

July 12, 2019

Commissioners
Fair Political Practices Commission
102 Q Street, Suite 3000
Sacramento, CA 95811

Re: July 2019 Agenda Item 7 – Matter of Cupertino Union School District; FPPC Nos. 16/19863 and 17/521

Commissioners,

I write to you in support of the proposed stipulation and penalty against the Cupertino Union School District (CUSD) for mass mailing sent at public expense and wish to express my belief that the violations were more serious than indicated in the stipulation.

I disagree with the statement that “the violation appeared to be inadvertent”. In particular, the glossy color October 2016 mailing, that featured the message attributed to long-time incumbent and Board President Josephine Lucey, coincided with Lucey’s unsuccessful re-election campaign only days later in November. A CUSD newsletter from the previous year had been distributed in November 2015 without any prohibited references, suggesting that the October 2016 mailer timing and content was designed to influence the November 2016 election.

The mass mailings with prohibited content were produced during a time of controversial actions by the CUSD superintendent and school board, including the contracting of a public relations firm Voler Strategic Advisors without public board approval. As Board President at that time, Josephine Lucey defended the non-public contract. CUSD had arranged to pay Voler through an existing contract with attorney firm Dannis Woliver Kelley (DWK) beginning August 2015 even though the firms had no prior association, and CUSD subsequently claimed attorney-client privilege to withhold some records of their activity. After being exposed, CUSD then approved a direct contract with Voler in September 2016 but still claimed attorney-client privilege. Considering the possibility that the public relations firm Voler could have been involved in crafting the prohibited CUSD newsletters, the Voler - DWK contractual association potentially raises a conflict of interest for Dannis Woliver Kelley as it represents CUSD on the matter. It is the same attorney firm involved in the pass through billing scheme, but not the same attorney.

I disagree with the statement of mitigation “...CUSD contends that its staff at the time did not understand...” as indication that CUSD still does not appreciate their responsibilities under the Act in seeking to shift blame on anonymous staff. The CUSD leadership possibly could have used the outside Voler public relations firm to bypass the judgement of CUSD staff. The statement also fails to explicitly recognize that the May 2017 prohibited mass mailing occurred *after* CUSD had been notified that an investigation was opened on the June 2016 and October 2016 prohibited mass mailings, which is why the matter is identified as two cases, FPPC No. 16/19863 and 17/521. The stipulation declares that these multiple violations constitute one count without further explanation.

As the stipulation notes, all but one of the featured public officials have departed the Board at this time, and the superintendent who oversaw the mailings has been terminated. While it is ironic that the school district must expend additional precious funds in penalty for the actions of former administration and board members, it is necessary to recognize that violations of the Act occurred to obtain some accountability and compliance in the future. With noted concerns, I support a Commission approval of the stipulation and penalty in the Matter of Cupertino Union School District.

Sincerely,

Ed Brown



August 27, 2015

Jonathan A. Pearl, Esq.
Dannis Woliver Kelley (DWK)
750 B Street, Suite 2310
San Diego, California 921017

Dear Mr. Pearl:

Thank you for providing Voler Strategic Advisors with the opportunity to collaborate with you in representation of the Cupertino Union School District (CUSD). Below is a proposal for services based on discussions about CUSD's communications and public relations needs. Having extensive experience in these fields, I feel that our firm is well positioned to provide your client with the expertise and insight to help them achieve their objectives.

Scope of Services

Public Relations Strategy:

Central to any successful public relations strategy is the development of a central narrative that determines the tone of a campaign, and more importantly, is utilized with every media opportunity to ensure the advancement of campaign goals.

Voler Strategic Advisors will strategize with CUSD team members to develop a narrative for each of their identified initiatives. We will work collaboratively to achieve their objectives and reach their target audiences.

Voler Strategic Advisors, with content provided by CUSD, will develop stories to distribute to various media outlets, as well as messaging for their key stakeholders. We will prepare press releases, letters and other types of communications tools to disseminate their message.

Media Relations:

In distributing content to media, having strong relationships is important in order to ensure proper story placement. Voler Strategic Advisors has an extensive network of media relationships that provides our team members with the ability to place stories in

the media stream on a consistent basis. We will utilize these relationships in order to ensure positive placement for CUSD's earned media content.

