



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street • Suite 3000 • Sacramento, CA 95811  
(916) 322-5660 • Fax (916) 322-0886

April 26, 2018

Bianca Pirayou  
Pirayou Law Office  
6469 Almaden Expressway #80-125  
San Jose, CA 95120

Re: Your Request for Informal Assistance  
**Our File No. I-18-027**

Dear Ms. Pirayou:

This letter responds to your request for advice regarding the advertising disclosure requirements of the Political Reform Act (the "Act").<sup>1</sup> Because your questions are general in nature, we are treating your request as one for informal assistance.<sup>2</sup>

The State Legislature recently passed AB 249 (Stats. 2017, Ch. 546, AB 249 Mullin), a comprehensive campaign finance reform bill that "[c]hanges the content and format of disclosure statements required on specified campaign advertisements in a manner that generally requires such disclosures to be more prominent. (Assem. Com. on Elections and Redistricting, analysis of Assem. Bill No. AB 249 (2016-2017 Reg. Sess.) September 14, 2017, p. 1.) Among other changes, the bill imposes new display requirements for disclosures on electronic media advertisements. These display requirements are set forth primarily in Section 84504.3. AB 249 went into effect on January 1, 2018.

You serve as legal counsel to Yes on Regional Measure 3 – Keeping the Bay Area Moving (the "Committee") and are authorized to seek formal written advice on its behalf. The Committee is a multi-county, primarily formed ballot measure committee organized to support a regional measure being voted on in the June 2018 election.

You seek guidance in complying with Section 84504.3 as it relates to electronic media advertisements posted on social media. Specifically, you indicate that the Committee cannot comply with the disclosure display requirements in Section 84504.3(f) because its required disclosure statement exceeds the 160 and 150 character limits set by Twitter and Instagram,

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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.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

respectively, for their profile/landing pages.<sup>3</sup> You are seeking alternatives for satisfying the Act's disclosure requirements.

### ANALYSIS

An "advertisement" is defined as "any general or public communication that is authorized and paid for by a committee for the purpose of supporting or opposing a candidate or candidates for elective office or a ballot measure or ballot measures." (Section 84501(a)(1).) The Act requires communications qualifying as "advertisements" to include on ad disclosures. The content and formatting of these disclosures vary greatly depending on the nature and source of the advertisement.

Section 84504.3 provides the general rule for displaying on ad disclosures required by Sections 84502, 84503, and 84506.5 on an electronic media advertisement:

"(a) An electronic media advertisement, other than an Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall comply with both of the following:

"(1) Include the text 'Who funded this ad?' in a contrasting color and font size that is easily readable by the average viewer.

"(2) Such text shall be a hyperlink to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8 point font." (Section 84504.3.)

Section 84504.3(f) further provides that electronic media advertisements distributed on social media are exempt from the general rule above:

"An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, shall only be required to include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8 point font on the committee's profile, landing page, or similar location and shall not be required to include the disclaimer required by subdivision (a) on each individual post, comment, or other similar communication."

In this case, the pertinent question is whether an advertisement distributed on social media under Section 84504.3(f) may use a hyperlink as permitted in Section 84504.3(a) or must include the full disclosure required by Section 84502, 84503, and 84506.5. Generally, we find Section

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<sup>3</sup> You note that the Committee is currently required to use the following disclosure statement, which totals 207 characters: "Paid for by Yes on Regional Measure 3 – Keeping the Bay Area Moving, sponsored by Bay Area Civic Leadership Associations, committee major funding from John Doerr, San Francisco 49ers and Sobrato Organization." Please note that this letter does not address whether the disclosure statement you presented satisfies the requirements of Sections 84502, 84503, and 84506.5.

84504.3(a) establishes the general rule for all electronic media advertisements and Section 84504.3(f) merely permits certain electronic media advertisements to provide the disclosure on the profile/landing page as opposed to each individual post or comment. Section 84504.3(f) was provided as an exception to disclosures on certain individual posts or comments, it does not appear intended to establish a disclosure statement exceeding that which is required under Section 84504.3(a).

Accordingly, we find a hyperlink including the text "Who funded this ad?" and linking to an Internet Web site containing the full disclosures required by Sections 84502, 84503, and 84506.5 may also be used for electronic media advertisements on social media under Section 84504.3(f).<sup>4</sup> However, we note that where the profile/landing page does not support editing the text of a hyperlink, the committee satisfies Section 84503.4(f) by including the phrase "Who funded this ad" on its profile/landing page immediately followed by a hyperlink directing users to an Internet Web site containing the full disclosure statement required by Sections 84502, 84503, and 84506.5.<sup>5</sup>

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

Sincerely,

Brian G. Lau  
Assistant General Counsel



Adam E. Silver  
By: Counsel, Legal Division

AES:jgl

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<sup>4</sup> A committee distributing an ad on social media may still satisfy its advertisement disclosure requirements by displaying its full disclosure statement on its profile/landing page.

<sup>5</sup> Please note that the phrase "Who funded this ad" and hyperlink on the profile/landing page, as well as the full disclosure statement on the Internet Web site linked to the profile/landing page, must be displayed in a contrasting color and in no less than 8-point font (Section 84504.3(a)(2) and (f).)