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

March 21, 2024

Morgan Hill Fiscal Responsibility and Common Sense Committee in Favor of Measure A, sponsored by MH MMP LLC and affiliated entity Madrone MMP LLC
Stacy Owens, Treasurer
c/o Tom Willis
Olson Remcho
Via electronic mail only: TWillis@OlsonRemcho.com

Warning Letter re: FPPC No. 20/210; In the Matter of Morgan Hill Fiscal Responsibility and Common Sense Committee in Favor of Measure A, sponsored by MH MMP LLC and affiliated entity Madrone MMP LLC and Stacy Owens, Treasurer

Dear Committee and Stacy Owens:

The Enforcement Division of the Fair Political Practices Commission ("FPPC") enforces the provisions of the Political Reform Act[1] (the "Act"). The FPPC had received a nonsworn complaint that you and the Morgan Hill Fiscal Responsibility and Common Sense Committee in Favor of Measure A, sponsored by MH MMP LLC and affiliated entity Madrone MMP LLC (the "Committee") may have violated various provisions of the Act relating to campaign reporting relating to the March 30, 2020, election for Measure A in the City of Morgan Hill. Those allegations were investigated, and after careful consideration of various mitigating and aggravating factors, we have determined that it is appropriate to issue a warning letter for the violations and not pursue an administrative enforcement action. This letter outlines the terms of the warning letter being issued. All references to the law are based on the Act of 2020, when the violations occurred.

Specifically, allegations were made that undisclosed third parties paid bills for the Committee. A subsequent investigation confirmed that the contributors were properly identified on Schedule C for the relevant campaign statements. With respect to this allegation, there was no evidence discovered during the investigation to validate the allegation. Therefore, this portion of the complaint is being closed without any further action for insufficient evidence of any violation.

However, during the investigation, late reporting of certain nonmonetary contributions, as well as accrued expenses were discovered. Additionally, during the investigation, it was discovered that the qualifying Form 410 was filed late with the Secretary of State ("SOS").

The Act requires a committee[2], and its principal officer(s)[3] to follow certain regulations set forth in the Act. The Act further requires a committee and its principal officers to timely and properly report

[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] Section 82013, subdivision (a) and Section 82047.5, subdivision (d).
[3] Section 82047.6

contributions received and expenditures made in appropriate semi-annual and pre-election campaign statements[4] (Form 460s), to include total contributions received and expenditures made[5], and to maintain detailed campaign records and other documents required.[6] Finally, the Act requires that a committee and its principal officers file, within 10 days of qualification, a statement of organization (Form 410), with the SOS.[7]

You and the Committee violated the Act by failing to timely report two nonmonetary contributions totaling $46,680 by the April 30, 2019, deadline for the quarterly campaign statement that covered the period of activity ending on March 31, 2019. The contributions were reported on July 28, 2019. Additionally, you and the Committee violated the Act by failing to timely report accrued expenses totaling $13,447.50 by the July 31, 2019, deadline for the campaign statement that covered the period of activity ending on June 30, 2019. These accrued expenses were reported on October 30, 2019. Finally, you and the Committee also failed to timely file a Statement of Organization within 10 days of qualification, which was on April 4, 2019. The filing would have been due by April 14, 2019, but was not filed with the SOS until April 18, 2019.

However, there are several important mitigating factors present in this case. Most importantly, all amended reporting and filings were done prior to any contact from the Enforcement Division. Also, all amended reporting and filings, except for the accrued expenses, were done prior to any complaint being made to the FPPC. You and the Committee have no prior Enforcement history. All amendments and filings were made at least 6 months prior to the date of the election. There was no evidence of intent to violate any provisions of the Act, or any pattern of violating the Act. The Committee raised over $306,000 and expended over $295,00, but the late reporting only occurred in three total instances. Finally, when contacted by the FPPC, you and the Committee cooperated fully with the investigation and the Committee has fully terminated as of August 3, 2020. 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] Additionally, discretion was used for violations that caused minimal public harm when lack of experience or knowledge of the Act's requirements caused multiple violations with minimal public harm.[10] This resolution may not be used as a comparable case for other enforcement matters.[11]

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.

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[4] Section 84200 and 84200.8.
[5] Section 84211(a)&(b).
[6] Section 84104 and Regulation 18401, subdivision (a).
[7] Section 84101(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] Regulation 18360.2.
[11] See Regulation 18361.5, subdivision (e)(3).

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