STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95814-2329

February 2, 2023

Eric Ching, Candidate
Shiuh-Ming Ellis, Treasurer
o/b/o Eric Ching for Walnut City Council 2020
[redacted]

<u>Warning Letter re: FPPC No. 2022-00930; Eric Ching for Walnut City Council 2020, Ching, Ellis</u>

Dear Eric Ching and Shiuh-Ming Ellis:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the "Act").[1] This case was opened in response to an audit performed by the Political Reform Audit Program of the Franchise Tax Board ("FTB")—with respect to the controlled committee of Eric Ching known as Eric Ching for Walnut City Council 2020. The period covered by the audit was July 1, 2016 through December 31, 2020.

The Enforcement Division found that you failed to timely report payee addresses for numerous expenditures totaling $7,661 on semi-annual and pre-election campaign statements for the reporting periods ending December 31, 2018, June 30, 2019, June 30, 2020, September 19, 2020, October 17, 2020, and December 31, 2020. Furthermore, you failed to timely report two expenditures totaling $700 on a semi-annual campaign statement for the reporting period ending December 31, 2019. Finally, the FTB audit report included findings regarding two expenditures, totaling $1,400, which were not paid from the committee's single, designated campaign bank account. Rather, they were paid from the personal account of Eric Ching, and the committee provided cash reimbursements. Specifically, Eric Ching used personal funds at the Shanzi Noodle House to pay $1,400 for a fundraiser event for Caryn Mason and Marc Saunders. Thereafter, the committee reimbursed Ching with checks made payable to cash. These violations are being resolved with a warning letter, as discussed below.

The Act requires each campaign statement to contain each person's full name, address, amount of expenditure, and a brief description of the consideration for which each expenditure was made if that person made an expenditure of $100 or more.[2] Additionally, the Act requires all campaign expenditures be made from the committee's campaign bank account.[3] Furthermore, any personal funds which will be utilized to promote the election of the candidate shall be deposited in the

[1] The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations.

[2] Section 84211, subd. (k).

[3] Section 85201, subd. (e).

account prior to expenditure.[4] This is sometimes referred to as the one bank account rule. Also, no expenditure of $100 or more may be made in cash.[5]

However, the Enforcement Division has decided to close this case with a warning letter. For the campaign late reporting, the only missing information were the addresses, so the public harm was minimal since the amounts and the payees were disclosed. Furthermore, the $700 in late reported expenditures was a low amount and a small percentage of the overall activity of the Committee. This is your first offense as you have no prior enforcement history. You have minimal experience as treasurer/candidate of a committee. Regarding the payments made outside of the campaign bank account, you properly and timely reported the expenditures on the semi-annual campaign statement with the reporting period ending December 31, 2018. The Committee's campaign bank account was immediately corrected after the expenditure. Therefore, the Enforcement Division has decided to close this case as to these issues with a warning letter.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to $5,000 for each violation.

A warning letter is an Enforcement Division case resolution without administrative prosecution or fine. The Commission has adopted Regulation 18360.1 to authorize the Enforcement Division to issue warning letters to conclude cases in specified circumstances. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the Enforcement Division will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the Commission's website ten (10) days from the date of this letter.

If you need forms, manual, or guidance regarding your obligations, please call the Commission's Toll-Free Advice Line at 1-866-275-3772 or visit our website at www.fppc.ca.gov. Please feel free to contact me at (916) 327-6358 or arose@fppc.ca.gov with any questions you may have regarding this letter.

Sincerely,

Alex J Rose

Alex J. Rose, Commission Counsel
Enforcement Division

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[4] Section 85201, subd. (d).
[5] Section 84300, subd. (b).