



## FAIR POLITICAL PRACTICES COMMISSION

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October 7, 2009

Debra Thomsen  
City Clerk/Elections Official  
City of Lake Elsinore  
130 S. Main Street  
Lake Elsinore, CA 92530

Re: Your Request for Advice  
**Our File No. A-09-218**

Dear Ms. Thomsen:

This letter responds to your request for advice regarding your duties as a filing officer under the provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTION

As the filing officer for the City of Lake Elsinore, what if any action should be taken to resolve errors or omissions you have identified within a committee's campaign statements including the committee's statement of organization (Form 410) and the committee's campaign report (Form 460)?

### CONCLUSION

From the facts provided, you have fulfilled your duties as a filing officer under Section 81010 of the Act. At this time, no further action on your part is required.

### FACTS

You are the City Clerk/Elections Official for the City of Lake Elsinore. You received an initial statement of organization from "Elsinore Voters Against Corruption ("EVAC"), the proponents of a recall of Councilmember Thomas Buckley, on June 22, 2009. As submitted to the city, EVAC's statement of organization indicated that EVAC

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

had not yet qualified as a committee and listed Enelida Caron as both the committee treasurer and its principal officer. The statement was verified by Ms. Caron who signed the form on May 5, 2009, and again on June 2, 2009. Subsequently, you received a copy of EVAC's initial statement of organization as filed with the Secretary of State's Office. As with the initial statement filed with the city, this statement also indicated that EVAC had not yet qualified as a committee. Similarly, this statement was verified by Enelida Caron who signed the form on May 5, 2009, and was listed as the committee treasurer. However, as submitted to the Secretary of State's Office, the statement did not identify a principal officer.

On July 1, 2009, you received an amendment to EVAC's statement of organization reporting June 17, 2009, as the date EVAC qualified as a committee. This amendment is verified by Ms. Caron who signed the amendment on May 5, 2009, and again on June 17, 2009.

On July 23, 2009, you received a copy of a transmittal to the Secretary of State's Office that included another amendment to EVAC's statement of organization. This amendment, filed at your request, reflected a name change from EVAC to the Committee to Recall Thomas Buckley. You requested the name change because the name EVAC failed to include the name of the elected official that is the subject of the recall and whether the committee supported or opposed the recall. You have not yet received a copy of this amendment from the Secretary of State's Office evidencing its receipt. Despite the name change, it is your understanding that the committee frequently identifies itself under its former name, maintains a website with the Internet address [www.evacteam.com](http://www.evacteam.com), and has distributed fliers with the EVAC insignia.

Despite EVAC's previous amendments to its statement of organization indicating that it had qualified as a committee on June 17, 2009, EVAC's campaign report filed with your office on July 30, 2009, reports the receipt of \$1,500 in nonmonetary contributions on March 1, 2009. In addition to this contribution, you have identified other potential errors or omissions within EVAC's campaign report. For instance, (1) EVAC filed as a sponsored general purpose committee but has not included the name of the sponsor in the committee name; (2) if EVAC is a primarily formed ballot measure committee as you suspect, it will need to complete parts 1, 2, 3, 4, and 6 of the Form 460; (3) EVAC has not reported any expenditures, despite its campaign activity, such as the rental of office space as reported in a local newspaper article; and (4) EVAC has listed an incorrect address as reported in a local newspaper article.

You sent a letter, dated August 28, 2009, requesting an amendment to EVAC's campaign report and proof that EVAC's last amendment to its statement of organization was submitted to the Secretary of State's Office. At this time, you have not specifically requested an amendment to EVAC's statement of organization.

## ANALYSIS

Section 81010 establishes the duties of filing officers for campaign disclosure statements filed under the Act and provides the following:

“With respect to reports and statements filed with him pursuant to this title, the filing officer shall:

“(a) Supply the necessary forms and manuals prescribed by the Commission;

“(b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title;

“(c) Notify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this title;

“(d) Report apparent violations of this title to the appropriate agencies; and

“(e) Compile and maintain a current list of all reports and statements filed with this office.”

Regulation 18110 (copy enclosed) further clarifies a filing officer’s duty to determine whether required documents have been filed and conform on their face with the requirements of the Act pursuant to Section 81010(b) and the duty to notify filers who have failed to file a report or statement in the form required by the Act pursuant to Section 81010(c). Regulation 18110 allows the filing officer some discretion in requesting amendments:

“In those cases where the filing officer discovers in his or her review of campaign statements that a candidate or committee has filed an incorrect, incomplete or illegible campaign statement or a campaign statement which cannot be reproduced, he or she shall promptly notify the candidate or committee of the error or omission. However, no notification is required in those cases in which the errors or omissions are minor ones which do not recur throughout the campaign statement. An error or omission is minor if it does not result in omission of the amount of an individual contribution or expenditure. An error or omission in connection with the identification of a donor or intermediary is minor if such person is identified by name and either street address, occupation, employer or principal place of business. An error or omission in connection with the identification of the recipient of an expenditure or

person providing consideration for an expenditure is minor if such person is identified by name." (Regulation 18110(c)(3).)

In other words, if a candidate or committee has been asked to amend a campaign statement to correct what would be considered a minor error or omission, it would be up to the filing officer to determine whether further efforts to obtain the information are warranted. If the failure to file an amendment would result in a violation of the Act that is more than a minor error or omission, the filer should be referred to the appropriate enforcement official.

From the facts you have provided, you have already provided notification to EVAC of the errors or omissions you believe have occurred. Additionally, in submitting your request for advice, you have referred the filer's errors or omissions to the Commission and have indicated that you have also referred the matter to the Secretary of State's Office and the Riverside District Attorney. Accordingly, you have fulfilled your duties under Section 81010 of the Act. At this time, no further action on your part is required.<sup>2</sup>

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin  
General Counsel



By: Brian G. Lau  
Counsel, Legal Division

BGL:jgl  
Enclosure

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<sup>2</sup> While we do not express any opinion as to the determination of whether EVAC has violated any provision of the Act, this matter has been referred to the Commission's Enforcement Division for further consideration.