarily formed on a quarterly basis at the end of March, June, September and December. (Stricter rules apply for a committee that forms shortly before an election, but such rules do not apply in this case.)⁴

This determination is made by evaluating the activity of the committee during whichever of the following time periods most accurately reflects the current and upcoming activities of the committee: (a) the immediately preceding 24 months; or (b) the current two-year period, beginning with January 1 of an odd-numbered year and ending with December 31 of the following even-numbered year.⁵

¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 81000 through 91014. The regulations of the Fair Political Practices Commission are contained in California Code of Regulations, title 2, sections 18110 through 18998. Unless otherwise noted, all statutory and regulatory references are to these sources—as they were in effect during the time of the violations in this case (2018).

² Section 82013, subdivision (a).

³ See Sections 82027.5 and 82047.5.

⁴ See Regulation 18247.5, subdivision (d), as in effect after 3/14/18.

⁵ See Regulation 18247.5, subdivision (d)(3), as in effect after 3/14/18.

During this look-back period, all of the committee's contributions and expenditures to/on candidates and measures are totaled, not including administrative overhead. If more than 70 percent of this total was spent to support or oppose a single candidate or measure—or a group of specific candidates or a group of measures being voted on in the same city, county, or multicounty election—then the committee has become primarily formed.⁶ For a general purpose committee that meets this 70-percent requirement with respect to a local candidate or measure, the committee is not required to change its status to primarily formed unless it made contributions and/or expenditures totaling \$10,000 or more during the look-back period.⁷

When the status of a committee changes from general purpose to primarily formed, the committee must file an amendment to its statement of organization within 10 days. The amendment must reflect the committee's new designation as a primarily formed committee. Also, in the case of a committee that becomes primarily formed to support the recall of an officeholder, the committee must change its name to include language that the committee supports the recall of the officeholder in question. (For example: "Friends of Long Beach to Recall Jeannine Pearce.") The new, full committee name must be used on the amended filing, and in any other reference to the committee that is required by law.⁸

Within 90 days prior to an election, if a general purpose committee changes status to become primarily formed, then the committee must maintain its new primarily formed status—and it must file as such—until the date of the election and continuing through the end of the post-election reporting period.⁹ After this, if the committee continues to exist to support or oppose different candidates or measures in the future, the committee may change its status back to that of a general purpose committee.¹⁰

At the core of the Act's campaign reporting system is the requirement that committees must file campaign statements and reports for certain reporting periods and by certain deadlines.¹¹ These periods and deadlines are dependent on the type of committee that is filing.

For example, each year, a recipient committee must file a semi-annual campaign statement for the reporting period of January 1 through June 30 by the deadline of July 31—as well as another semi-annual campaign statement for the reporting period of July 1 through December 31, by the deadline of January 31.¹² Additionally, primarily formed ballot measure and recall committees must file a statement for the period of January 1 through March 31 by the deadline of April 30—and a similar statement must be filed for the period of July 1 through September 30 by the deadline of October 31.¹³ Generally, when a campaign statement is required to be filed, the reporting period begins the day after the closing date of the most recent campaign statement that was required to be filed—or January 1, if no prior statement was required to be filed.¹⁴

⁶ See Regulation 18247.5, subdivision (c)(3), as in effect after 3/14/18.

⁷ See Regulation 18247.5, subdivision (f)(2), as in effect after 3/14/18.

⁸ See Sections 82043; 84102, subdivision (d); 84103; Regulations 18402, subdivision (c)(4)(D) (as in effect after 3/14/18); 18531.5, subdivisions (b)(3) and (c)(3).

⁹ Regulation 18247.5, subdivision (e), as in effect after 3/14/18.

¹⁰ Regulation 18247.5, subdivision (f)(4), as in effect after 3/14/18.

¹¹ Sections 84200, *et seq.*

¹² Section 84200, subdivision (a).

¹³ Section 84202.3.

¹⁴ Section 82046.

In this case, our investigation found that Long Beach City Councilmember Jeannine Pearce was served with a notice of intention to seek her recall at the city council meeting of December 12, 2017. Due to concentrated spending, the Friends of Long Beach committee became primarily formed to support the recall on or about March 31, 2018. Therefore, you and the committee were required to file an amendment to the committee's statement of organization ([Form 410](#)) by April 10, 2018, but you failed to do so—in violation of Section 84103.¹⁵

Also, you and the committee were required to file a quarterly campaign statement ([Form 460](#)) for the reporting period of January 1 through March 31, 2018, by the deadline of April 30, 2018, but you failed to do so—in violation of Section 84202.3 and Regulation 18531.5, subdivision (c)(3).

In mitigation, you and the committee do not have a history of prior, similar violations (looking back five years). Not enough valid signatures were gathered for the recall to become a ballot measure. You and the committee filed an amendment to the statement of organization on May 14, 2018. Although the filing was late, it did disclose that the committee changed its name from Friends of Long Beach to Friends of Long Beach to Recall Jeannine Pearce. On July 31, 2018, a semi-annual campaign statement was filed for the reporting period of January 1 through June 30, 2018. As noted above, the required quarterly campaign statement for the period of January 1 through March 31, 2018 was not filed, but the activity of the committee for this period (which included expenditures in excess of \$100,000) was reported on the semi-annual campaign statement for the period ending June 30, 2018. Under these circumstances, the public did receive disclosure about the activity in question, albeit late. Additionally, the committee has been terminated since July 2018.

Based on the foregoing, and in accordance with the Enforcement Division Policy Directives formally adopted by the Commission on January 26, 2023, which require the Enforcement Division to take all appropriate actions within its discretion to decrease the Division's annual carryover caseload, the Enforcement Division is closing this case with this warning letter.¹⁶ Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.¹⁷ This resolution may not be used as a comparable case for other enforcement matters.¹⁸

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. 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

¹⁵ This warning letter applies to violations occurring within the past five years. The oldest of these violations involves failure to timely file an amendment to the committee's Form 410 statement of organization by the due date of April 10, 2018. Absent tolling for delayed discovery, the five-year statute of limitations started to run on April 11, 2018 (the first day that the filing was late). See Section 91000.5.

¹⁶ <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

¹⁷ Regulations 18360.1 and 18360.3.

¹⁸ See Regulation 18361.5, subdivision (e)(3).

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 need guidance regarding your obligations in the future, please visit our website at www.fppc.ca.gov/advice.html or call the Commission's Toll-Free Advice Line at 1-866-ASK-FPPC (1-866-275-3772).

Thank you for your attention to this matter. Please do not hesitate to call if you have any questions.

Very truly yours,

Neal P. Bucknell

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