

VIA OVERNIGHT DELIVERY

October 12, 2022

Bill Baber
Treasurer
Citizens for a Better East County
4442 Upland St
La Mesa, CA 91941

Re: Cease and desist; false and misleading mailer

Dear Mr. Baber:

We are counsel to the San Diego County Democratic Party. We write regarding two false and deceptive mailers that your organization has recently distributed to Democratic voters in San Diego County. If you have counsel, you would be well served to provide a copy of this letter to them, as legal action is imminent.

The first mailer identifies itself as the “Carlsbad Democratic Voter Guide.” The mailer exhorts the reader “Don’t Split the Vote; United Behind Our Endorsed Team of Candidates Committee to *Progressive Change in Carlsbad!*” The mailer endorses several Democrats for state office, but then endorses several Republicans who are running for local office – without identifying them as such.

The second mailer uses the same disgusting tactic. It identifies itself as the “La Mesa Democratic Voter Guide” and includes a stylized image of a donkey overlaid with three stars and a stripe, to connote the endorsement of the Democratic Party. It says “Don’t Split the Vote! Unite to Make History with Diversity!” And it endorses two well-known Democratic candidates for state office (Dr. Akilah Weber for State Assembly and Fiona Ma for Treasurer) as well as several Republicans for local office, again, without identifying their party affiliation.

The purpose and effect of these mailers is to perpetrate a fraud on the recipients; it attempts to trick Democratic voters, who may be less well-informed about the affiliation and policy positions of candidates for local office, into voting for Republican candidates for those offices.

Not only are these mailers unconscionably deceptive; they violate the Election Code. Section 20007 prohibits a committee from “representing in connection with an election campaign, either orally or in campaign material, that the candidate has the support of a committee or organization that includes a part of its name the name or any variation upon the name of a qualified political party with which the candidate is not affiliated, together with ... any other term that might tend to mislead the voters into believing that the candidate has the support of that party’s county central committee or state central committee, when that is not the case.” Cal. Elec. Code § 20007. That is precisely what the mailers do: they attempt to mislead the

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reader into believing that candidates on the measure were endorsed by the Democratic party, when they were not.

Accordingly, we hereby demand that you immediately (1) issue a public retraction and apology and (2) cease and desist from further distributing these or any similarly misleading mailers or other campaign communications.

Please respond to us no later than 5 p.m. PT on October 14, 2022, to inform us what steps you will take to comply with this demand. Otherwise, our client will be forced to pursue its available legal remedies, all of which are hereby expressly reserved. See, e.g., Cal. Elec. Code § 20006.

Sincerely,

A handwritten signature in black ink that reads "Andrew H. Werbrock". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Andrew H Werbrock
Counsel to San Diego County Democratic Party

Complaint Type

Electronic Complaint System

Complaint: If you suspect someone has violated the Political Reform Act, file a complaint with the FPPC's Enforcement Division using the Electronic Complaint System. To file, provide the requested information on the complaint below, attach all documents you have containing evidence of the violations using the document uploader, and click submit. You will receive an email confirming receipt of your complaint if you provide a return email address. If you file a sworn complaint, you will receive notifications regarding your complaint.

Referral: Filing officers can submit referrals to the Enforcement Division using the Electronic Complaint System. To refer a matter for prosecution by the Enforcement Division, provide the information requested below, attach the respondent's most recent statement or report and a copy of your conflict of interest code (if applicable), and click submit. You will receive an email confirming receipt of the referral and notification when the FPPC takes action on the referral.

If you have questions or problems submitting your complaint or referral, please email complaint@fppc.ca.gov and we will assist you.

Complaint Type

Complaint Type: Sworn Complaint

FPPC will send you notifications regarding your complaint. Your complaint is a public document and the Respondent(s) will receive a copy of the complaint within 3 days.

Complaint Details

I understand that by filing a Sworn Complaint under Penalty of Perjury that I may be subject to criminal prosecution if the complaint is false. FPPC will provide me with updates as required by law.:



Your Contact Information

First Name: Becca

Last Name: Taylor

3934 Murphy Canyon

Address: Rd, Suite B103

City: San Diego

State: CA

Zip Code: 92123

Email: chair@sddemocrats.org

Phone Number: (858) 277-3367

Respondent Information

Position/Office Held (if applicable)	Jurisdiction	First Name	Last Name	Address	City	State	Zip Code	Email	Phone Number
		William	Baber	4442 Upland St	La Mesa	CA	91941	wrblaw@flash.net	

Committee or Organization Name	Committee ID	Address	City	State	Zip Code	Email	Phone Number
Citizens for a Better East County CBEC	1378848	7918 El Cajon Blvd., #N-162	La Mesa	CA	91942		

Entity Name	Entity ID	Address	City	State	Zip Code	Email	Phone Number
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Violation Information

Violation Type	Violation Code Section	Violation Comments
Filing Officer Duties		<p>William Baber, the treasurer and only listed officer for Citizens for a Better East County, is also an elected City Councilmember in the City of La Mesa. As such, though he is not on the ballot this year, he is considered a "candidate" under the Political Reform Act in Govt. Code §82007 (a)(3) while also also serving as the controlling officer of this committee (Govt. Code 82016).</p> <p>This committee and William Baber are violating Reg. §18402, which requires a controlled committee to include the name of the "candidate." They are also violating Govt. Code §85201 (a) and (e), which require that a candidate "shall establish one campaign contribution account at an office of a financial institution located in the state" and require the candidate to make expenditures only out of that account. A candidate cannot control a general purpose PAC unless it is a ballot measure committee.</p> <p>Additionally, because La Mesa does not impose its own contribution limits, the state limits apply to candidates in that city, and Reg. §18521.5 also applies. That regulation provides an exception to the rule, allowing candidates to control a ballot measure committee only, but the ballot measure committee may not support or oppose candidates.</p>

ATTN - THE FPPC WILL NOT ACCEPT COMPLAINTS REGARDING THE FOLLOWING VIOLATIONS:

- Brown Act
- False or Misleading Campaign Materials
- Election Fraud
- Federal Campaigns
- Local Ordinance/Local Contribution Limits
- Vandalism to Campaign Signs
- Not Living in the Jurisdiction

These alleged violations are not enforced by the FPPC. Please contact your local jurisdiction (i.e. your city attorney, county counsel, or District Attorney).

Witnesses

First Name	Last Name	Street Address (including number)	City	State	Zip Code	Phone	Email	Information this Witness Can Provide
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Files

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