



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

December 13, 2024

David Welch, individually and on behalf of No on O&P Stop Valley's Edge

Via email: [REDACTED]

Donna Garrison, individually and on behalf of No on O&P Stop Valley's Edge

Via email: [REDACTED]

Susan Tchudi, on behalf of Smart Growth Advocates

Via email: [REDACTED]

Warning Letter Re: FPPC No. 2024-00206; No on O&P Stop Valley's Edge, David Welch, Donna Garrison, and Smart Growth Advocates

Dear All:

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 complaints alleging No on O&P Stop Valley's Edge (ID# 1454220) (the "Committee") and Smart Growth Advocates ("SGA") violated multiple provisions of the Act.

The Enforcement Division has completed its investigation and review of the facts in this case. Specifically, we found that the Committee failed to timely file an amendment to its statement of organization to: reflect its change in status from a general purpose committee to a primarily formed ballot measure committee, by the April 10, 2023 due date; and to update the Committee's name to include "No on O&P," by the December 15, 2023 due date. Additionally, the Committee's failure to timely comply with the Act's naming violations caused advertisement disclosure statements to be incomplete. Next, the Committee failed to maintain adequate records for contributions received throughout 2023 totaling \$6,500 and failed to timely file a 24-hour report for a contribution received totaling \$1,337, by the February 27, 2024 due date. Finally, there is insufficient evidence to support a finding that SGA qualified as a committee under the Act.

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.

A committee is considered to be “formed or existing primarily to oppose” a measure if the committee makes more than 70% of its total contributions and expenditures on all candidates and measures on those specific measures.² A committee that has reason to know it is close to triggering the applicable threshold for changing status because its spending is concentrated on measures, must determine whether it is primarily formed quarterly at the end of March, June, September and December.³ Within 30 days of designation of the measures on the ballot, any committee which is primarily formed to oppose the measures must include its opposition to the measures in the committee’s name.⁴ The Act requires a committee to file an amendment to its statement of organization (“Form 410”) within 10 days if there is a change in any of the information contained in the Form 410.⁵

The Committee was created on or around September 14, 2022 as a general purpose committee. On February 10, 2023, after spending \$20,211 on the petitions to place Measures O and P on the ballot, the Committee qualified as a primarily formed ballot measure committee. The Committee was required to review its spending at the end of March 2023 to confirm its status changed from general purpose to primarily formed and file an amendment to its Form 410, by April 10, 2023, to reflect its change in status. As a primarily formed ballot measure committee, the Committee was required to file an amendment to its Form 410 to update the Committee’s name to include “No on O&P,” by December 15, 2023. On February 21, 2024, after receiving contact from the Enforcement Division, the Committee late-filed an amendment to its Form 410 to reflect its change in status and to include “No on O&P” in the Committee’s name.

Generally, the Act requires primarily formed committees to include a disclosure on advertisements it produces.⁶ A website, walking cards, mailers, yard signs, and billboards must include “Paid for by” followed by the name of the committee.⁷ A social media page must include “Ad Paid for by” followed by the name of the committee on its profile, landing page, or similar location.⁸ A television advertisement must include “Ad Paid for by” followed by the name of the committee at the beginning or end of the advertisement, for at least 5 seconds of a broadcast of 30 seconds or less, or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.⁹

The Committee was responsible for multiple advertisements including a website, walking cards, two mailers, yards signs, a billboard, a Facebook page, an Instagram page, and two television advertisements. Initially, the Committee failed to include a disclosure on its website, Facebook page, and Instagram page. However, on February 14, 2024, after receiving contact from the Enforcement Division and prior to the relevant election, a disclosure was added to each.

² Regulation 18247.5, subd. (c).

³ Regulation 18247.5, subd. (d).

⁴ Section 84107.

⁵ Section 84103, subd. (a).

⁶ Section 84501, *et seq.*

⁷ Sections 84502, subds. (a)(1) and (c), and 84504.2.

⁸ Section 84504.3, subd. (g).

⁹ Section 84504.1 subds. (a) and (b).

The remaining advertisements produced by the Committee included a disclosure. However, the disclosures included a committee name of “Stop Valley’s Edge” rather than the full committee name of “No on O&P Stop Valley’s Edge.” It was clear the Committee produced the advertisements and the Committee’s website was included on each of the advertisements.

The Act requires that committees and treasurers maintain records and original source documents sufficient to substantiate the campaign reporting.¹⁰ These records include original checks, bank statements, and records created to comply with the Act such as contributor records.¹¹ The Committee failed to maintain adequate records for contributions received throughout 2023 totaling \$6,500, approximately 7% of the Committee’s total contributions received. According to the Committee, these were small contributions that were not required to be itemized.

The Act requires each committee that receives a late contribution¹² to report the late contribution within 24 hours of the time it is received.¹³ The Committee violated the Act by failing to timely file a 24-hour contribution report to disclose one late contribution received totaling \$1,337. The Committee late-filed this report, one day late, on February 28, 2024.

Since the violations discussed herein caused minimal public harm, it was clear the Committee produced and paid for the advertisements at issue, neither the Committee nor the principal officer have a prior enforcement history, the Enforcement Division has decided to close the matter with this warning letter.

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 Regulations 18360.1 and 18360.2 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 10 days from the date of this letter. Upon this notification, the Enforcement Division will rescind this warning letter and proceed with

¹⁰ Section 84104.

¹¹ See Regulation 18401.

¹² “Late contribution” includes a contribution that totals in the aggregate \$1,000 or more and is received by a committee primarily formed to oppose a measure during the 90-day period preceding the date of the election, or on the date of the election, at which the measure is to be voted on. (Section 82036.)

¹³ Section 84203.

administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the Commission's website 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 JRinehart@fppc.ca.gov or (279) 237-5910 with any questions you may have regarding this letter.

Sincerely,

Jenna Rinehart

Jenna C. Rinehart,
Senior Commission Counsel
Enforcement Division

cc: Nichole Nava nava125@yahoo.com