

THE SUTTON LAW FIRM

October 18, 2018

VIA EMAIL & U.S. MAIL

Ms. Alice Germond, Chair
Fair Political Practices Commission
1102 Q St., Ste. 3000
Sacramento, CA 95811

RE: Re-consideration FPPC Advice Letter to Sarah Lang (10/3/18) No. I-18-160

Dear Chair Germond:

This letter respectfully requests that the Commission pull the above-referenced advice letter (copy attached), which was just issued at the beginning of this month, for further review and consideration by the full Commission.

The letter addresses how political committees must comply with the new “top contributor” disclaimer requirements imposed by the DISCLOSE Act. Although it is not clear from the letter whether staff has concluded that political committees “must” use a certain type of disclosure or whether they “may” do so, it advises that a political committee should identify its top contributors using the name that the contributor uses on its Major Donor campaign report – even if the contribution actually came from a different (though related) entity – and implies that public policy supports this conclusion.

Staff effectively acknowledges in this letter that it had to balance competing policy objectives in order to reach this conclusion. (See discussion of legislative intent and different public policy purposes on page 3.) Whether or not the ultimate conclusion in the letter is the right one (and we believe that it is not, at least under certain circumstances¹), it is axiomatic that these types of important policy decisions should be made by the Commissioners after

¹For example, if the only two “top contributors” to a local ballot measure committee are affiliated entities whose contributions are listed on a Major Donor report filed under a different name, then it would arguably be less accurate to disclose the filer name as the only top contributor on campaign ads. I.e., if the two affiliated entities are local real estate development projects sponsoring the ballot measure but the name of the Major Donor filer is the merely the name of the individual owner of the projects.

Ms. Alice Germond
October 18, 2018
Page 2

receiving input from the public, and not by staff in an informal advice letter.

We therefore request that the Commission agendaize this advice letter for a more thorough consideration, by the public and all Commissioners, of the ways in which committees are permitted to list their top three contributors in their campaign ads when the contributions come from affiliated entities.

Thank you very much for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Sutton". The signature is written in a cursive, flowing style.

James R. Sutton

cc: Commissioner Frank Cardenas
Commissioner Brian Hatch
Commissioner Allison Hayward
Sarah Lang, Esq.

JRS/dfm
#1000.01