



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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# Third Quarter Update

Campaign Reporting and Advertising Disclosure

## Regulations adopted by the Commission.

The following are regulatory changes approved by the Commission during the past quarter concerning campaign reporting or advertising disclosure. To receive updates for all regulations before the Commission, please sign up for our [mailing list here](#).

## Advice Letters

The following are advice letters issued by the Commission's Legal Division during the past quarter concerning questions about campaign reporting or advertising disclosure. To receive the monthly report with all advice letters issued, please sign up for our [mailing list here](#).

### Section 84308

**Adrian Granda**

**[I-23-102](#)**

A "strong mayor" empowered by a city charter to approve or veto a city council decision on a license, permit, or other entitlement for use decision may exercise that power without violating Section 84308 even if the mayor has a financial interest in the decision because the mayor's participation is legally required. However, the legally required participation exception does not excuse other violations of Section 84308 and a strong mayor taking part in an entitlement proceeding pursuant to the exception is still required to refrain from soliciting, directing, or receiving contributions from parties/participants while the proceeding is pending and for 12 months thereafter, and must also make all necessary disclosures.

## Commission Opinions

None.

## Enforcement Matters

The following are summaries of significant enforcement actions approved by the Commission in the past quarter involving violations of the Act's campaign reporting and advertising disclosure provisions. To receive a monthly report of all enforcement actions, please sign up for our [mailing list here](#).

### Campaign Reporting

**In the Matter of Dutton for A V College Board Campaign Committee 2020, Michael Dutton, and Kenneth Scott; FPPC No. 21/219.** Staff: Alex Rose, Commission Counsel. Michael Dutton was an unsuccessful candidate for the Antelope Valley Community College District Board in the November 3, 2020 General Election. Dutton for A V College Board Campaign Committee 2020 was Dutton's candidate-controlled committee and Kenneth Scott served as the Committee's treasurer. The Committee, Dutton, and Scott failed to timely report a \$843 contribution on the pre-election

campaign statement with the reporting period ending on October 17, 2020, in violation of Government Code Section 84211 (1 count). **Fine: \$125 (Tier One).**

### Advertisements

**In the Matter of Yes on L - Oceansiders for Jobs, Health, and Safety, a coalition of Farmers, Firefighters, Business Leaders & Affordable Housing Advocates, sponsored by The NRF Project Owner, and Nancy Haley; FPPC No. 20/873.** Staff: Alex Rose, Commission Counsel. The respondents are represented by Ash Pirayou. Yes on L - Oceansiders for Jobs, Health, and Safety, a coalition of Farmers, Firefighters, Business Leaders & Affordable Housing Advocates, sponsored by The NRF Project Owner is a local primarily formed committee. Nancy Haley is the committee's principal officer and treasurer. The Committee and Haley failed to include the proper advertising disclosures on text messages distributed prior to the November 3, 2020 General Election, in violation of Government Code Sections 84503 and 84504.7 (2 counts). **Fine: \$894 (Tier Two).**

**In the Matter of ACLU of Northern California; FPPC No. 18/1511.** Staff: Theresa Gilbertson, Senior Commission Counsel and Lance Hachigian, Special Investigator. The respondent is represented by James Harrison of Olson Remcho LLP. ACLU of Northern California paid for a communication that unambiguously urged a vote against clearly identified candidates in advance of the June 5, 2018 Primary Election. ACLU of Northern California failed to timely disclose reportable activity on a campaign statement and failed to timely file a 24-hour independent expenditure report, in violation of Government Code Sections 84211 and 84204 (1 count); and failed to include proper disclosure statements on an advertisement, in violation of Government Code Sections 84502, 84504.2, and 84506.5 (1 count). **Fine: \$6,500.**

**In the Matter of No on Prop 22, sponsored by Labor Organizations, Art Pulaski; FPPC No. 23/445.** Staff: Alex Rose, Commission Counsel and Lance Hachigian, Special Investigator. The respondents are represented by Kelly Liang of Olson Remcho. No on Prop 22, sponsored by Labor Organizations was a local primarily formed committee. Art Pulaski was the Committee's treasurer. The Committee and Pulaski failed to include the proper advertising disclosures on two flyers distributed prior to the November 3, 2020 General Election, in violation of Government Code Sections 84502 and 84503 (2 counts). **Fine: \$844 (Tier Two).**

**In the Matter of Fullerton Elementary Teachers Association PAC; FPPC No. 18/1487.** Staff: Marissa Corona, Commission Counsel and Roone Peterson, Special Investigator. Fullerton Elementary Teachers Association PAC is a local general purpose committee. The Committee failed to include the proper advertising disclosures on yard signs and banners distributed prior to the November 6, 2018 General Election, in violation of Government Code Sections 84502 and 84506.5 (4 counts). **Fine: \$1,634 (Tier Two).**

