



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

December 15, 2023

Better Cupertino Action Committee
Yuwen Su
Via Email Only: contact@bettercupertino.org

Warning Letter re: FPPC No. 18/1192; In the Matter of Better Cupertino Action Committee and Yuwen Su

Dear Better Cupertino Action Committee and Yuwen Su:

The Enforcement Division of the Fair Political Practices Commission (“Commission”) enforces the provisions of the Political Reform Act¹ (the “Act”). The Enforcement Division received a sworn complaint alleging that the Better Cupertino Action Committee and Yuwen Su had failed to file a late contribution report pertaining to campaign contributions made for the November 6, 2018, election and that you had failed to properly include campaign advertisement disclosures on flyers distributed during the election that supported a candidate. The allegations were investigated, and we have decided to close out the allegation pertaining to the advertisement disclosure without any further action, and to issue a warning letter for the allegation pertaining to the late contribution report. The letter below further explains this decision.

The investigation concluded that for any advertisements that you paid for, which were flyers supporting Liang Chao for Cupertino City Council 2018, you did not fail to properly include advertisement disclosures. Therefore, this portion of the complaint is being closed without any further action.

However, with respect to a \$6,500 contribution made to Liang Chao for Cupertino City Council 2018 on or about October 28, 2018, the Act requires a Committee supporting or opposing a candidate to report such a contribution on a Form 497 (24-hour contribution report) within 24-hours of the contribution being made due to its proximity to the date of the election, which at that time, was held on November 6, 2018. Therefore, in this instance, you violated the Act by failing to file a Form 497 for the \$6,500 contribution made to Liang Chao for Cupertino City Council 2018 by October 29, 2018, which was within 24-hours of the contribution being made.

Pertaining to this violation, and in mitigation, Better Cupertino has no prior history of violating the Act and cooperated fully with the investigation. Also, the contribution was reported by both the recipient committee and Better Cupertino before the election on pre-election campaign statement Form 460's, as well as by the recipient committee on a Form 497. There was also no intent to violate the Act, and an explanation was provided that it was a clerical error not to file a Form 497

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 18104 through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

based on changes in campaign staffing (new and inexperienced treasurer had been hired). Based on the foregoing mitigating factors, 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.² Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.³ Additionally, discretion was used for violations that caused minimal public harm when lack of experience or knowledge of the Act's requirements caused violations with minimal public harm and the committee had a small amount of activity under \$20,000.⁴ This resolution may not be used as a comparable case for other enforcement matters.⁵

This letter serves as a written warning. However, 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 may result in monetary penalties of up to \$5,000 for each violation. This resolution may not be used as a comparable case for other enforcement matters.⁶

A warning letter is an FPPC Enforcement Division case resolution mechanism 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 hearing before an Administrative Law Judge or the Commission. If you wish to avail yourself of administrative proceedings by requesting that your case proceed with prosecution rather than this warning, please notify us within ten (10) days of the date of this letter. Upon this notification, the Enforcement Division will rescind this warning letter and proceed with administrative prosecution of this case. Specifically, the next step in your matter would be the issuance of a public accusation since a finding of probable cause was already made. 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 have any questions regarding this letter, please contact me at 279-237-3760 or aberjikly@fppc.ca.gov.

Sincerely,

Artin Berjikly

Artin Berjikly
Senior Commission Counsel
Enforcement Division

² <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

³ Regulations 18360.1 and 18360.3.

⁴ Regulation 18360.2.

⁵ See Regulation 18361.5, subdivision (e)(3).

⁶ See Regulation 18361.5, subdivision (e)(3).