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

November 16, 2021

Mr. Michael Eng
Mike Eng for State Senate 2018
Ms. Jane Leiderman (committee treasurer)
c/o Leiderman & Associates
jane@leidermanassociates.com

Warning Letter re: FPPC Case No. 20/192; Mike Eng for State Senate 2018; Michael Eng; and Jane Leiderman

Gentlepersons:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act.[1] This case was opened in response to an audit performed by the Political Reform Audit Program of the Franchise Tax Board ("FTB")—with respect to your committee, Mike Eng for State Senate 2018 ("Committee"). The period covered by the audit was January 1, 2012 through December 31, 2018. After conducting our own review, we are closing this case with this warning letter.

One purpose of the Political Reform Act is to minimize the potentially corrupting influence—and the appearance of corruption—caused by large campaign contributions. For this reason, the Act includes campaign contribution limits.[2]

Another purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.[3] Along these lines, the Act includes a comprehensive campaign reporting system.[4]

For example, each candidate or committee that makes or receives a "late contribution" must file a Form 497 24-hour contribution report—within 24 hours of making or receiving the contribution.[5] In the case of a candidate who is on the ballot, a "late contribution" includes any contribution of $1,000 or more that is received by the candidate or his committee during the 90 days leading up to the election. During this time, a "late contribution" also includes multiple smaller contributions from the same source that add up to $1,000 or more.[6] Outside this window of time, if a candidate for elective state office receives a contribution in the amount of $5,000 or more—and if the candidate is an electronic or online filer with the Secretary of State—then the candidate must

[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 references are to the Government Code, and all regulatory references are to Title 2, Division 6 of the California Code of Regulations—as they were in effect during calendar years 2016 through 2018 (at the time of the violations in this case).

[2] See Sections 85301, et seq.

[3] Section 81002, subdivision (a).

[4] Sections 84200, et seq.

[5] Section 84203.

[6] See Section 82036.

disclose receipt of the contribution by filing a Form 497 10-day contribution report within 10 business days.[7]

In this case, the FTB audit report found that the committee substantially complied with the Act's disclosure and recordkeeping provisions—except that the committee: received contributions in excess of contribution limits from eight contributors, in violation of Section 85301; failed to timely file seven Form 497 reports regarding contributions received from eight contributors, in violation of Sections 84203 and 85309, subdivision (c); and mis-reported amounts received on six Form 497 24-hour contribution reports, in violation of Section 84203. (FTB also noted two contributions/loans from Mr. Eng to his own committee, for which required Form 497's were filed late, but the statute of limitations has passed for these violations.)

However, with respect to receipt of over-the-limit contributions, the committee promptly refunded the excess funds, with one exception where the refund check was issued by the committee very quickly, but never cashed by the contributor. (Later, the refund check was re-issued to the contributor and cashed.) FTB noted that that the committee's treasurer, Ms. Leiderman, stated that the committee did not benefit from the excess contributions that were received because the funds were promptly refunded upon discovery of the excess. Also, she stated that both excess contributions and refunds were reported on Form 460 campaign statements—so the information was available to the public. Additionally, the amount received in excess of contribution limits was *de minimis*, comprising less than two-thirds of one percent of reported committee receipts for the audit period.

With respect to failure to timely file 24-hour and 10-day reports, one was filed 21 days late, and six were not filed at all. However, all of the contributions were timely reported on Form 460 campaign statements. Also, the amount of reportable activity in question was *de minimis*, comprising only 1.5% of reported receipts for the audit period—and FTB noted that "Form 497 Contribution Reports were timely filed for 343 contributions received totaling $1,427,106."

With respect to the mis-reporting of amounts received on Form 497 24-hour contribution reports, these were clerical errors. One contribution in the amount of $4,400 accidentally was reported as $44,000. For five contributions, amounts were under-stated. However, all amounts were properly stated and reported on Form 460 campaign statements—and again, the amounts in question were *de minimis*. (The amount over-stated comprised less than 1.4%—and the amount under-stated comprised less than one-third of one percent—of reported receipts for the audit period.)

We are closing this matter without further action. 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

[7] Sections 85204, 84605, and 85309, subdivision (c).

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

Neal P. Bucknell
Senior Commission Counsel
Enforcement Division
nbucknell@fppc.ca.gov
(916) 323-6424