**In the Matter of Sonoma Citizens for Local Access Yes on Measure Y 2020 and Jon Early; FPPC No. 20/957.** Staff: Jenna C. Rinehart, Commission Counsel and Kaitlin Osborn, Special Investigator. Sonoma Citizens for Local Access Yes on Measure Y 2020 was a local ballot measure committee primarily formed to support the approval of Measure Y, a personal cannabis cultivation initiative, on the November 3, 2020 General Election ballot for City of Sonoma. Jon Early served as the Committee's principal officer. The Committee and Early failed to timely file an amendment to its

Statement of Organization to disclose the Committee's sponsor, Bear Flag Development, and to include the name of the sponsor in the Committee's name, in violation of Government Code Section 84102 (1 count). Additionally, the Committee and Early failed to include a disclosure in its internet website, in violation of Government Code Section 84504.3 (1 count). **Fine: \$602 (Tiers One & Two).**

**In the Matter of Santa Paula Officers Association and Daniel McCarthy; FPPC No. 19/1314.**

Staff: Jonathan Rivera, Commission Counsel. Santa Paula Officers Association was an independent expenditure committee. Daniel McCarthy served as the Committee's principal officer. The Committee and McCarthy failed to include the proper advertising disclosure on a newspaper ad distributed prior to the November 6, 2018 General Election, in violation of Government Code Section 84506.5 (1 count). **Fine: \$115 (Tier One).**

## Legislation

- **[AB 868 \(Wilson\) – Digital Advertisement Transparency and Accountability \(DATA\) Act](#)**

**Coauthor:** Assemblymember Lee

**Status:** Amended 6/27/23; passed in the Senate Elections Committee on 7/5/23 (6-1); passed in the Senate Judiciary Committee on 7/11/23 (10-1); set for hearing in the Senate Appropriations Committee on 8/14/23. Held in committee.

**Short Summary:** AB 868 would create a publicly accessible record of campaign advertisements that appear on online platforms.

**Detailed Summary:**

*Existing law:* Under existing law, online platforms that disseminate certain campaign advertisements are required to maintain, and make available for online public inspection in a machine readable format, records of those advertisements for committees that purchased \$500 or more in advertisements on the online platform during the preceding 12 months. Those records are required to be made available as soon as practicable.

*Revised platform duty:* AB 868 would require platforms to transmit those records to the FPPC, instead of maintaining their own individual public records, under the same deadline.

*New committee duty:* AB 868 would additionally require a committee that pays for a digital advertisement, other than an advertisement reported by an online platform as described above, to submit to the FPPC a copy of the digital advertisement and specified information, including the name and ID number of the committee, the name of the candidate or number of the ballot measure, the online platform or platforms on which the ad was displayed, and the amount paid or agreed to be paid to the online platform.

*Deadline for committees:* The above information would be due in accordance with existing deadlines for the submission of semiannual statements and preelection statements.

*“Digital advertisement” defined:* “Digital advertisement” is defined to mean a paid advertisement, as defined in Section 84501, that appears in a digital format, including on an internet website, digital application, web application, or connected television platform.

*Operative date:* The duty to submit this information would begin on the January 1<sup>st</sup> that is at least 60 days after the Commission certifies a system for accepting and maintaining the reports.

*Public access:* The bill would require the Commission to make the information submitted available in a centralized and publicly accessible online format.

*Liability:* The bill would provide that a committee that submits the required information after the applicable deadline will be liable for a \$10 per day late fee, and that this penalty is the exclusive penalty for violations that are unintentional, including inadvertent or negligent violations. Other penalties under the PRA would be available for intentional violations.

FPPC Cost: Pending

FPPC Position: Support

- **[SB 678 \(Umberg\) – Disclaimers on Paid Third-Party Social Media Posts](#)**

**Status:** Passed in the Assembly (69-0); passed in the Senate (38-0); **signed by the Governor on 9/1/23**

**Short Summary:** SB 678 would require a person who is paid by a committee to post content online supporting or opposing a campaign to include a disclaimer stating that the person was paid by that committee.

**Detailed Summary:**

*New disclaimer requirement:* SB 678 would require a person who is paid by a committee to support or oppose a candidate or ballot measure on an internet website, web application, or digital application, other than the committee’s own website, profile, or landing page, to include a disclaimer, that states, or is substantially similar to, the following:

“The author was paid by [name of committee and committee identification number] in connection with this posting.”

*New committee duty:* The bill would require a committee to notify the person posting the content of the disclaimer requirement.

*Injunctive relief:* If a person fails to post the disclaimer, they would not be subject to administrative, civil, or criminal penalties, but the Commission would be authorized to seek injunctive relief to compel disclosure.

*Exceptions:* The bill provides that the new disclaimer requirement does not apply to specified content for which a disclaimer is already required under the PRA or to content posted by a compensated employee of the committee if the only expense to the committee is compensated staff time.

FPPC Cost: Minor and absorbable

FPPC Position: Support