



October 24, 2023

Neils Christian Djernaes
[REDACTED]

Warning Letter re: FPPC No. 20/055; In the Matter of Niels Christian Djernaes and Chris Djernaes for Solvang City Council 2018 Committee

Dear Niels Christian Djernaes and Chris Djernaes for Solvang City Council 2018 Committee:

The Enforcement Division of the Fair Political Practices Commission (“FPPC”) enforces the provisions of the Political Reform Act¹ (the “Act”). We had received a complaint that you and the Chris Djernaes for Solvang City Council 2018 Committee (the “Committee”) may have violated various provisions of the Act relating to campaign reporting during your candidacy for the Solvang City Council in the November 2018 election. 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 outlined below.

Regarding allegations of a personal loan of \$10,000 received during your campaign and whether it was improper, there was insufficient evidence to determine that any violations of the Act occurred. Specifically, in determining whether this was the same loan as disclosed in your statement of economic interest (as addressed below), or whether the source of the loan was the true source of the loan disclosed on your campaign statements. Therefore, this portion of the complaint is being closed without any further action.

Regarding the subject matter of the warning letter being issued herein, the Act requires a committee², and its principal officer(s)³ to follow regulations set forth in the Act. Specifically, applicable to this matter, candidates for local office, and their applicable disclosure categories, are required to file an assuming office statement of economic interest (Form 700) disclosing necessary and accurate interests, such as sources of income, which include loans received⁴. Furthermore, a candidate for local office is required to file a Form 410 Statement of Organization with a proper date of qualification⁵, and relevant semi-annual and pre-election Form 460’s for reporting periods during the election period which disclose accurate information, including the reporting periods, appropriate schedules, and beginning and ending cash balances.⁶

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

⁴ Section 87202.

⁵ Section 84101.

⁶ Sections 84200-84226.

You and the Committee violated the Act by failing to properly disclose on your December 10, 2018, assuming office statement of economic of interest a loan of \$10,000 that you had received. This loan was later reported by you during an amended filing in February of 2019. You and the Committee further violated the Act by failing to file a Form 410 statement of organization with the accurate qualification date, which was September 27, 2018, and would have been due within 10 days of that qualification date, or on October 7, 2018. Instead, you incorrectly stated the date of qualification as October 15, 2018, and filed the statement on October 10, 2018. You later appropriately amended the filing to reflect the accurate date of qualification after the Secretary of State's Office rejected the initial filing, but the amendment was filed on November 16, 2018, or ten days after the date of the election. Finally, you and the Committee failed to timely or accurately file various semi-annual and pre-election Form 460 statements that accurately reflected the required reporting periods, beginning and ending cash balances, included all required schedules or attachments, or were not timely. Specifically, for the pre-election reporting period of January 1 through September 22, 2018, which would be due by September 27, 2018, you incorrectly reported for activity through September 26, 2018, and reported a cash receipt of \$1,700 but did not attach Schedule A. For the reporting period September 23 through October 20, 2018, you incorrectly reported for activity for September 28 through October 22, 2018, reported incorrect beginning and ending cash balances and reported an accrued expense of \$3,211.70 but failed to attach a Schedule F. For the reporting period October 21 through December 31, 2018, you incorrectly reported for activity for October 23, 2018, through January 31, 2019, and had incorrect beginning and ending cash balances. For the reporting period January 1 through June 30, 2019, you incorrectly reported for activity for February 1 through October 17, 2019, filed the semi-annual statement 90 days late or on October 29, 2019, and had an incorrect beginning cash balance and failed to attach Schedules A or C even though you had contributions received. Finally, for the reporting period July 1 through October 17, 2019, you incorrectly reported for activity for February 1 through October 17, 2019, and had \$10,002 in expenditures but failed to attach a Schedule E.

However, with respect to these reporting and filing violations, there are several important mitigating factors present in this case. Although, you were a successful candidate in the election involving these violations, you and the Committee have no prior Enforcement history with the Commission. There was also no evidence of intent to violate any provisions of the Act, and although for unrelated reasons, you have been out of the office for which these specific violations took place for approximately three years. You cooperated with the FPPC during its investigation and made efforts to file amendments to your assuming office statement of economic interest as well as the Statement of Organization for your Committee. You also did not appear to have professional treasurer assistance which may have assisted with proper filings being made. Finally, there was a low amount of money raised and spent by the Committee and the Committee has 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.⁷ Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.⁸ Additionally, discretion was used for violations that caused minimal public harm when lack of experience or

⁷ <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

⁸ Regulations 18360.1 and 18360.3.

knowledge of the Act's requirements caused violations with minimal public harm and the committee had a small amount of activity.⁹ This resolution may not be used as a comparable case for other enforcement matters.¹⁰

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.

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 916-322-7771 or aberjikly@fppc.ca.gov.

Sincerely,

Artin Berjikly

Artin Berjikly
Senior Commission Counsel
Enforcement Division

⁹ Regulation 18360.2.

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