



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

July 26, 2023

Steven Churchwell
o/b/o Duong Family Investments, LLC and
David T. Duong
Via email: schurchwell@buchalter.com

Warning Letter Re: FPPC Case No. 2020-00403; Duong Family Investments, LLC and David T. Duong

Dear Steven Churchwell,

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the “Act”).¹ This letter is in response to a Commission-initiated investigation which found that Duong Family Investments, LLC (the “Committee”) failed to timely file two major donor campaign statements (Form 461) for the reporting periods of January 1, 2018 to June 30, 2018 and July 1, 2018 to December 31, 2018, despite qualifying as a major donor committee during the first half of 2018.

The Enforcement Division has completed its review of the facts in this case. Specifically, we found that the Committee qualified as a major donor committee on February 8, 2018. We found that the Committee failed to timely file two Form 461s for the reporting periods of January 1, 2018 to June 30, 2018 and July 1, 2018 to December 31, 2018, and the Committee failed to timely file late contribution reports (Form 497) within 24 hours of making contributions of \$1,000 or more within 90 days of an election.

Under the Act, an individual or entity that makes contributions totaling \$10,000 or more in a calendar year qualifies as a major donor committee and incurs filing obligations.² If the \$10,000 threshold is met in the first six months of the calendar year, a major donor must file a Form 461 covering the period of January 1 through June 30 by July 31 of the calendar year. If the Committee makes additional contributions during the latter six months of the calendar year, a major donor must file a Form 461 covering the period July 1 through December 31 by January 31 of the following calendar year.³

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 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Section 82013, subd. (c).

³ Section 84200.

The Act also requires committees that make or receive a late contribution to file a late contribution report (Form 497) within 24 hours of making or receiving the contribution.⁴ A “late contribution” includes a contribution(s) aggregating \$1,000 or more that is made to or received by a committee primarily formed to support a candidate within 90 days before the date of the election, or on the date of the election, in which the pertinent candidate is to be voted on.⁵

The Committee’s actions violated the Act when it failed to timely file a Form 461 by the July 31, 2018 and January 31, 2019 deadlines. The Committee also failed to timely file Form 497s within 24 hours of making contributions of \$1,000 or more within 90 days of an election. However, mitigating evidence exists here. This was the Committee’s first time qualifying as a major donor committee, and each of the committees that received contributions disclosed receipt of them on a corresponding campaign statement (Form 460). Additionally, the Committee did not receive the required major donor notifications for contributions made by the Committee of \$5,000 or more. Further, the Committee filed the missing campaign statements after being contacted by the Enforcement Division and has no prior Enforcement history. Based on the foregoing, and in accordance with the Enforcement Division Policy Directives formally adopted by the Commission on January 26, 2023, which requires the Enforcement Division to take all appropriate actions within their discretion to decrease the Division’s annual carryover caseload, the Enforcement Division is closing this case with this warning letter.⁶ Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.⁷ This resolution may not be used as a comparable case for other enforcement matters.⁸

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 your client with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Commission. If your client wishes to avail himself of these proceedings by requesting that his 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 or a 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.

⁴ Section 84203

⁵ Section 82036.

⁶ <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

⁷ Regulations 18360.1 and 18360.3.

⁸ See Regulation 18361.5, subdivision (e)(3).

Please feel free to contact me at abreron@fppc.ca.gov or (916) 322-5771 with any questions you may have regarding this letter.

Sincerely,

Angela J. Brereton

Angela J. Brereton, Assistant Chief
Enforcement Division