



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

June 16, 2023

Haubert for Supervisor 2020

David Haubert

David Bauer

Via Email: David.Haubert@acgov.org; david@theagency.us

Warning Letter Re: FPPC No. 2020-00200; Haubert for Supervisor 2020, David Haubert, and David Bauer

Dear David Haubert, David Bauer, and Committee:

The Enforcement Division of the Fair Political Practices Commission (“Commission”) enforces the provisions of the Political Reform Act (the “Act”).¹ As you know, the Enforcement Division received several complaints alleging that Haubert for Supervisor 2020 (ID# 1420117) (the “Committee”) failed to timely file certain campaign statements and reports and failed to include a disclosure on a text message advertisement prior to the March 3, 2020 Primary Election. The Enforcement Division has completed its investigation and review of the case and determined that the Committee failed to timely file certain semi-annual and pre-election campaign statements, and certain 24-hour contribution reports.

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 The Committee violated the Act by failing to timely file the semi-annual campaign statements for the reporting periods ending December 31, 2019 and June 30, 2020, by the applicable due dates.

In addition to semi-annual campaign statements, the Act requires all candidates appearing on the ballot at the next election, and their controlled committees, to file pre-election campaign statements no later than 40 days before the election for the period ending 45 days before the election, and no later than 12 days before the election for the period ending 17 days before the election.³ The Committee violated the Act by failing to timely file the pre-election campaign statements for the reporting periods ending January 18, 2020, September 19, 2020, and October 17, 2020, by the applicable due dates.

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 Sections 84200.5 and 84200.8.

The Act requires each candidate or committee that receives a late contribution⁴ to report the late contribution within 24 hours of the time it is received.⁵ The Committee violated the Act by failing to timely file 24-hour contribution reports to disclose 47 late contributions received totaling \$131,500.

The Act requires a candidate-controlled committee established for an elective office of the controlling candidate to include a disclosure on text message advertisements paid for by the committee.⁶ The Committee violated the Act by failing to include a disclosure on two text message advertisements paid for by the Committee.

On June 15, 2023, the Committee's streamline stipulation was approved for two counts of failing to include a disclosure on text message advertisements. The remaining violations are being resolved with this warning letter because the Enforcement Division has determined that further enforcement action on these violations is not warranted due to the mitigating circumstances that exist here. First, while the Committee failed to timely file certain semi-annual and pre-election campaign statements, the campaign statements at issue here were filed only 3-11 days late and prior to the relevant elections. Second, while the Committee failed to timely file certain 24-hour contributions reports, the Committee provided records to show that completed 24-hour contribution reports for late contributions at issue here totaling \$117,500 were timely provided to the Committee's filing officer, the Committee reported late contributions at issue here totaling \$81,500 on campaign statements filed prior to the relevant elections, the contributors reported late contributions made to the Committee at issue here totaling \$12,000 on campaign statements/reports timely filed prior to the relevant elections.

Furthermore, the remaining violations at issue here caused minimal public harm, the candidate and Committee do not have a prior enforcement history, and there was no evidence of an intent to conceal the violations. 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.⁷ Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.⁸ This resolution may not be used as a comparable case for other enforcement matters.⁹

⁴ "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.)

⁵ Section 84203.

⁶ Section 84504.7, subd. (b)(2).

⁷ <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

⁸ Regulations 18360.1 and 18360.3.

⁹ See Regulation 18361.5, subd. (e)(3).

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 your obligations, please 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