



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

March 22, 2024

Gutierrez for City Council 2020
Jose Gutierrez



Warning Letter Re: FPPC No. 2022-00462; Gutierrez for City Council 2020, Jose Gutierrez

Dear Jose Gutierrez and Gutierrez for City Council 2020:

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 a referral submitted by the Mountain View City Clerk alleging that Gutierrez for City Council 2020 (“Committee”) violated the Act’s campaign disclosure provisions. The Enforcement Division has completed its review of the facts in this case. Specifically, we found that the Committee failed to timely report employer and occupation information for contributors on the first pre-election campaign statement, failed to file a 24-hour contribution report for \$1,000, failed to timely file the second pre-election campaign statement and, once filed, failed to report a non-monetary contribution of \$576.98 on the statement,² failed to timely file a 24-hour contribution report for \$2,500, failed to timely file the post-election campaign statement, and failed to timely file four semi-annual campaign statements by their specified deadlines.

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 31.³ The obligation to file semi-annual campaign statements continues until the candidate or treasurer terminates the committee. The Act requires candidate-controlled committees that receive a contribution, including personal

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 (“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 This violation stems from a sworn complaint that resulted in the opening of FPPC No. 2022/462. Given the relatedness of this particular violation, it is being incorporated into the resolution of the current case.

³ Sections 84200.5 and 84200.

contributions, of \$1,000 or more from a single source within 90 days before the election to file a 24-hour report within 24 hours of receipt of the contribution.⁴

Under the Act, “contribution” is defined as any payment made for political purposes for which a donor does not receive full and adequate consideration.⁵ The Act requires committees to timely disclose the receipt of contributions along with the contributor’s information, including the contributor’s full name, street address, occupation, employer, and the date and value of the non-monetary contribution received.⁶ Controlling candidates and committee treasurers are jointly and severally liable for violations by the committee.⁷

A streamline stipulation settlement was approved following the Commission’s March 21, 2024 meeting for resolution of the following violations: one count of failing to timely file a 24-hour contribution report for \$1,000, one count of failing to timely file a 24-hour contribution report for \$2,500, one count of failing to timely report employer and occupation information for contributors on the first pre-election campaign statement, and one count of failing to timely file the second pre-election campaign statement. The remaining violations are being resolved through this warning letter as detailed below.

In addition to the violations outlined in the streamline stipulation settlement, the Committee violated the Act by failing to timely file the post-election campaign statement for the period covering October 18, 2020 to December 31, 2020, and four semi-annual campaign statements for the periods of January 1, 2021 to June 30, 2021, July 1, 2021 to December 31, 2021, January 1, 2022 to June 30, 2022, and July 1, 2022 to December 31, 2022. It was also discovered that the Committee failed to report a non-monetary contribution received during the second pre-election reporting period on September 23, 2020 for \$576.98. However, there are several mitigating factors present here: the violations at issue caused minimal public harm, you were unsuccessful in the election, you do not have any prior enforcement history, there was no evidence of an intent to conceal the violations, and there was little activity to report as the Committee raised and spent less than \$10,000.

Based on the foregoing, and in accordance with the Enforcement Division Policy Directive 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

⁴ Sections 82036 and 84203.

⁵ Section 82015; Regulation 18215.

⁶ Section 84211.

⁷ Sections 83116.5 and 91006.

⁸ <https://www.fppc.ca.gov/content/dam/fppc/NSDocuments/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

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

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 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.

Please contact me at 279-237-3754 or jevans@fppc.ca.gov with any questions you may have regarding this letter.

Sincerely,

Jaleena Evans

Jaleena Evans, Attorney
Enforcement Division

cc: Heather Glaser, Heather.Glaser@mountainview.gov

⁹ Regulations 18360.1 and 18360.3.

¹⁰ See Regulation 18361.5, subd. (e)(3).