Crisis Communications:

Media inquiries can come at any time and it is impossible to predict the specific nature of those inquiries ahead of time. Our firm will be available 24/7 to assist with the development of an effective, coherent response to any inquiry or crisis. In addition, we will work closely with the CUSD team to manage any story that arises, all the while ensuring the consistency and appropriate dissemination of your message.

Fee Structure

Voler Strategic Advisors would invoice Dannis Woliver Kelley (DWK) a monthly retainer fee of \$8,500 per month.

Conclusion

Again, thank you for the opportunity to collaborate in support of the Cupertino Union School District. We look forward to working with you.

Sincerely,

Perla A. Rodríguez
Chief Executive Officer

VENDOR - PO without Receiving **Fiscal Year 2015/16**

Requisition Number B16-00405 **Requisition Date 12/01/2015**

Summary			
Created by	PAMM, 12/1/2015	PO # P16-03299	Goods & Services
Department	BLANKET	Responsibility	Academic Dept
Status	Ready for Payment		
On Hold	No	Attachments Yes	
Requisitioner	Pam Mackey	Board Date	Non Taxable 59,500.00
Order Site	5200 - Business Services		Taxable .00
Delivery Site	5300 - Purchasing & Warehouse		Tax (8.7500) .00
Delivery Date	06/30/2016	Room	Shipping (0.00) .00
Project			Adjustment .00
Info	DWK-Special Retainer 2015-2016		Requisition Total 59,500.00

Requisition Vendor Information

015554/2 DANNIS WOLIVER KELLEY (DWK)
275 BATTERY STREET, SUITE 1150 , SAN FRANCISCO, CA 94111

Purchasing

PO Date 12/02/2015 PO Printed Date 12/02/2015 Buyer ROSALIE - ROSALIE
Quote Quote Date LAYTON

Line Items	Description	Stores Item #	Unit	Order Qty	Rcvd Qty	Unit Price	Extended	Change Level 0
1	Retainer for vendor Voler Strategic Advisors, paid through DWK, for services beginning August 2015 through February 2016. Monthly fee \$8,500 paid by invoice. Total for 7 months: \$59,500.		EACH	1		59,500.0000	59,500.00	

Accounts	Amount	Encumbered	Expensed	Outstanding
01- 52- 0000- 0000- 7300- 5813- - - 7300 (2016) Legal Char, Unassigned	59,500.00		59,500.00	

Invoice/Payment Information					
Invoice #	Check #	Paid	Status	Invoice Amount	Payee Id
189542	0000175680	04/13/2016	Check Printed	8,500.00	015554/2
188229	0000174033	02/26/2016	Check Printed	8,500.00	015554/2
188013	0000173936	02/24/2016	Check Printed	8,500.00	015554/2
187096	0000173723	02/12/2016	Check Printed	17,000.00	015554/2
185472	0000171645	12/04/2015	Check Printed	17,000.00	015554/2
				59,500.00	

Contracts for Board Ratification: Family & Community Engagement Department
Board Meeting Date: September 13, 2016

	<u>Vendor</u>	<u>Services Provided</u>	<u>Type Contract</u> (Purchasing, Employee, or Independent Contractor)	<u>Amount</u> (Not to Exceed)	<u>Funding Source</u> (Name & Fund #)	<u>Term</u>	<u>Resource Person(s)</u>	<u>Date Signed</u>
1	Maria Felisa Gonzalez Zamora	Parent Liaison – DeVargas Elementary and Cupertino Middle School	Contracted Employee	\$15,000	01-30-0000-0000-7183-2995-0100- - 0100	07/01/16 – 06/30/16	Leslie Mains	08/15/16
2	Neha Deshpande	Parent Liaison – Eisenhower Elementary	Contracted Employee	\$10,00	01-30-0000-0000-7183-2995-0100- - 0100	07/01/16 – 06/30/16	Leslie Mains	08/26/16
3	Voler Strategic Advisors	Communication and Outreach Support	Independent Contractor	\$77,400	01-30-0000-0000-7181-5801- - 7181	08/22/16 – 06/30/16	Wendy Gudalewicz	09/08/16