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

May 21, 2024

Sent Via email: joe@joerubay.com; [redacted]
Friends of Joe Rubay for Assembly 2020 (ID # 1422784);
Joseph A. Rubay.

Sent Via email: [redacted]
Vona L. Copp, Treasurer
VLC Financial Services
P.O. Box 850
Wilton, CA. 95693

Warning Letter Re: FPPC Case No. 2020-00840; Friends of Joe Rubay for Assembly 2020 (ID # 1422784); Joseph A. Rubay; and Vona L. Copp (Treasurer).

Dear Committee, Joseph Rubay, and Vona L. Copp,

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 two anonymous complaints that alleged you and your committee ("Committee") violated the Act's advertisement disclosure and campaign disclosure provisions related to the November 3, 2020 general election for a seat in the State Assembly. The Enforcement Division completed its investigation and found the following:

Regarding violating the Act's advertisement disclosure provisions, you and the Committee failed to disclose identifying information on mass electronic emails sent and Facebook advertisements related to your campaign.

Regarding violating the Act's campaign disclosure provisions, you and the Committee failed to timely report two expenditures in the pre-election campaign statement covering the reporting period of September 20, 2020 to October 17, 2020. Instead, you reported the expenditures in the pre-election campaign statement covering the reporting period of October 18, 2020 to December 31, 2020.

Regarding the advertisement disclosure violations, when distributing mass electronic mailings, the Act requires committees to display the name of the candidate or committee, preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.[2] A mass electronic mailing exists when more than 200 substantially similar

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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] Section 84305(c)(1).

pieces of mail are sent in a calendar month.[3] Similarly, when distributing political online advertisements[4], the advertisements should have displayed "Paid for by" or "Ad Paid for by" followed by the committee name as it appears on the most recent Statement of Organization, easily readable to the average viewer, located adjacent to any text stating that the advertisement is an advertisement or is promoted or sponsored; or the advertisement should have displayed a hyperlink, icon, button, or tab with the text "Who funded this ad?", "Paid for by", or "Ad Paid for by" linked to the profile or landing page of the committee, or to another webpage that contains the committee name as it appears on the most recent Statement of Organization.[5]

Regarding the campaign disclosure violations, the Act requires committees to file pre-election campaign statements until the committee terminates, disclosing all contributions received and expenditures made during the applicable reporting periods.[6]

The Enforcement Division has completed its review of the facts in this case. Regarding the mass emails, we found that over 200 similar pieces of email were sent for the campaign. You and the Committee violated the Act by failing to include the Committee's full name preceded by the words "Paid for by". Regarding the Facebook online advertisements, one states "No on Prop 21", and the other contains a picture of Rubay's daughter holding up a lawn sign. These advertisements violated the Act by not disclosing "Paid for by" or Ad Paid for by" followed by the full committee's name, or a hyperlink to another webpage containing proper disclosures.

Additionally, the Enforcement Division found that the Committee incurred $317 in expenses to MailChimp for the emails sent, and $550.32 to Twilio for the text messages sent. The invoices are dated October 14, 2020, and between September 1, 2020 to September 20, 2020, respectively. Therefore, the payments to MailChimp and Twilio should have been reported on the pre-election campaign statement covering the reporting period of September 20, 2020 to October 17, 2020. They were not. However, they were reported on the next campaign statement covering the reporting period of October 18, 2020 to December 31, 2020. Thus, you and the Committee violated the Act by failing to timely report expenditures made to MailChimp for emails sent and to Twilio for text messages sent during the reporting period of September 20, 2020 to October 17, 2020.

Despite these violations, the Enforcement Division has decided to close this case with a warning letter rather than a fine because the advertisement violations had minimal public harm since there was no public confusion: it was clear that the Committee sent the mass emails and paid for the Facebook advertisements. Also, the reporting violation was minor because the expenditure amounts not timely reported were a very low percentage of the overall activity, the expenditures were eventually reported on the next campaign statement, and Rubay was forthcoming with our agency about how much money was spent on the emails and text messages. Furthermore, there was a low amount of public harm because Rubay was a first-time candidate for State Assembly, Rubay did not prevail in the election, the Committee is now terminated, and neither Rubay nor the Committee have a history of having similar violations of the Act.

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[3] Section 82041.5.
[4] Section 84504.6(a)(1).
[5] Section 84504.6(a)(2).
[6] Sections 84200.5(a)(1) and 84200.8.

During the investigation, the Enforcement Division also reviewed allegations that you and the Committee had a Facebook page, displayed lawn signs, and distributed other text messages related to your campaign that violated the Act's advertisement disclosure provisions; and failed to timely report expenditures made for the Facebook advertisements and lawn signs, which violated the Act's campaign disclosure provisions. The Enforcement Division obtained insufficient evidence to prove violations of the Act for those allegations and they will not be pursued further.

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.

Although we are closing our file on this matter, please be advised of the provisions in the Act regarding advertisement disclosure and campaign disclosure requirements. If you need future guidance regarding candidate obligations, please visit our website at www.fppc.ca.gov. You may also contact me at (279)237-5978, or via e-mail at cbernabe@fppc.ca.gov.

Sincerely,

Cinthya Bernabé

Cinthya Bernabé
Commission Counsel
Enforcement Division