



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

May 15, 2023

Ed Hernandez for Lieutenant Governor 2018
Edward P. Hernandez
15330 Amar Road
La Puente, CA 91744

Nancy L. Warren
20 Galli Drive, Suite A
Novato, CA 94949

Warning Letter Re: FPPC No. 2020-01141; Edward P. Hernandez, O.D.; Ed Hernandez for Lieutenant Governor 2018; Nancy Warren

Dear Edward P. Hernandez, Nancy L. Warren and Committee:

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 referral the Enforcement Division received from the franchise Tax Board's ("FTB") Political Reform Audit Program resulting from an audit of your committee, Ed Hernandez for Lieutenant Governor 2018, for the audit period of January 1, 2015 through December 31, 2018.

The FTB Audit Report concluded that the Committee substantially complied with the Act's disclosure and recordkeeping provisions. However, the FTB Audit Report determined the Committee violated the Act by failing to timely disclose subvendor information for payments totaling \$991,878. Of this amount, \$931,379 was for payments made by Buying Time, LLC for television advertisements and \$60,499 was for payments to Audience Partners for social media advertisements.

The Act requires committees to report payments of \$500 or more made on its behalf or for its benefit by an agent or independent contractor the same way it would if it were making the payment on its own.² Disclosure of the expenditures made by an agent or independent contractor are required to be made at the same time and in the same manner and detail as required for 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 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Section 84303.

committee's direct expenditures.³ Specifically, the following information must be provided: (1) the subvendor's full name; (2) his or her street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure was made.⁴ This information is commonly referred to as "subvendor information." You violated the Act by failing to timely disclose subvendor information for payments totaling \$991,878.

The Enforcement Division has determined that mitigating circumstances exist here. First, the evidence shows that you timely requested all of the subvendor information from Buying Time, LLC, and Audience Partners, and that you timely disclosed the expenditures made to Buying Time, LLC, and to Audience Partners on preelection campaign statements. Second, Buying Time, LLC did not provide the subvendor information to you until 2020. Third, Audience Partners provided the information to you after the applicable filing deadline, and while you received it before the election, the evidence shows that you experienced extreme staffing issues immediately before the filing deadlines in October 2018, and you inadvertently failed to file an amended campaign statement before the election. Fourth, amended campaign statements have now been filed to disclose all of the subvendor information. Lastly, subvendor information was disclosed for other payments totaling \$913,714, you were an unsuccessful candidate, and you have no prior violations of the subvendor disclosure rules. 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.⁵ Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.⁶ This resolution may not be used as a comparable case for other enforcement matters.⁷

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

³ Section 84211, subd. (k); Regulation 18431, subd. (c).

⁴ Section 84211, subd. (k).

⁵ <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

⁶ Regulations 18360.1 and 18360.3.

⁷ See Regulation 18361.5, subdivision (e)(3).

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 your obligations, please visit our website at www.fppc.ca.gov. Please feel free to contact me at abreron@fppc.ca.gov or (916) 322-5771 (voicemail) with any questions you may have regarding this letter.

Sincerely,

Angela J Breron

Angela J. Breron,
Assistant Chief, Enforcement Division