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

January 29, 2024

Ricky Aguilera Supervisor 2020
Ricky Aguilera, Candidate and Treasurer

[redacted]

<u>Warning Letter Re: FPPC No. 2020-00191, Ricky Aguilera Supervisor 2020, Ricky Aguilera</u>

Dear Committee and Ricky Aguilera,

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the "Act").[1] This letter is in response to an anonymous complaint and a sworn complaint both alleging you failed to report certain contributions and expenditures for yard signs in support of your candidacy in the March 2020 Primary Election. In addition, the anonymous complaint alleged advertisement disclaimer violations on yard signs in connection with the same election.

The Enforcement Division has completed its review of the facts in this case. Specifically, we found that the Committee failed to timely file two pre-election campaign statements and three semiannual campaign statements and failed to accurately report contributions on one semiannual campaign statement. We also found the allegations regarding the advertisement disclosure violations were disproven. No advertisement disclaimers were required because the yard signs were created by the candidate for the candidate's own campaign.

The Act requires candidate-controlled committees to file two pre-election campaign statements at specified times prior to the election in which the candidate will be on the ballot, as well as 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 obligation to file semi-annual campaign statements continues until the candidate or treasurer terminates the committee.[3]

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[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.

[2] Sections 84200.5 and 84200.

[3] Section 84214; Regulation 18404.

In addition, a central purpose of the Act is to ensure voters are fully informed and improper practices are inhibited by requiring candidates and committees to disclose all contributions received and expenditures made throughout a campaign on timely filed campaign statements and reports.[4] The following information about a person who makes, in the aggregate, contributions of $100 or more must be disclosed: (1) full name; (2) street address; (3) occupation; (4) employer, or if self-employed, the name of the contributor's business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor.[5] For expenditures of $100 or more, the committee must disclose (1) the full name of each person to whom an expenditure is made; (2) the person's street address; (3) the amount of the expenditure; and (4) a brief description of the expenditure.[6] An expenditure also includes payments made by an agent or independent contractor, commonly referred to as "subvendor payments," of $500 or more.[7]

Your actions violated the Act because the Committee failed to timely file the first semiannual campaign statement covering the period of July 1, 2019, to December 31, 2019. In addition, the Committee failed to timely file the first pre-election campaign statement covering the period of January 1, 2020 to January 18, 2020 and the second pre-election statement covering the period of January 19, 2020 to February 15, 2020. Finally, the Committee failed to timely file two semiannual campaign statements covering the periods of February 16, 2020 to June 30, 2020 and July 1, 2020 through the date of termination: September 3, 2020. In addition to failing to timely file campaign statements, the Committee failed to timely report $4,257 in nonmonetary contributions for yard signs paid for by Angela Aguilera on the campaign statement covering the period of July 1, 2019 to December 31, 2019.

However, there are mitigating circumstances in this case. The second pre-election statement was filed prior to the election and the Committee appears to have raised and spent a low amount. You were unsuccessful, served as your own treasurer, are inexperienced with the requirements of the Act, have no prior Enforcement History, and the Committee is terminated. 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.[8] Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.[9] This resolution may not be used as a comparable case for other enforcement matters.[10]

[4] See sections 84200 through 84225.
[5] Section 84211, subd. (f).
[6] Section 84211, subd. (k).
[7] Sections 84211, subd. (k)(6), and 84303, subd. (a).
[8] https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf
[9] Regulations 18360.1 and 18360.3.
[10] See Regulation 18361.5, subdivision (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. Although the Enforcement Division is closing this case without seeking a penalty, the Committee is still required to file the missing statements and pay any late filing fees assessed by the filing officer. Please contact the Committee's filing officer, the City of Fairfield, for further information about required filings. Any future non-filings may result in monetary penalties and 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 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 forms or a manual, or guidance regarding your obligations, please call the Commission's Toll-Free Advice Line at 1-866-275-3772 or visit our website at www.fppc.ca.gov. Please feel free to contact me at 279-237-5932 or MCorona@fppc.ca.gov with any questions you may have regarding this letter.

Sincerely,

Marissa Corona

Marissa Corona
Commission Counsel
Enforcement Division

Cc: Lee Neves, lee@crosscurrentsllc.com