



## FAIR POLITICAL PRACTICES COMMISSION

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September 24, 2008

Anthony P. Spitaleri  
545 S. Frances St.  
Sunnyvale, CA 94086

Saverio P. Pezzella, Treasurer  
Friends of Anthony (Tony) Spitaleri  
913 E. Homestead Road  
Sunnyvale, CA 94087

Friends of Anthony (Tony) Spitaleri  
545 S. Frances St.  
Sunnyvale, CA 94086

Patricia E. Castillo, Assistant Treasurer  
Friends of Anthony (Tony) Spitaleri  
1081 Lakebird Drive  
Sunnyvale, CA 94089-2035

**Re: Warning Letter - FPPC No. 05/727, Anthony P. Spitaleri, Friends of Anthony (Tony) Spitaleri, Saverio P. Pezzella, and Patricia E. Castillo**

Dear Mr. Spitaleri, Friends of Anthony (Tony) Spitaleri, Mr. Pezzella, and Ms. Castillo:

The Fair Political Practices Commission (the "Commission") enforces the provisions of the Political Reform Act (the "Act")<sup>1</sup> found in California Government Code Section 81000 and following. The Commission received a complaint in which it was alleged that Anthony P. Spitaleri, as a candidate for Sunnyvale City Council, violated disclosure provisions of the Act by failing to disclose occupation and employer information for contributors who gave contributions of \$100 or more to Mr. Spitaleri's campaign, for accepting a cash contribution of \$200, and for receiving an anonymous contribution.

### **A. Liability Under the Act**

Candidates and committees have a duty comply with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Additionally, a committee's treasurer and assistant treasurer may be liable for violations under the Act. Section 84100, requires every committee to have a treasurer, and Regulation 18427 enumerates the duties of treasurers, which includes preparing and

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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.

verifying all campaign statements filed on behalf of their committees. Thus, treasurers are responsible for all reportable campaign activity by their committees under the Act. A committee's assistant treasurer is also liable for any campaign statements that he or she has signed and verified. (Regulation 18426.1.) Ultimately, a committee's treasurer, assistant treasurer, and candidate may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee pursuant to Sections 83116.5 and 91006.

In this case, campaign reporting activity by Friends of Anthony (Tony) Spitaleri (the "Committee") is at issue. At all relevant times, Anthony P. Spitaleri was the controlling candidate, Saverio P. Pezzella, was the treasurer, and Patricia E. Castillo was the assistant treasurer of the Committee.

After investigation in this matter, the Commission has decided to close this case with this warning letter.

**B. Failure to Include Required Contributor Information**

Committees and their treasurers are required to include specified information on each campaign statement regarding a contributor if the cumulative amount of contributions received from that person is \$100 or more and a contribution has been received from that person during the reporting period covered by the campaign statement. The information required includes: 1) the contributor's full name; 2) the contributor's street address; 3) the contributor's occupation; 4) the name of the contributor's employer, or if self-employed, the name of the contributor's business; 5) the date and amount of each contribution received from the contributor during the reporting period; and 6) the cumulative amount of contributions received from the contributor. (Section 84211, subdivision (f)).

In this matter, the Committee timely filed campaign statements for the following relevant campaign reporting periods: January 1 – June 30, 2005 (semi-annual), and July 1 – September 24, 2005 (pre-election). However, based on the evidence obtained during our investigation, the Enforcement Division has determined that you failed to disclose either the street address, occupation, employer, or a combination of these three categories of information, for persons who contributed \$100 or more to the Committee on the above campaign statements, in violation of Section 84211, subdivision (f) of the Government Code, as noted in the following chart:

Reporting Period	Total Number of Contributors			
	Reported on Campaign Statement	Missing Three Categories of Required Information	Missing Two Categories of Required Information	Missing One Category of Required Information
01/01/2005 – 06/30/2005	108	0	15	21
07/01/2005 – 09/24/2005	68	3	11	10
<b>TOTAL</b>	<b>176</b>	<b>3</b>	<b>26</b>	<b>31</b>

Of the 176 contributors reported on the relevant campaign statements, three contributors were missing all three of the above listed categories of required contributor information, 26 contributors were missing two categories of required information, and 31 contributors were missing one category of required information.

However, upon review of the evidence, it appears that the public harm in this instance was minimal. Although you failed to include, at times, information for contributors regarding street address, occupation and/or employer, the names of the contributors were reported, and other required information was included in your semi-annual and pre-election statements. Additionally, upon contact by the Enforcement Division, you filed amended campaign statements which added information that had been missing for several of the contributors. Lastly, you have no prior history of enforcement action by the Commission. We have therefore decided to close this case regarding these violations.

**C. Improper Receipt of Cash Contribution**

Under the Act, committees may not receive certain kinds of contributions. Section 84300 states that no contribution of one hundred dollars (\$100) or more shall be made or received in cash. The Commission has typically viewed violations of Section 84300 as serious offenses because the receipt of cash contributions prevents the tracking of the true sources of campaign contributions.

In your campaign statement for the reporting period of January 1 – June 30, 2005, you reported receiving a cash contribution from Dan Terry on May 27, 2005, in the amount of \$200. Thus, the Enforcement Division has determined that you reported receiving a cash contribution totaling \$100 or more in violation of Section 84300, subdivision (a).

However, upon review of the evidence, it appears that the public harm in this instance was minimal. You identified the source of the \$200 cash contribution in your original relevant campaign statement, thereby informing the public of the source of the cash contribution. Additionally, you have no prior history of enforcement action by the Commission. We have therefore decided to close this case regarding this violation.

**D. Improper Receipt of Anonymous Contribution**

Section 84304 prohibits a committee from keeping or receiving an anonymous contribution of \$100 or more. The Commission has typically viewed violations of Section 84304 as serious offenses because the receipt of anonymous contributions prevents the tracking of the true source of campaign contributions.

In your campaign statement for the reporting period of January 1 – June 30, 2005, you reported receiving an anonymous contribution on March 4, 2005, in the amount of \$100. Thus, the Enforcement Division has determined that you reported receiving an anonymous contribution totaling \$100 or more in violation of Section 84304.

However, upon review of the evidence, it appears that the public harm in this instance was minimal. The evidence revealed during our investigation showed that you possessed information regarding the source of the anonymous contribution at the time that the contribution was made and inadvertently failed to identify the source on the relevant campaign statement. Additionally, you have no prior history of enforcement action by the Commission. We have therefore decided to close this case regarding this violation.

**Conclusion**

This letter serves as a written warning. The information in this case will be retained, and may be used against you should an enforcement action later become necessary based on future conduct and/or newly discovered information. Please be advised that failure to comply with the provisions of the Political Reform Act in the future may result in monetary penalties of up to \$5,000 for each violation.

The FPPC publishes forms and manuals to facilitate compliance with the provisions of the Act. If you need forms or manuals, or guidance regarding your obligations, please call the FPPC's Technical Assistance Division at (916) 322-5660, Monday through Friday, between 9:00 a.m. and 4:00 p.m. Please also visit our website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

If you have any questions regarding this matter, please contact us at (916) 322-5660.

Sincerely,



Angela J. Brereton  
Commission Counsel  
Enforcement Division