



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

May 17, 2018

Matthew C. Alvarez
The Sutton Law Firm
150 Post Street, Suite 405
San Francisco, CA 94108

Re: Your Request for Informal Assistance
Our File No. I-18-080

Dear Mr. Alvarez:

This letter responds to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").¹ You have submitted a joint request for advice to both the Fair Political Practices Commission ("FPPC") and the City of San Jose. The FPPC is advising on state law and the City of San Jose will advise as to the San Jose City law. However, since your questions at this time are general in nature, we are providing informal assistance. Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

QUESTION

May political committees required to provide disclosure statements under Sections 84502 and 84506.5 and the City of San Jose's local ordinance modify the statements required under state law so that the committees do not have to print separate "paid for by" disclosure statements and separate "not authorized" disclosure statements on their independent expenditure mailers? Specifically, given that the purpose of these disclaimers is identical, would it be legally permissible for a political committee putting out a mailer supporting or opposing a City of San Jose candidate to merge the two statements into one, with the merged sentence printed within the "Notice of Voters" as follows:

Notice to Voters

(Required by the City of San Jose)

This electioneering communication is not authorized or approved by a candidate for City office, a committee controlled by a candidate for City office, or an election official.

It is paid for by Name OF PAC

123 Santa Clara St., San Jose, CA 92123; FPPC ID No. 987654

¹ 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.

Total cost of this mailing is: \$ _____.

CONCLUSION

As to state law, the merged language you propose satisfies the “paid for by” and “not authorized by” disclaimers for mailers paid for by independent expenditures required by Sections 84502 and 84506.5 of the Act, with regards to San Jose City mailers.²

FACTS AS PROVIDE BY REQUESTOR

You represent several political committees which seek to make independent expenditures supporting or opposing candidates for City of San Jose office in the June 2018 and November 2018 election and therefore need to determine the disclaimer requirements for mailers and other communications. You note that the provisions in state law requiring independent expenditure communications supporting a candidate for state or local office to include various disclaimers were amended significantly this year. In particular Section 84305 requires a “paid for by” disclosure statement on mailers and Section 84506.5 requires a “not authorized by” disclosure statement on mailers.

San Jose law requires an additional disclaimer on independent expenditure mail pieces. Specifically, the ordinance requires a disclaimer stating “It is paid for by” requirements. The ordinance also requires a “not authorized by” statement on independent expenditure mailers supporting or opposing City candidates: “This electioneering communication is not authorized or approved by any candidate for city office or by any election official.” (S.J. Muni. Code section 12.06.1010(B).)

ANALYSIS

Section 84502 of the Act requires that any advertisement 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, must include the words “paid for by” followed by the name of the committee as it appears on the most recent Statement of Organization. Section 84506.5 of the Act requires a “not authorized by” disclaimer on independent expenditure advertisements as follows:

“An advertisement supporting or opposing a candidate that is paid for by an independent expenditure shall include a statement that it was not authorized by a candidate or a committee controlled by a candidate. If the advertisement was authorized or paid for by a candidate for another office, the expenditure shall instead include a statement that ‘This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office.’”

This language informs voters that the advertisement is paid for by an independent group and was not authorized or paid for by a candidate for the office or a committee controlled by a candidate for the office. The San Jose City ordinance requires similar “it is paid for by” and “not authorized by” disclaimers for independent expenditures.

² We express no opinion as to whether the merged language complies with San Jose City law.

Given that the purpose of these disclaimers is the same, you ask whether it would be legally permissible for a political committee putting out a mailer supporting or opposing a San Jose candidate to merge the two statements into one as referenced above.

As to state law, we agree that the merged language you propose in this situation satisfies the disclaimer requirements of Sections 84502 and 84506.5 of the Act, with regards to San Jose City mailers. Combining the similar disclaimers is reasonable and is more informative to voters than putting two duplicative disclaimers on advertisements paid for by independent expenditures.

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

Sincerely,

Brian G. Lau
Assistant General Counsel

A handwritten signature in blue ink, appearing to read "Z. Norton", with a horizontal line extending to the right.

By: Zachary W. Norton
Senior Counsel, Legal Division

ZWN:jgl